



# Finance Act 2002

## 2002 CHAPTER 23

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. [24th July 2002]

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 to 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:—

### Modifications etc. (not altering text)

- C1** Act modified (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2006 \(S.I. 2006/3271\)](#), **regs. 37-41** (as amended (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Overseas Life Insurance Companies \(Amendment\) Regulations 2007 \(S.I. 2007/2146\)](#), **regs. 22-24**)
- C2** Act applied in part (with modifications) by 2009 c. 4, Sch. 2 para. 131 (as amended) (29.3.2007) by [The Corporation Tax \(Taxation of Films\) \(Transitional Provisions\) Regulations 2007 \(S.I. 2007/1050\)](#), regs. 1(1), **3-12** (as amended (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 2 para. 131** (with Sch. 2 Pts. 1, 2))
- C3** Act modified (21.2.2009) by [The Banking Act 2009 \(Parts 2 and 3 Consequential Amendments\) Order 2009 \(S.I. 2009/317\)](#), arts. 1, 3, **Sch.**

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## PART 1

### EXCISE DUTIES

#### *Tobacco products duty*

#### 1 Rates of tobacco products duty

- (1) For the Table of rates of duty in Schedule 1 to the Tobacco Products Duty Act 1979 (c. 7) substitute—

TABLE

1. Cigarettes	An amount equal to 22 per cent of the retail price plus £94.24 per thousand cigarettes.
2. Cigars	£137.26 per kilogram.
3. Hand-rolling tobacco	£98.66 per kilogram.
4. Other smoking tobacco and chewing tobacco	£60.34 per kilogram.

- (2) This section shall be deemed to have come into force at 6 o'clock in the evening of 17th April 2002.

#### *Alcoholic liquor duties*

#### 2 Rates of duty on cider

- (1) In section 62(1A) of the Alcoholic Liquor Duties Act 1979 (c. 4) (rates of duty on cider)—
- (a) in paragraph (b) (rate of duty per hectolitre in the case of cider of a strength exceeding 7.5 per cent that is not sparkling cider), for “£39.21” substitute “£38.43”;
  - (b) in paragraph (c) (rate of duty per hectolitre in any other case), for “£26.13” substitute “£25.61”.

- (2) This section shall be deemed to have come into force on 28th April 2002.

#### 3 Duty on beverages made with spirits to be at spirits rate

- (1) Omit section 1(9) of the Alcoholic Liquor Duties Act 1979 (under which alcoholic beverages of a strength between 1.2 and 5.5 per cent made with spirits are treated as not being spirits, unless of a description specified by Treasury order).
- (2) This section shall be deemed to have come into force on 28th April 2002.

#### 4 Reduced rates of duty on beer from small breweries

- (1) Schedule 1 to this Act (which makes provision for the excise duty on beer to be charged at reduced rates on beer produced in small breweries) has effect.

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- (2) Subject to subsection (3), subsection (1) shall be deemed to have come into force on 1st June 2002.
- (3) So far as relating to—
  - (a) the insertion by paragraph 2 of that Schedule of the new section 36H of the Alcoholic Liquor Duties Act 1979, and
  - (b) paragraph 3 of that Schedule,subsection (1) comes into force on the day on which this Act is passed.

**Commencement Information**

**II** S. 4 wholly in force; s. 4(1) in force at 1.6.2002 for specified purposes, otherwise s. 4 in force at 24.7.2002, see s. 4(2)(3)

*Hydrocarbon oil duties*

**5 Biodiesel**

- (1) The Hydrocarbon Oil Duties Act 1979 (c. 5) is amended as follows.
- (2) After section 2 insert—

**“2AA Biodiesel**

- (1) In this Act “biodiesel” means diesel quality liquid fuel—
  - (a) that is produced from biomass or waste cooking oil,
  - (b) the ester content of which is not less than 96.5% by weight, and
  - (c) the sulphur content of which does not exceed 0.005% by weight or is nil.
- (2) In subsection (1)—
  - (a) “diesel quality” means capable of being used for the same purposes as heavy oil;
  - (b) “liquid” does not include any substance that is gaseous at a temperature of 15°C and under a pressure of 1013.25 millibars;
  - (c) “biomass” means vegetable and animal substances constituting the biodegradable fraction of—
    - (i) products, wastes and residues from agriculture, forestry and related activities, or
    - (ii) industrial and municipal waste.”.

<sup>F1</sup>(3) .....

- (4) After section 6 (excise duty on hydrocarbon oil) insert—

**“6AA Excise duty on biodiesel**

- (1) A duty of excise shall be charged on the setting aside for a chargeable use by any person, or (where it has not already been charged under this section) on the chargeable use by any person, of biodiesel.

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- (2) In subsection (1) “chargeable use” means use—
  - (a) as fuel for any engine, motor or other machinery, or
  - (b) as an additive or extender in any substance so used.
- (3) The rate of duty under this section shall be £0.2582 a litre.

### **6AB Excise duty on blends of biodiesel and heavy oils**

- (1) A duty of excise shall be charged on bioblend—
  - (a) imported into the United Kingdom, or
  - (b) produced in the United Kingdom and delivered for home use from a refinery or from other premises used for the production of hydrocarbon oil or from any bonded storage for hydrocarbon oil, not being bioblend chargeable with duty under paragraph (a) above.

This is subject to subsection (6) below.

- (2) In this Act “bioblend” means any mixture that is produced by mixing—
  - (a) biodiesel, and
  - (b) heavy oil not charged with the excise duty on hydrocarbon oil.
- (3) The rate at which the duty shall be charged on any bioblend shall be a composite rate representing—
  - (a) in respect of the proportion of the bioblend that is hydrocarbon oil, the rate that would be applicable to the bioblend if it consisted entirely of heavy oil of the description that went into producing the bioblend, and
  - (b) in respect of the proportion of the bioblend that is biodiesel, the rate that would be applicable to the bioblend if it consisted entirely of biodiesel.
- (4) The references in subsection (3) above to the proportions of—
  - (a) hydrocarbon oil, and
  - (b) biodiesel,
 are to the proportions by volume to the nearest 0.001%.
- (5) If the Commissioners are not satisfied as to the proportion of biodiesel in any bioblend, the rate of duty chargeable shall be the rate that would be applicable to the bioblend if it consisted entirely of heavy oil of the description that went into producing the bioblend.
- (6) Where imported bioblend is removed to a refinery, the duty chargeable under subsection (1) above shall, instead of being charged at the time of the importation of the bioblend, be charged on the delivery of any goods from the refinery for home use and shall be the same as that which would be payable on the importation of like goods.

### **6AC Application to biodiesel and bioblend of provisions relating to hydrocarbon oil**

- (1) The Commissioners may by regulations provide for—
  - (a) references in this Act, or specified references in this Act, to hydrocarbon oil to be construed as including references to—

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- (i) biodiesel;
    - (ii) bioblend;
  - (b) references in this Act, or specified references in this Act, to duty on hydrocarbon oil to be construed as including references to duty under—
    - (i) section 6AA above;
    - (ii) section 6AB above;
  - (c) biodiesel, or bioblend, to be treated for the purposes of such of the following provisions of this Act as may be specified as if it fell within a specified description of hydrocarbon oil.
- (2) Where the effect of provision made under subsection (1) above is to extend any power to make regulations, provision made in exercise of the power as extended may be contained in the same statutory instrument as the provision extending the power.
- (3) In this section “specified” means specified by regulations under this section.
- (4) Regulations under this section may make different provision for different cases.
- (5) Paragraph (b) of subsection (1) above shall not be taken as prejudicing the generality of paragraph (a) of that subsection.”.
- (5) Schedule 2 to this Act contains minor and consequential amendments of the Hydrocarbon Oil Duties Act 1979 (c. 5).
- (6) Subsection (4), and subsection (5) so far as relating to paragraphs 2 and 4(1) of that Schedule, have effect in relation to biodiesel that—
  - (a) is set aside for chargeable use (as defined in the section 6AA inserted by subsection (4)) after such date as the Commissioners of Customs and Excise may by order made by statutory instrument appoint, or
  - (b) not having been so set aside, is the subject of such chargeable use after that date,
 and has not been set aside for chargeable use under section 6A of that Act (fuel substitutes) on or before that date.
- (7) Subsection (4), and subsection (5) so far as relating to paragraph 2 of that Schedule, have effect in relation to bioblend that—
  - (a) is imported into the United Kingdom after the date appointed under subsection (6)(a), or
  - (b) not having been so imported—
    - (i) is produced in the United Kingdom and delivered for home use after that date, and
    - (ii) has not been set aside for chargeable use under section 6A of that Act (fuel substitutes) on or before that date.
- (8) Subsection (5)—
  - (a) so far as relating to paragraph 3 of that Schedule, comes into force on the day after the date appointed under subsection (6)(a),
  - (b) so far as relating to paragraph 5 of that Schedule, applies to mixtures produced after the date appointed under subsection (6)(a), and

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- (c) so far as relating to paragraph 7 of that Schedule, comes into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint.

#### Subordinate Legislation Made

**P1** S. 5(6)(a) power fully exercised: 25.7.2002 appointed by [S.I. 2002/1926, art. 2](#)

#### Textual Amendments

**F1** S. 5(3) omitted (retrospective to 1.4.2008) by virtue of [Finance Act 2008 \(c. 9\), Sch. 5 paras. 25\(d\)\(i\), 26\(b\)](#)

## 6 Regulating trade in rebated heavy oil etc

- (1) Schedule 3 to this Act has effect.
- (2) In that Schedule—  
Part 1 makes provision for regulating trade in certain heavy oil on which rebate of excise duty has been allowed, and  
Part 2 amends provisions of the Hydrocarbon Oil Duties Act 1979 relating to rebates.
- (3) Subject to subsection (4), subsection (1) so far as relating to paragraph 1 of that Schedule shall not come into force until such day as the Commissioners of Customs and Excise may appoint by order made by statutory instrument.
- (4) For the purpose of the exercise of any power to make regulations, subsection (1) so far as relating to that paragraph comes into force on the day on which this Act is passed.

#### Subordinate Legislation Made

**P2** [S. 6\(3\)](#) power wholly exercised: 1.4.2003 appointed for specified purposes by [S.I. 2002/3056, art. 2](#)

## 7 Fuel substitutes

- (1) In section 6A of the Hydrocarbon Oil Duties Act 1979 (c. 5) (fuel substitutes)—
- (a) in subsection (5) (power to provide that fuel substitute to be treated as if it were a description of hydrocarbon oil), for the words from “the description of such one or more of the following” to the end substitute “such description of hydrocarbon oil as may be so specified”;
- (b) in subsection (6)(a) (power to be exercised so that fuel substitute charged with duty and otherwise treated as if it were description of hydrocarbon oil to which it is most closely equivalent), for “the substance falling within the descriptions specified in subsection (5) above” substitute “hydrocarbon oil of the description”.
- (2) In section 10 of the Finance Act 1993 (c. 34) (mineral oil fuel substitutes)—
- (a) in subsection (2) (power to provide that mineral oil fuel substitute to be treated as if it were a particular description of hydrocarbon oil), for the words from “the description of such one or more of the following” to the end substitute “such description of hydrocarbon oil as may be so specified”;

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- (b) in subsection (3) (power to be exercised so that mineral oil fuel substitute treated as if it were description of hydrocarbon oil to which it is most closely equivalent), for “the substance falling within the descriptions specified in subsection (2) above” substitute “hydrocarbon oil of the description”.

### *Betting and gaming duties*

## **8 Amusement machine licences: excepted machines**

- (1) Section 21 of the Betting and Gaming Duties Act 1981 (c. 63) (amusement machine licences) is amended as follows.
- (2) In subsection (3A) (excepted machines), for paragraphs (c) and (d) (certain thirty-five penny machines and video machines) substitute—
- “(c) a fifty-penny machine that is not a gaming machine.”.
- (3) For subsection (3B) substitute—
- “(3B) For the purposes of this section an amusement machine is a fifty-penny machine if, and only if—
- (a) where it is a machine on which a game can be played solo, the price for a solo game does not exceed 50p; and
- (b) where it is a machine on which a game can be played by more than one person at a time, the price to participate in such a game does not exceed 50p.”.
- (4) In subsection (3C) (definition of the price for a solo game), for “35p”, in both places where it occurs, substitute “50p”.
- (5) In section 25 of that Act (definition of different types of machine), in subsections (4) and (6) (treatment of machines capable of being played by more than one person at a time), for “an excepted video machine falling within section 21(3A)(d) above” substitute “a fifty-penny machine within section 21(3B) above”.
- (6) This section has effect in relation to the provision of an amusement machine at any time on or after 1st May 2002.

## **9 Amusement machine licence duty: rates**

- (1) In the Table in section 23(2) of the Betting and Gaming Duties Act 1981 (c. 63) (rates of amusement machine licence duty), for column (4) (medium-prize machines other than five-penny machines) and column 6 (machines not in any other category) substitute—

<b>“(4)”</b>	<b>(6)</b>
<b>Category C</b>	<b>Category E</b>
<b>£</b>	<b>£</b>
80	225
160	435
235	630

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305	820
370	990
430	1155
485	1300
535	1440
585	1560
625	1675
665	1775
695	1860”

(2) This section applies in relation to any amusement machine licence for which an application is received by the Commissioners of Customs and Excise after 30th April 2002.

## 10 Rates of gaming duty

(1) For the Table in section 11(2) of the Finance Act 1997 (c. 16) (rates of gaming duty) substitute—

“TABLE

<i>Part of gross gaming yield</i>	<i>Rate</i>
The first £488,000	2.5 per cent.
The next £1,083,500	12.5 per cent.
The next £1,083,500	20 per cent.
The next £1,897,000	30 per cent.
The remainder	40 per cent.”

(2) This section has effect in relation to accounting periods beginning on or after 1st April 2002.

## <sup>F2</sup>11 Gaming duty to be chargeable in respect of sic bo and three card poker

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### Textual Amendments

**F2** S. 11 omitted (retrospective to 27.4.2009) by virtue of Finance Act 2009 (c. 10), s. 114(16)(a)(17) (with s. 114(18))

## 12 Pool betting duty etc

(1) Schedule 4 to this Act has effect.

(2) In that Schedule, Part 1—  
makes provision about pool betting duty, and



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provides for coupon betting to cease to be subject to pool betting duty but to be subject to general betting duty instead,

and Part 2 contains minor amendments and transitional provisions.

- (3) The amendments made by paragraph 2 of that Schedule have effect for the purposes of accounting periods beginning on or after 31st March 2002; but this does not apply to the substitution of the new regulation-making provisions.
- (4) The amendments made by paragraphs 3 and 4 of that Schedule apply to bets made on or after 31st March 2002.
- (5) Subsections (1) to (4) shall (subject to subsections (6) and (7)) be deemed to have come into force on 31st March 2002.
- (6) Subsection (1), so far as relating to paragraphs 5, 6(a) and (c), 7 to 9, 10(1), (2), (5) to (11), (13) and (14), 11, 12(1) and (3), 13 and 14 of Schedule 4 to this Act, shall be deemed to have come into force on 24th April 2002.
- (7) Subsection (1), so far as relating to—
  - (a) the substitution of the new regulation-making provisions by paragraph 2 of that Schedule, and
  - (b) paragraphs 10(3), (4) and (12) and 12(2) of that Schedule,comes into force on the day on which this Act is passed; but the powers conferred by the new regulation-making provisions are exercisable only as respects accounting periods beginning after that day.
- (8) In this section “the new regulation-making provisions” means the following new provisions of the Betting and Gaming Duties Act 1981 (c. 63)—
  - section 7D(6) to (8),
  - section 7E(4) and (5),
  - section 7F(6) and (7),
  - section 8(3) and (4), and
  - section 8B(1)(b) and (2).

#### Commencement Information

**I2** [S. 12](#) wholly in force; [s. 12\(1\)](#) in force at 31.3.2002 or 24th April 2002, otherwise [s. 12](#) in force at 24.7.2002, see. [s. 12\(5\)-\(7\)](#)

### <sup>F3</sup>13 **General betting duty: spread bets**

#### Textual Amendments

**F3** [S. 13](#) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 6\(3\)](#)

### 14 **General betting duty: overseas bet-brokers**

- (1) In Part 1 of the Betting and Gaming Duties Act 1981 (betting duties), after section 9 (prohibitions for protection of revenue) insert—

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### **“9A Further prohibitions for protection of revenue: overseas bet-brokers**

- (1) A person shall be guilty of an offence if—
  - (a) he knowingly issues, circulates or distributes in the United Kingdom, or has in his possession for that purpose, any advertisement or other document inviting the use of or otherwise relating to bet-broking services, and
  - (b) any person providing any of the bet-broking services concerned—
    - (i) is outside the United Kingdom, and
    - (ii) provides them in the course of a business.
- (2) In this section “bet-broking services” means—
  - (a) facilities provided by a person that may be used by other persons in making bets with third persons, or
  - (b) a person’s services of acting as agent for other persons in making bets on their behalf with third parties (whether the persons on whose behalf the bets are made are disclosed principals or undisclosed principals).
- (3) In subsection (2) “bet” means a bet other than one made by way of pool betting.
- (4) A person who gets or tries to get any advertisement or other document given or sent to him shall not be guilty of an offence by reason of his thereby procuring or inciting some other person to commit, or aiding or abetting the commission of, an offence under this section.”.

- (2) After section 9A of that Act (inserted by subsection (1) above) insert—

### **“9B Offences under sections 9 and 9A: penalties**

- (1) This section applies where a person is guilty of an offence under section 9 or 9A (a “relevant offence”).
- (2) In the case of the person’s first conviction for a relevant offence, he is liable—
  - (a) on summary conviction to a penalty of the prescribed sum, or
  - (b) on conviction on indictment to a penalty of any amount.
- (3) In the case of a second or subsequent conviction of the person for a relevant offence, he is liable—
  - (a) on summary conviction to a penalty of the prescribed sum or to imprisonment for a term not exceeding three months or to both, or
  - (b) on conviction on indictment to a penalty of any amount or to imprisonment for a term not exceeding one year or to both.”.
- (3) Omit section 9(4) of that Act (penalties for offences under section 9).
- (4) In paragraph 5 of Schedule 6 to that Act (convictions under predecessors of section 9 to be treated as convictions under section 9), for “For the purposes of section 9(4)” substitute “ For the purposes of section 9B ”.
- (5) Subsection (1) comes into force on the day after that on which this Act is passed.

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- (6) The amendments made by subsections (2) to (4) apply for the purposes of punishing offences committed after the day on which this Act is passed.

#### Commencement Information

**I3** S. 14 wholly in force; s. 14(2)-(6) in force at 24.7.2002 and s. 14(1) in force at 25.7.2002 by s. 14(5)

### Vehicle excise duty

#### 15 Cars registered on or after 1st March 2001: rates of duty

- (1) For the Table in paragraph 1B of Schedule 1 to the Vehicle Excise and Registration Act 1994 (c. 22) (rates of duty applicable to light passenger vehicles registered on or after 1st March 2001 on basis of certificate specifying CO<sub>2</sub> emissions figure) substitute—

“CO <sub>2</sub> emissions figure		Rate		
(1)	(2)	(3)	(4)	(5)
Exceeding	Not exceeding	Reduced rate	Standard Rate	Premium rate
g/km	g/km	£	£	£
–	120	60	70	80
120	150	90	100	110
150	165	110	120	130
165	185	130	140	150
185	–	150	155	160”

- (2) This section applies to any licence taken out on or after 18th April 2002 for a period beginning on or after 1st May 2002.

#### 16 Vans registered on or after 1st March 2001: rates of duty

- (1) For paragraph 1J of Schedule 1 to the Vehicle Excise and Registration Act 1994 (c. 22) (rate of duty applicable to light goods vehicles first registered on or after 1st March 2001) substitute—

“1J The annual rate of vehicle excise duty applicable to a vehicle to which this Part of this Schedule applies is—

- (a) if the vehicle is not a lower-emission van, £160;
- (b) if the vehicle is a lower-emission van, £105.

**For the purposes of paragraph 1J, a vehicle to which this Part of this Schedule applies is a “lower-emission van” if—**

- 1K (a) the vehicle is first registered on or after 1st March 2003, and
- (b) the limit values given for the vehicle by the Table (which is extracted from the new table inserted in section 5.3.1.4 of Annex

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I of Council Directive [70/220/EEC](#) by Directive [98/69/EC](#) of the European Parliament and of the Council) are not exceeded during a Type I test.

<i>Reference mass of vehicle</i>	<i>Limit values for types of emissions by reference to vehicle type</i>								
	<i>CO</i>		<i>HC</i>		<i>NO<sub>x</sub></i>		<i>HC + NO<sub>x</sub></i>		<i>PM</i>
<i>kg</i>	<i>kg</i>	<i>g/km</i>	<i>g/km</i>	<i>g/km</i>	<i>g/km</i>	<i>g/km</i>	<i>g/km</i>	<i>g/km</i>	<i>g/km</i>
–	1,305	1.0	0.5	0.1	0.08	0.25	0.3	0.025	
1,305	1,760	1.81	0.63	0.13	0.1	0.33	0.39	0.04	
1,760	3,500	2.27	0.74	0.16	0.11	0.39	0.46	0.06	

1L In paragraph 1K—

“Type I test” means a test as described in section 5.3 of Annex I to Council Directive [70/220/EEC](#) as amended (test for simulating/verifying the average tailpipe emissions after a cold start and carried out using the procedure described in Annex III of that Directive as amended);

“the reference mass” of a vehicle means the mass of the vehicle with bodywork and, in the case of a towing vehicle, with coupling device, if fitted by the manufacturer, in running order, or mass of the chassis or chassis with cab, without bodywork and/or coupling device if the manufacturer does not fit the bodywork and/or coupling device (including liquids and tools, and spare wheel if fitted, and with the fuel tank filled to 90% and the other liquid containing systems, except those for used water, to 100% of the capacity specified by the manufacturer), increased by a uniform mass of 100 kilograms;

“CO” means mass of carbon monoxide;

“HC” means mass of hydrocarbons;

“NO<sub>x</sub>” means mass of oxides of nitrogen;

“PM” means mass of particulates (for compression ignition engines).”.

(2) Subsection (1) applies to any licence taken out for a period beginning on or after 1st March 2003.

## 17 Disclosure of information for vehicle excise duty exemptions

In the Vehicle Excise and Registration Act 1994 (c. 22), after section 22 insert—

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### **“22ZA Nil licences for vehicles for disabled persons: information**

- (1) This section applies to information that—
  - (a) is held for the purposes of functions relating to social security or war pensions—
    - (i) by the Secretary of State, or
    - (ii) by a person providing services to the Secretary of State, in connection with the provision of those services, and
  - (b) is of a description prescribed by regulations made by the Secretary of State.
- (2) Information to which this section applies may, if the consent condition is satisfied, be supplied—
  - (a) to the Secretary of State, or
  - (b) to a person providing services to the Secretary of State, for use for the purposes of relevant nil licence functions.
- (3) The “consent condition”, in relation to any information, is that—
  - (a) if the information was provided by a person other than the person to whom the information relates, the person who provided the information, or
  - (b) in any other case, the person to whom the information relates, has consented to the supply of the information and has not withdrawn that consent.
- (4) Information supplied under subsection (2) shall not—
  - (a) be supplied by the recipient to any other person unless—
    - (i) it could be supplied to that person under subsection (2), or
    - (ii) it is supplied for the purposes of any civil or criminal proceedings relating to this Act;
  - (b) be used otherwise than for the purposes of relevant nil licence functions or any such proceedings.
- (5) In this section “relevant nil licence functions” means functions relating to applications for, and the issue of, nil licences in respect of vehicles that are exempt vehicles under—
  - (a) paragraph 19 of Schedule 2, or
  - (b) paragraph 7 of Schedule 4.”.

## **18 Motorcycles (and motorcycle trade licences): rates of duty**

- (1) For paragraph 2(1) to (1B) of Schedule 1 to the Vehicle Excise and Registration Act 1994 (c. 22) (rates of duty applicable to motorcycles not exceeding 450 kilograms in weight unladen) substitute—

- “2
- (1) The annual rate of vehicle excise duty applicable to a motorcycle that does not exceed 450 kilograms in weight unladen is—
    - (a) if the cylinder capacity of the engine does not exceed 150 cubic centimetres, £15;

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- (b) if the vehicle is a motorbicycle and the cylinder capacity of the engine exceeds 150 cubic centimetres but does not exceed 400 cubic centimetres, £30;
  - (c) if the vehicle is a motorbicycle and the cylinder capacity of the engine exceeds 400 cubic centimetres but does not exceed 600 cubic centimetres, £45;
  - (d) in any other case, £60.”.
- (2) In sections 13(3)(a), 35A(5)(b) and 36(3)(b) of that Act, and in section 13(4)(a) of that Act as substituted under paragraph 8 of Schedule 4 to that Act (references to paragraph 2(1)(c) of Schedule 1 in connection with motorcycle trade licences), for “(1)(c)” substitute “(1)(d)”.
- (3) Subsection (1), and the amendments in section 13 of that Act, apply to any licence taken out on or after 18th April 2002 for a period beginning on or after 1st May 2002.
- (4) The amendments in sections 35A and 36 of that Act apply where the relevant period begins on or after 1st May 2002.

## 19 Registered vehicles etc

- (1) Schedule 5 to this Act, which provides—
- for vehicle excise duty to be charged in respect of vehicles registered under the Vehicle Excise and Registration Act 1994 that are neither used nor kept on a public road,
  - for vehicle excise duty to be charged in respect of things that have been but have ceased to be mechanically propelled vehicles,
  - for supplements to be payable where vehicle licences are renewed late, and
  - for it to be an offence to be the person in whose name an unlicensed vehicle is registered under that Act,
- has effect.
- (2) Subject to subsection (3), subsection (1) shall not come into force until such day as the Secretary of State may appoint by order made by statutory instrument; and an order under this subsection may appoint different days for different purposes.
- (3) For the purpose of the exercise of any power to make regulations, subsection (1) comes into force on the day on which this Act is passed.
- (4) The Secretary of State may by order made by statutory instrument make—
- (a) such transitional provision as he considers necessary or expedient in connection with the coming into force of subsection (1);
  - (b) such provision consequential upon, or incidental or supplementary to, the amendments made by Schedule 5 to this Act (including provision further amending the Vehicle Excise and Registration Act 1994) as he considers necessary or expedient.
- (5) A statutory instrument containing an order under subsection (4)(b) is subject to annulment in pursuance of a resolution of either House of Parliament.

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### Commencement Information

- I4** S. 19(1) in force for specified purposes at 24.7.2002, see s. 19(2)(3); s. 19(2)-(5) in force at 24.7.2002; s. 19(1) in force at 30.11.2003 for specified purposes and 19.12.2003 for remaining purposes by [S.I. 2003/3086](#), [art. 2](#)

## 20 Calculating cylinder capacity of vehicles

- (1) In paragraph 1 of Schedule 1 to the Vehicle Excise and Registration Act 1994 (c. 22) (annual rates of duty: general), after sub-paragraph (2A) insert—

“(2B) For the purposes of this Schedule the cylinder capacity of an engine shall be calculated in accordance with regulations made by the Secretary of State.”.

- (2) Omit—

- (a) paragraph 2(4) of that Schedule (power to make regulations as to calculation of cylinder capacity of motorcycle engines), and
- (b) section 57(8) of that Act (regulations under paragraph 2(4) of Schedule 1 not subject to annulment).

- (3) Any regulations—

- (a) made under paragraph 2(4) of that Schedule or having effect as if so made, and
- (b) in force or effective immediately before the passing of this Act,

shall have effect after the passing of this Act as if made under the paragraph 1(2B) inserted in that Schedule by this section.

- (4) Subsection (3) has effect in place of section 17(2)(b) of the Interpretation Act 1978 (c. 30) (but is without prejudice to any other provision of that Act) and, in particular, the fact that the instrument containing any such regulations was not subject to annulment in pursuance of a resolution of either House of Parliament shall not prevent them being revoked, amended or re-enacted by regulations under that paragraph 1(2B).

### General

## 21 Drawback of excise duty

- (1) In section 133 of the Customs and Excise Management Act 1979 (c. 2) (claims for drawback of excise duty)—

- (a) in subsection (2), for “subsections (3) to (6)” substitute “ subsections (4) to (6) ”;
- (b) omit subsection (3) (Commissioners to be satisfied that the duty in question has been duly paid, and not already drawn back, before drawback is payable).

- (2) In section 14(1) of the Finance Act 1994 (c. 9) (reviewable decisions) after paragraph (bb) insert—

“(bc) any decision by the Commissioners as to whether or not any person is entitled to any drawback of excise duty by virtue of regulations under section 2 of the Finance (No. 2) Act 1992, or the amount of the drawback to which any person is so entitled;”.

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- (3) The amendment made by subsection (2) does not apply in relation to decisions made before the day on which this Act comes into force.

## PART 2

### VALUE ADDED TAX

#### 22 Disallowance of input tax where consideration not paid

- (1) In Part 1 of the Value Added Tax Act 1994 (c. 23) (the charge to tax), after section 26 insert—

**“26A Disallowance of input tax where consideration not paid**

- (1) Where—
- (a) a person has become entitled to credit for any input tax, and
  - (b) the consideration for the supply to which that input tax relates, or any part of it, is unpaid at the end of the period of 6 months following the relevant date,
- he shall be taken, as from the end of that period, not to have been entitled to credit for input tax in respect of the VAT that is referable to the unpaid consideration or part.
- (2) For the purposes of subsection (1) above “the relevant date”, in relation to any sum representing consideration for a supply, is—
- (a) the date of the supply, or
  - (b) if later, the date on which the sum became payable.
- (3) Regulations may make such supplementary, incidental, consequential or transitional provisions as appear to the Commissioners to be necessary or expedient for the purposes of this section.
- (4) Regulations under this section may in particular—
- (a) make provision for restoring the whole or any part of an entitlement to credit for input tax where there is a payment after the end of the period mentioned in subsection (1) above;
  - (b) make rules for ascertaining whether anything paid is to be taken as paid by way of consideration for a particular supply;
  - (c) make rules dealing with particular cases, such as those involving payment of part of the consideration or mutual debts.
- (5) Regulations under this section may make different provision for different circumstances.
- (6) Section 6 shall apply for determining the time when a supply is to be treated as taking place for the purposes of construing this section.”.

- (2) In section 36 of that Act (bad debts), omit subsections (4A) and (5)(ea).
- (3) This section has effect in relation to supplies made on or after such day as the Commissioners of Customs and Excise may appoint by order made by statutory instrument.



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#### Subordinate Legislation Made

**P3** S. 22(3) power fully exercised: 1.1.2003 appointed by [S.I. 2002/3028](#), [art. 2](#)

#### Commencement Information

**I5** S. 22 has effect as specified by [The Finance Act 2002, section 22, \(Appointed Day\) Order 2002 \(S.I. 2002/3028\)](#), [art. 2](#)

### 23 Flat-rate scheme

- (1) In Part 1 of the Value Added Tax Act 1994 (c. 23) (the charge to tax), after section 26A (inserted by section 22 above) insert—

#### “26B Flat-rate scheme

- (1) The Commissioners may by regulations make provision under which, where a taxable person so elects, the amount of his liability to VAT in respect of his relevant supplies in any prescribed accounting period shall be the appropriate percentage of his relevant turnover for that period.

A person whose liability to VAT is to any extent determined as mentioned above is referred to in this section as participating in the flat-rate scheme.

- (2) For the purposes of this section—
- (a) a person’s “relevant supplies” are all supplies made by him except supplies made at such times or of such descriptions as may be specified in the regulations;
  - (b) the “appropriate percentage” is the percentage so specified for the category of business carried on by the person in question;
  - (c) a person’s “relevant turnover” is the total of—
    - (i) the value of those of his relevant supplies that are taxable supplies, together with the VAT chargeable on them, and
    - (ii) the value of those of his relevant supplies that are exempt supplies.
- (3) The regulations may designate certain categories of business as categories in relation to which the references in subsection (1) above to liability to VAT are to be read as references to entitlement to credit for VAT.
- (4) The regulations may provide for persons to be eligible to participate in the flat-rate scheme only in such cases and subject to such conditions and exceptions as may be specified in, or determined by or under, the regulations.
- (5) Subject to such exceptions as the regulations may provide for, a participant in the flat-rate scheme shall not be entitled to credit for input tax.

This is without prejudice to subsection (3) above.

- (6) The regulations may—
- (a) provide for the appropriate percentage to be determined by reference to the category of business that a person is expected, on reasonable grounds, to carry on in a particular period;

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- (b) provide, in such circumstances as may be prescribed, for different percentages to apply in relation to different parts of the same prescribed accounting period;
  - (c) make provision for determining the category of business to be regarded as carried on by a person carrying on businesses in more than one category.
- (7) The regulations may provide for the following matters to be determined in accordance with notices published by the Commissioners—
  - (a) when supplies are to be treated as taking place for the purposes of ascertaining a person’s relevant turnover for a particular period;
  - (b) the method of calculating any adjustments that fall to be made in accordance with the regulations in a case where a person begins or ceases to participate in the flat-rate scheme.
- (8) The regulations may make provision enabling the Commissioners—
  - (a) to authorise a person to participate in the flat-rate scheme with effect from—
    - (i) a day before the date of his election to participate, or
    - (ii) a day that is not earlier than that date but is before the date of the authorisation;
  - (b) to direct that a person shall cease to be a participant in the scheme with effect from a day before the date of the direction.

The day mentioned in paragraph (a)(i) above may be a day before the date on which the regulations come into force.
- (9) Regulations under this section—
  - (a) may make different provision for different circumstances;
  - (b) may make such incidental, supplemental, consequential or transitional provision as the Commissioners think fit, including provision disapplying or applying with modifications any provision contained in or made under this Act.”.
- (2) In section 83 of that Act (appeals), after paragraph (f) insert—
  - “(fza) a decision of the Commissioners—
    - (i) refusing or withdrawing authorisation for a person’s liability to pay VAT (or entitlement to credit for VAT) to be determined as mentioned in subsection (1) of section 26B;
    - (ii) as to the appropriate percentage or percentages (within the meaning of that section) applicable in a person’s case.”.
- (3) In section 84 of that Act (further provisions relating to appeals), after subsection (4) insert—
  - “(4ZA) Where an appeal is brought—
    - (a) against such a decision as is mentioned in section 83(fza), or
    - (b) to the extent that it is based on such a decision, against an assessment, the tribunal shall not allow the appeal unless it considers that the Commissioners could not reasonably have been satisfied that there were grounds for the decision.”.
- (4) This section shall be deemed to have come into force on 24th April 2002.

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## 24 Invoices

- (1) In the Value Added Tax Act 1994 (c. 23) omit the following (which are superseded by the provision inserted by subsection (2))—
  - (a) subsection (9) of section 6 (time of supply);
  - (b) in paragraph 2 (VAT invoices etc) of Schedule 11 (administration, collection and enforcement)—
    - (i) in the heading, the words “, VAT invoices”;
    - (ii) in sub-paragraph (1), the words from “and may require” to the end;
    - (iii) sub-paragraphs (2) and (2A).
- (2) After paragraph 2 of Schedule 11 to that Act insert—

### “VAT invoices

- 2A (1) Regulations may require a taxable person supplying goods or services to provide an invoice (a “VAT invoice”) to the person supplied.
- (2) A VAT invoice must give—
  - (a) such particulars as may be prescribed of the supply, the supplier and the person supplied;
  - (b) such an indication as may be prescribed of whether VAT is chargeable on the supply under this Act or the law of another member State;
  - (c) such particulars of any VAT that is so chargeable as may be prescribed.
- (3) Regulations may confer power on the Commissioners to allow the requirements of any regulations as to the information to be given in a VAT invoice to be relaxed or dispensed with.
- (4) Regulations may—
  - (a) provide that the VAT invoice that is required to be provided in connection with a particular description of supply must be provided within a prescribed time after the supply is treated as taking place, or at such time before the supply is treated as taking place as may be prescribed;
  - (b) allow for the invoice to be issued later than required by the regulations where it is issued in accordance with general or special directions given by the Commissioners.
- (5) Regulations may—
  - (a) make provision about the manner in which a VAT invoice may be provided, including provision prescribing conditions that must be complied with in the case of an invoice issued by a third party on behalf of the supplier;
  - (b) prescribe conditions that must be complied with in the case of a VAT invoice that relates to more than one supply;
  - (c) make, in relation to a document that refers to a VAT invoice and is intended to amend it, such provision corresponding to that which may be made in relation to a VAT invoice as appears to the Commissioners to be appropriate.

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- (6) Regulations may confer power on the Commissioners to require a person who has received in the United Kingdom a VAT invoice that is (or part of which is) in a language other than English to provide them with an English translation of the invoice (or part).
- (7) Regulations under this paragraph—
  - (a) may be framed so as to apply only in prescribed cases or only in relation to supplies made to persons of prescribed descriptions;
  - (b) may make different provision for different circumstances.

### **Self-billed invoices**

- 2B (1) This paragraph applies where a taxable person provides to himself a document (a “self-billed invoice”) that purports to be a VAT invoice in respect of a supply of goods or services to him by another taxable person.
- (2) Subject to compliance with such conditions as may be—
- (a) prescribed,
  - (b) specified in a notice published by the Commissioners, or
  - (c) imposed in a particular case in accordance with regulations,
- a self-billed invoice shall be treated as the VAT invoice required by regulations under paragraph 2A above to be provided by the supplier.
- (3) For the purposes of section 6(4) (under which the time of supply can be determined by the prior issue of an invoice) a self-billed invoice shall not be treated as issued by the supplier.
- (4) For the purposes of section 6(5) and (6) (under which the time of supply can be determined by the subsequent issue of an invoice) a self-billed invoice in relation to which the conditions mentioned in sub-paragraph (2) are complied with shall, subject to compliance with such further conditions as may be prescribed, be treated as issued by the supplier.
- In such a case, any notice of election given or request made for the purposes of section 6(5) or (6) by the person providing the self-billed invoice shall be treated for those purposes as given or made by the supplier.

- (5) Regulations under this paragraph—
  - (a) may be framed so as to apply only in prescribed cases or only in relation to supplies made to persons of prescribed descriptions;
  - (b) may make different provision for different circumstances.”.

- (3) For paragraph 3 of that Schedule substitute—

### **Electronic communication and storage of VAT invoices etc**

- “3 (1) Regulations may prescribe, or provide for the Commissioners to impose in a particular case, conditions that must be complied with in relation to—
- (a) the provision by electronic means of any item to which this paragraph applies;

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- (b) the preservation by electronic means of any such item or of information contained in any such item.
- (2) The items to which this paragraph applies are—
  - (a) any VAT invoice;
  - (b) any document that refers to a VAT invoice and is intended to amend it;
  - (c) any invoice described in regulations made for the purposes of section 6(8)(b) or 12(1)(b).
- (3) Regulations under this paragraph may make different provision for different circumstances.”.
- (4) The following amendments to the Value Added Tax Act 1994 (c. 23) are consequential on other amendments made by this section—
  - (a) in section 6(15), for “paragraph 2(1)” substitute “ paragraph 2A ”;
  - (b) in section 83 (appeals), for paragraph (z) substitute—
    - “(z) any conditions imposed by the Commissioners in a particular case by virtue of paragraph 2B(2)(c) or 3(1) of Schedule 11”;
  - (c) in section 88 (supplies spanning change of rate etc)—
    - (i) in subsection (5), for “paragraph 2” substitute “ paragraph 2A ”;
    - (ii) in subsection (6), for “section 6(9) or paragraph 7 of Schedule 4” substitute “ paragraph 7 of Schedule 4 or paragraph 2B(4) of Schedule 11 ”.
- (5) This section comes into force on such day as the Treasury may by order made by statutory instrument appoint, and different days may be appointed for different provisions or different purposes.
- (6) An order under subsection (5) may contain such transitional provisions and savings as appear to the Treasury necessary or expedient in connection with the provisions brought into force.

#### **Commencement Information**

**16** S. 24 in force at 1.12.2003 by [S.I. 2003/3043](#), [art. 2](#)

## **25 Relief from VAT on acquisition if importation would attract relief**

In Part 2 of the Value Added Tax Act 1994 (reliefs, exemptions and repayments), after section 36 insert—

*“Acquisitions*

### **36A Relief from VAT on acquisition if importation would attract relief**

- (1) The Treasury may by order make provision for relieving from VAT the acquisition from another member State of any goods if, or to the extent that, relief from VAT would be given by an order under section 37 if the acquisition were an importation from a place outside the member States.

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- (2) An order under this section may provide for relief to be subject to such conditions as appear to the Treasury to be necessary or expedient.

These may—

- (a) include conditions prohibiting or restricting the disposal of or dealing with the goods concerned;
- (b) be framed by reference to the conditions to which, by virtue of any order under section 37 in force at the time of the acquisition, relief under such an order would be subject in the case of an importation of the goods concerned.

- (3) Where relief from VAT given by an order under this section was subject to a condition that has been breached or not complied with, the VAT shall become payable at the time of the breach or, as the case may be, at the latest time allowed for compliance.”.

### PART 3

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER 1

#### CHARGE AND RATE BANDS

#### *Income tax*

#### **F<sup>4</sup>26 Charge and rates for 2002-03**

.....

#### **Textual Amendments**

**F4** Ss. 26-29 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with Sch. 2)

#### **F<sup>4</sup>27 Indexed rate bands for 2002-03: PAYE deductions etc**

.....

#### **Textual Amendments**

**F4** Ss. 26-29 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with Sch. 2)

#### **F<sup>4</sup>28 Personal allowance for 2003-04 for those aged under 65**

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**Textual Amendments**

**F4** Ss. 26-29 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

**F<sup>4</sup>29** **Personal allowances for 2003-04 for those aged 65 or over**

.....

**Textual Amendments**

**F4** Ss. 26-29 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

*Corporation tax*

**30** **Charge and main rate for financial year 2003**

Corporation tax shall be charged for the financial year 2003 at the rate of 30%.

**31** **Small companies' rate and fraction for financial year 2002**

For the financial year 2002—

- (a) the small companies' rate shall be 19%, and
- (b) the fraction mentioned in section 13(2) of the Taxes Act 1988 (marginal relief for small companies) shall be 11/400ths.

**32** **Corporation tax starting rate and fraction for financial year 2002**

For the financial year 2002—

- (a) the corporation tax starting rate shall be 0%, and
- (b) the fraction mentioned in section 13AA(3) of the Taxes Act 1988 (marginal relief for small companies) shall be 19/400ths.

**CHAPTER 2**

**OTHER PROVISIONS**

*Employment income and related matters*

**F<sup>5</sup>33** **Employer-subsidised public transport bus services**

.....

**Textual Amendments**

**F5** Ss. 33-37 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

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**F<sup>5</sup>34 Car fuel: calculation of cash equivalent of benefit**

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**Textual Amendments**

- F5** Ss. 33-37 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

**F<sup>5</sup>35 Statutory paternity pay and statutory adoption pay**

.....

**Textual Amendments**

- F5** Ss. 33-37 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

**F<sup>5</sup>36 Exemption of minor benefits: application to non-cash vouchers**

.....

**Textual Amendments**

- F5** Ss. 33-37 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

**F<sup>5</sup>37 Minor amendments to Schedule E charge**

.....

**Textual Amendments**

- F5** Ss. 33-37 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

**F<sup>6</sup>38 Provision of services through an intermediary: minor amendments**

.....

**Textual Amendments**

- F6** [S. 38](#) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

**F<sup>7</sup>39 Employee share ownership plans: minor amendments**

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#### Textual Amendments

- F7** S. 39 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

### 40 Treatment of deductions from payments to sub-contractors

<sup>F8</sup>(1) .....

- (2) In section 829 of the Taxes Act 1988 (application of Income Tax Acts to public departments), after subsection (2) insert—

“(2A) Subsections (1) and (2) above have effect in relation to Chapter 4 of Part 13 of this Act (sub-contractors in the construction industry) as if the whole of any deduction required to be made under section 559 were in all cases a deduction of income tax.”.

<sup>F9</sup>(3) .....

- (4) This section has effect in relation to deductions made under section 559 of the Taxes Act 1988 on or after 6th April 2002.

<sup>F10</sup> .....

#### Textual Amendments

- F8** S. 40(1) repealed (with effect in accordance with s. 77 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(7\)](#)
- F9** S. 40(3) repealed (with effect in accordance with s. 77 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(7\)](#)
- F10** Words in s. 40(4) repealed (with effect in accordance with s. 77 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(7\)](#)

### <sup>F11</sup>41 Parliamentary visits to EU candidate countries: tax treatment of members' expenses

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#### Textual Amendments

- F11** S. 41 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

### Chargeable gains

### 42 Reallocation within group of gain or loss accruing under section 179

- (1) After section 179 of the Taxation of Chargeable Gains Act 1992 (c. 12) (company ceasing to be member of group) insert—

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### **“179A Reallocation within group of gain or loss accruing under section 179**

- (1) This section applies where—
  - (a) a company (“company A”) is treated by virtue of section 179(3) or (6) as having sold and immediately reacquired an asset at market value, and
  - (b) a chargeable gain or an allowable loss accrues to the company on the deemed sale.
- (2) In this section “time of accrual” means—
  - (a) in a case where section 179(3) applies, the time at which, by virtue of section 179(4), the gain or loss referred to in subsection (1) above is treated as accruing to company A;
  - (b) in a case where section 179(6) applies, the latest time at which the company satisfies the conditions in section 179(7).
- (3) If—
  - (a) a joint election under this section is made by company A and a company (“company C”) that was a member of the relevant group at the time of accrual, and
  - (b) the conditions in subsections (6) to (8) below are all met, the chargeable gain or allowable loss accruing on the deemed sale, or such part of it as may be specified in the election, shall be treated as accruing not to company A but to company C.
- (4) In subsection (3) above “the relevant group” means—
  - (a) in a case where section 179(3) applies, the group of which company A was a member at the time of accrual;
  - (b) in a case where section 179(6) applies, the second group referred to in section 179(5).
- (5) Where two or more elections are made each specifying a part of the same gain or loss, the total amount specified may not exceed the whole of that gain or loss.
- (6) The first condition is that, at the time of accrual, company C—
  - (a) was resident in the United Kingdom, or
  - (b) owned assets that were chargeable assets in relation to it.
- (7) The second condition is that neither company A nor company C was at that time a qualifying friendly society within the meaning given by section 171(5).
- (8) The third condition is that company C was not at that time an investment trust, a venture capital trust or a dual resident investing company.
- (9) A gain or loss treated by virtue of this section as accruing to a company that is not resident in the United Kingdom shall be treated as accruing in respect of a chargeable asset held by that company.
- (10) An election under this section must be made—
  - (a) by notice to an officer of the Board;

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- (b) no later than two years after the end of the accounting period of company A in which the time of accrual fell.
- (11) Any payment by company A to company C, or by company C to company 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 election, as accruing to company C.
- (12) For the purposes of this section an asset is a “chargeable asset” in relation to a company at a particular time if any gain accruing to the company on a disposal of the asset by the company at that time would be a chargeable gain and would by virtue of section 10(3) form part of its chargeable profits for corporation tax purposes.”
- (2) In Schedule 7B to that Act (modification of Act in relation to overseas life insurance companies), immediately before paragraph 8 insert—

“7A In section 179A(12), the words “section 11(2)(b), (c) or (d) of the Taxes Act” shall be treated as substituted for “section 10(3)”.”
- (3) In section 97(1) of the Inheritance Tax Act 1984 (c. 51) (transfers within group, etc)—
  - (a) after sub-paragraph (ii) of paragraph (a) insert “or—
    - (iii) an election under section 179A of that Act as a result of which a chargeable gain is treated as accruing to the transferor company instead of to another member of the group, or an allowable loss is treated as accruing to another member of the group instead of to the transferor company,”;
  - (b) in paragraph (aa) for “the deemed transfer” substitute “the election”.
- (4) This section applies—
  - (a) in relation to a case where a company is treated by virtue of section 179(3) of the Taxation of Chargeable Gains Act 1992 (c. 12) as having sold and immediately reacquired an asset, where the company’s ceasing to be a member of the group in question happens on or after 1st April 2002;
  - (b) in relation to a case where a company is so treated by virtue of section 179(6) of that Act, where the relevant time (within the meaning of that subsection) is on or after that date.

#### **43 Roll-over of degrouping charge on business assets**

- (1) After section 179A of the Taxation of Chargeable Gains Act 1992 (c. 12) (inserted by section 42 above) insert—

##### **“179B Roll-over of degrouping charge on business assets**

- (1) Where a company is treated by virtue of section 179(3) or (6) as having sold and immediately reacquired an asset at market value, relief under section 152

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or 153 (roll-over relief on replacement of business assets) is available in accordance with this section in relation to any gain accruing to the company on the deemed sale.

- (2) For this purpose, sections 152 and 153 and the other enactments specified in Schedule 7AB apply with the modifications set out in that Schedule.
  - (3) Where there has been an election under section 179A, any claim for relief available in accordance with this section must be made by company C rather than company A.
  - (4) For this purpose, the enactments modified by Schedule 7AB have effect as if—
    - (a) references to company A, except those in sections 152(1)(a) and (1B), 153(1B), 153A(5), 159(1), 175 and 198(1), were to company C;
    - (b) the references to “that company” in section 159(1) and “the company” in section 185(3)(b) were to company C;
    - (c) the reference to “that trade” in section 198(1) were to a ring fence trade carried on by company C.
  - (5) Where there has been an election under section 179A in respect of part only of the chargeable gain accruing on the deemed sale of an asset, the enactments modified by Schedule 7AB and subsections (3) and (4) above apply as if the deemed sale had been of a separate asset representing a corresponding part of the asset; and any necessary apportionments shall be made accordingly.
  - (6) A reference in this section to company A or to company C is to the company referred to as such in section 179A.”.
- (2) After Schedule 7AA to the 1992 Act insert the Schedule 7AB set out in Schedule 7 to this Act.
  - (3) In section 86(2) of the Finance Act 1993 (c. 34) (roll-over relief: power to amend section 155 of the 1992 Act by order), at the end add—
 

*“Any such order may make such consequential amendments of Schedule 7AB as appear to the Treasury to be appropriate.”.*
  - (4) This section applies—
    - (a) in relation to a case where a company is treated by virtue of section 179(3) of the 1992 Act as having sold and immediately reacquired an asset, where the company’s ceasing to be a member of the group in question happens on or after 1st April 2002;
    - (b) in relation to a case where a company is so treated by virtue of section 179(6) of that Act, where the relevant time (within the meaning of that subsection) is on or after that date.

#### **44 Exemptions for disposals by companies with substantial shareholding**

- (1) In Chapter 1 of Part 6 of the Taxation of Chargeable Gains Act 1992 (c. 12) (provisions relating to chargeable gains of companies), after section 192 insert—

*“Disposals by companies with substantial shareholding*

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### **192A Exemptions for gains or losses on disposal of shares etc**

Schedule 7AC (exemptions for disposal of shares etc by companies with substantial shareholding) has effect.”.

- (2) Schedule 8 to this Act (exemptions for disposals by companies with substantial shareholding) has effect.

In that Schedule—

Part 1 contains Schedule 7AC to be inserted after Schedule 7AB to the Taxation of Chargeable Gains Act 1992 (c. 12) (inserted by Schedule 7 to this Act); and  
Part 2 contains consequential amendments.

- (3) This section and Schedule 8 to this Act apply in relation to disposals on or after 1st April 2002.
- (4) Paragraph 38 of the Schedule 7AC inserted by that Schedule (degrouching: time when deemed sale and reacquisition treated as taking place) has effect where the time of degrouching or relevant time (as defined for the purposes of that paragraph) is on or after that date.
- (5) The amendment made by paragraph 2 of Schedule 8 to this Act has effect where the company in question ceases to be a member of the group in question on or after that date.

### **45 Share exchanges and company reconstructions**

- (1) Schedule 9 to this Act (chargeable gains: share exchanges and company reconstructions) has effect.

(2) In that Schedule—

Part 1 provides for the replacement of sections 135 and 136 of the Taxation of Chargeable Gains Act 1992;  
Part 2 makes consequential amendments; and  
Part 3 provides for commencement.

### **<sup>F12</sup>46 Taper relief: holding period for business assets**

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#### **Textual Amendments**

**F12** S. 46 omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 55(e)(i)**

### **<sup>F13</sup>47 Taper relief: minor amendments**

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#### Textual Amendments

- F13** S. 47 omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 55(e)(i)**

### <sup>F14</sup> 48 Use of trading losses against chargeable gains

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#### Textual Amendments

- F14** S. 48 repealed (6.4.2007) by **Income Tax Act 2007 (c. 3)**, s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

### 49 Election to forgo roll-over relief on transfer of business

- (1) After section 162 of the Taxation of Chargeable Gains Act 1992 (c. 12) (roll-over relief on transfer of business) insert—

#### “162A Election for section 162 not to apply

- (1) Section 162 shall not apply where the transferor makes an election under this section.
- (2) An election under this section must be made by a notice given to an officer of the Board no later than the relevant date.
- (3) Except where subsection (4) below applies, the relevant date is the second anniversary of the 31st January next following the year of assessment in which the transfer of the business took place.
- (4) Where, by the end of the year of assessment following the one in which the transfer of the business took place, the transferor has disposed of all the new assets, the relevant date is the first anniversary of the 31st January next following the year of assessment in which the transfer of the business took place.
- (5) For the purposes of subsection (4) above—
  - (a) a disposal of any of the new assets by the transferor shall be disregarded if it falls within section 58(1) (transfers between husband and wife); but
  - (b) where a disposal of any assets to a person is disregarded by virtue of paragraph (a) above, a subsequent disposal by that person of any of those assets (other than a disposal to the transferor) shall be regarded as a disposal by the transferor.
- (6) All such adjustments shall be made, whether by way of discharge or repayment of tax, the making of assessments or otherwise, as are required to give effect to an election under this section.
- (7) Where, immediately before it was transferred, the business was owned by two or more persons—

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- (a) each of them has a separate entitlement to make an election under this section;
  - (b) an election made by a person by virtue of paragraph (a) above shall apply only to—
    - (i) the share of the amount of the gain on the old assets, and
    - (ii) the share of the new assets,that is attributable to that person for the purposes of this Act.
- (8) The reference in subsection (7) above to ownership by two or more persons includes, in Scotland as well as elsewhere in the United Kingdom, a reference to ownership by a partnership consisting of two or more persons.
- (9) Expressions used in this section and in section 162 have the same meaning in this section as in that one.

But references in this section to new assets also include any shares or debentures that are treated by virtue of one or more applications of section 127 (including that section as applied by virtue of any enactment relating to chargeable gains) as the same asset as the new assets.”.

- (2) This section applies in relation to a transfer of a business on or after 6th April 2002.

## **50 Shares acquired on same day: election for alternative treatment**

- (1) After section 105 of the Taxation of Chargeable Gains Act 1992 (c. 12) (disposal on or before day of acquisition of shares and other unidentified assets) insert—

### **“105A Shares acquired on same day: election for alternative treatment**

- (1) Subsection (2) below applies where an individual—
- (a) acquires shares (“the relevant shares”) of the same class, on the same day and in the same capacity, and
  - (b) some of the relevant shares (“the approved-scheme shares”) are shares acquired by him as a result of—
    - (i) the exercise of a qualifying option within the meaning of paragraph 1(1) of Schedule 14 to the Finance Act 2000 (enterprise management incentives) in circumstances where paragraph 44, 45 or 46 of that Schedule (exercise of option to acquire shares) applies, or
    - (ii) the exercise of an option to which subsection (1) of section 185 of the Taxes Act (approved share option schemes) applies in circumstances where paragraphs (a) and (b) of subsection (3) of that section apply.
- (2) Where the individual first makes a disposal of any of the relevant shares, he may elect for subsections (3) to (5) below to have effect in relation to that disposal and all subsequent disposals of any of those shares.
- (3) In circumstances where section 105 applies, that section shall have effect as if—
- (a) paragraph (a) of subsection (1) of that section required the approved-scheme shares to be treated as acquired by the individual by a single transaction separate from the remainder of the relevant shares (which

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- shall also be treated by virtue of that paragraph as acquired by the individual by a single transaction), and
- (b) subsection (1) of that section required the approved-scheme shares to be treated as disposed of after the remainder of the relevant shares.
- (4) If the relevant shares include shares to which relief under Chapter 3 of Part 7 of the Taxes Act or deferral relief (within the meaning of Schedule 5B to this Act) is attributable—
- (a) paragraph 4(4) of that Schedule has effect as if it required the approved-scheme shares falling within paragraph (a), (b), (c) or (d) of that provision to be treated as disposed of after the remainder of the relevant shares falling within the paragraph in question, and
- (b) section 299 of the Taxes Act has effect for the purposes of section 150A(4) below as if it required—
- (i) the approved-scheme shares falling within paragraph (a), (b), (c) or (d) of subsection (6A) of section 299 of that Act to be treated as disposed of after the remainder of the relevant shares falling within the paragraph in question, and
- (ii) the approved-scheme shares to which subsection (6B) of that section applies to be treated as disposed of after the remainder of the relevant shares to which that subsection applies.
- (5) Where section 127 applies in relation to any of the relevant shares (“the reorganisation shares”), that section shall apply separately to such of those shares as are approved-scheme shares and to the remainder of the reorganisation shares (so that those approved-scheme shares and the remainder of the reorganisation shares are treated as comprised in separate holdings of original shares and identified with separate new holdings).
- (6) In subsection (5)—
- (a) the reference to section 127 includes a reference to that section as it is applied by virtue of any enactment relating to chargeable gains, and
- (b) “original shares” and “new holding” have the same meaning as in section 127 or (as the case may be) that section as applied by virtue of the enactment in question.
- (7) For the purposes of subsection (1) above—
- (a) any shares to which relief under Chapter 3 of Part 7 of the Taxes Act is attributable and which were transferred to an individual as mentioned in section 304 of that Act, and
- (b) any shares to which deferral relief (within the meaning of Schedule 5B to this Act), but not relief under that Chapter, is attributable and which were acquired by an individual on a disposal to which section 58 above applies,
- shall be treated as acquired by the individual on the day on which they were issued.
- (8) In this section the references to Chapter 3 of Part 7, section 299 and section 304 of the Taxes Act shall be read as references to those provisions as they apply to shares issued after 31st December 1993 (enterprise investment scheme).



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### **105B Provision supplementary to section 105A**

- (1) The provisions of section 105A have effect in the case of any disposal notwithstanding that some or all of the securities disposed of are otherwise identified—
  - (a) by the disposal, or
  - (b) by a transfer or delivery giving effect to it.
- (2) An election must be made, by a notice given to an officer of the Board, on or before the first anniversary of the 31st January next following the year of assessment in which the individual first makes a disposal of any of the relevant shares.
- (3) Where—
  - (a) an election is made in respect of the relevant shares, and
  - (b) any shares (“the other shares”) acquired by the individual on the same day and in the same capacity as the relevant shares cease to be treated under section 104(4) as shares of a different class from the relevant shares,the election shall have effect in respect of the other shares from the time they cease to be so treated.
- (4) In determining for the purposes of section 105A(2) and subsection (2) above whether the individual has made a disposal of any of the relevant shares, sections 122(1) and 128(3) shall be disregarded.
- (5) No election may be made in respect of ordinary shares in a venture capital trust.

For this purpose “ordinary shares” has the meaning given in section 151A(7).
- (6) For the purposes of section 105A, shares in a company shall not be treated as being of the same class unless they are so treated by the practice of a recognised stock exchange, or would be so treated if dealt with on that recognised stock exchange.
- (7) In section 105A(2) to (5) and subsections (2) to (4) above, any reference to the relevant shares or to the approved-scheme shares includes a reference to the securities (if any) directly or indirectly derived from the shares in question by virtue of one or more applications of section 127 (including that section as applied by virtue of any enactment relating to chargeable gains).
- (8) In this section—
  - “the approved-scheme shares” has the same meaning as in section 105A;
  - “election” means an election under that section;
  - “the relevant shares” has the same meaning as in that section; and
  - “securities” has the meaning given in section 104(3);and in subsection (4) the reference to section 128(3) includes a reference to that provision as it is applied by virtue of any enactment relating to chargeable gains.”

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- (2) The amendment made by subsection (1) has effect in relation to shares acquired by an individual on or after 6th April 2002.
- (3) For this purpose—
- (a) any shares to which relief under Chapter 3 of Part 7 of the Taxes Act 1988 is attributable and which were transferred to an individual as mentioned in section 304 of that Act, and
  - (b) any shares to which deferral relief (within the meaning of Schedule 5B to the Taxation of Chargeable Gains Act 1992 (c. 12)), but not relief under that Chapter, is attributable and which were acquired by an individual on a disposal to which section 58 of that Act applies,
- shall be treated as acquired by the individual on the day on which they were issued.
- (4) In subsection (3)(a), the references to Chapter 3 of Part 7 and section 304 of the Taxes Act 1988 shall be read as references to those provisions as they apply to shares issued after 31st December 1993 (enterprise investment scheme).

## **51 Deduction of personal losses from gains treated as accruing to settlors**

Schedule 11 to this Act (deduction of personal losses from gains treated as accruing to settlors) has effect.

## **52 Capital gains tax: variation of dispositions taking effect on death**

- (1) In section 62(7) of the Taxation of Chargeable Gains Act 1992 (c. 12) (election to treat subsequent variation of dispositions taking effect on death as if effected by deceased) for the words from “unless” to the end of the subsection substitute “ unless the instrument contains a statement by the persons making the instrument to the effect that they intend the subsection to apply to the variation. ”.
- (2) This section applies in relation to instruments made on or after 1st August 2002.

### *New reliefs*

## **<sup>F15</sup>53 Tax relief for expenditure on research and development**

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### **Textual Amendments**

- F15** S. 53 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 527](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

## **<sup>F16</sup>54 Tax relief for expenditure on vaccine research etc**

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**Textual Amendments**

**F16** S. 54 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 528, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**<sup>F17</sup>55 Gifts of medical supplies and equipment**

.....

**Textual Amendments**

**F17** S. 55 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 529, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**56 R&D tax relief for small and medium-sized enterprises: minor and consequential amendments**

Schedule 15 to this Act (which makes minor amendments to Schedule 20 to the Finance Act 2000 (tax relief for R&D expenditure of small and medium-sized enterprises), including amendments consequential on Schedules 12 and 13 to this Act) has effect for accounting periods ending on or after 1st April 2002.

**57 Community investment tax relief**

- (1) Schedule 16 to this Act (community investment tax relief) has effect.
- (2) Schedule 17 to this Act (which makes provision consequential on the introduction of community investment tax relief) has effect.
- (3) Schedules 16 and 17 shall come into force on such day as the Treasury may by order appoint.
- (4) On and after that day—
  - (a) Schedule 16 shall have effect in relation to—
    - (i) investments made on or after such day as the Treasury may so appoint, being a day not earlier than 17th April 2002, and
    - (ii) claims made on or after such day as the Treasury may so appoint,
  - (b) paragraphs 2 to 4 of Schedule 17 shall have effect for years of assessment ending on or after the day appointed under paragraph (a)(i), and
  - (c) paragraph 5 of that Schedule shall have effect for accounting periods ending on or after that day.

**58 Relief for community amateur sports clubs**

- (1) Schedule 18 to this Act (relief for community amateur sports clubs) has effect.
- (2) Parts 1, 5 and 6 of that Schedule shall be deemed to have come into force on 1st April 2002.

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Accordingly, an application under that Schedule by a club to be registered as a community amateur sports club may be granted with effect from that date or any subsequent date before the passing of this Act.

- (3) Parts 2 and 4 of that Schedule have effect in relation to accounting periods ending on or after 1st April 2002.
- (4) Part 3 of that Schedule has effect in relation to gifts made on or after 6th April 2002.

### *Capital allowances and related matters*

#### **59 Cars with low carbon dioxide emissions**

Schedule 19 to this Act (first-year allowances in respect of expenditure on cars with low CO<sub>2</sub> emissions and exemption from single asset pool rules) has effect in relation to expenditure incurred on or after 17th April 2002.

#### **<sup>F18</sup>60 Expense of hiring cars with low carbon dioxide emissions**

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##### **Textual Amendments**

**F18** S. 60 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

#### **61 Plant or machinery for gas refuelling station: first-year allowances**

Schedule 20 to this Act (first-year allowances in respect of expenditure on plant or machinery for gas refuelling station) has effect in relation to expenditure incurred on or after 17th April 2002.

#### **<sup>F19</sup>62 Expenditure on green technologies: leasing**

.....

##### **Textual Amendments**

**F19** S. 62 repealed (with effect in accordance with Sch. 26 Pt. 3(13) Note of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 26 Pt. 3\(13\)](#)

#### **63 First-year allowances for expenditure wholly for a ring fence trade**

- (1) Schedule 21 to this Act shall have effect.
- (2) In that Schedule—
  - (a) Part 1 makes provision for and in connection with first-year allowances under Part 2 of the Capital Allowances Act 2001 in respect of expenditure incurred by a company on the provision of plant or machinery for use wholly for the

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- purposes of a ring fence trade chargeable to tax under section 501A of the Taxes Act 1988 (inserted by section 91 of this Act); and
- (b) Part 2 makes provision for and in connection with first-year allowances under Part 5 of that Act (mineral extraction allowances) in respect of expenditure incurred by a company wholly for the purposes of such a trade.
- (3) The amendments made by that Schedule have effect in relation to expenditure incurred on or after 17th April 2002.

### Computation of profits

## <sup>F20</sup> 64 Adjustment on change of basis

.....

#### Textual Amendments

**F20** S. 64 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 530](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

## 65 Postponement of change to mark to market in certain cases

- (1) This section applies in relation to the computation in accordance with the provisions [<sup>F21</sup>applicable for the purposes of section 35 of the Corporation Tax Act 2009 (charge on trade profits)] of the profits of the insurance business, other than life assurance business, of—
- (a) an insurance company,
- (b) a corporate member of Lloyd’s, or
- (c) a controlled foreign company.
- (2) For periods of account to which this section applies nothing in—
- <sup>F22</sup>(a) .....
- (b) [<sup>F23</sup>section 46 of the Corporation Tax Act 2009] (computation of profits to be on basis giving true and fair view),
- prevents the company from computing the profits of that business on a realisation basis rather than a mark to market basis.
- A “realisation basis” means not recognising a profit or loss on an asset until it is realised, and a “mark to market basis” means bringing assets into account in each period of account at a fair value.
- (3) Subject to subsection (4), this section applies in relation to any period of account that—
- (a) began before 1st August 2001, and
- (b) ends before 31st July 2002.
- (4) This section does not apply if—
- (a) an earlier period of account beginning on or after 1st January 2001 ended with an accounting date different from that with which the previous period of account ended,
- (b) the change of accounting date was notified—
- (i) to the registrar of companies, or

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- (ii) in the case of a company established under the law of a country or territory outside the United Kingdom, to the corresponding authority of that country or territory,  
 on or after 17th April 2002, and
- (c) the purpose, or one of the purposes, for which the change was made was so that a subsequent period of account would be one to which section 64 above applies (computation of profits: adjustment on change of basis).
- (5) In this section—  
 “controlled foreign company” has the same meaning as in Chapter 4 of Part 17 of the Taxes Act 1988; and  
 “corporate member of Lloyd’s” means a corporate member as defined in section 230(1) of the Finance Act 1994 (c. 9).

#### Textual Amendments

- F21** Words in s. 65(1) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 531(2)** (with Sch. 2 Pts. 1, 2)
- F22** S. 65(2)(a) repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)
- F23** Words in s. 65(2)(b) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 531(3)** (with Sch. 2 Pts. 1, 2)

## 66 Election to continue postponement of mark to market

- (1) Where section 65 (postponement of change to mark to market in certain cases) applies in relation to a period of account, the company may elect that it shall continue to apply in relation to subsequent periods of account as regards assets held by it on 1st January 2002.
- Any such election must be made within twelve months after the end of the accounting period of the company current on that date.
- (2) An insurance company that carries on both long-term business and business other than long-term business may make an election under this section limited to assets held by the company otherwise than in the company’s long-term insurance fund.
- (3) For the purpose of determining whether an election under this section applies to an asset in a case where—
- (a) assets are realised by the company in an accounting period beginning on or after 1st January 2002,
  - (b) the assets are of such a kind that the particular assets realised are not readily identifiable,
  - (c) the realisation does not exhaust the company’s holding, and
  - (d) some but not all of the company’s holding was acquired after 1st January 2002,
- assets realised shall be identified with assets acquired on the same basis as that used by the company for accounting purposes, unless the basis used by the company is “last in, first out” in which case assets realised shall be identified with assets acquired on or before 1st January 2002 in priority to assets acquired after that day.
- (4) Where a company has made an election under this section and—

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- (a) an asset in relation to which the election has effect is transferred to another company (“the transferee company”) in pursuance of [F24 an insurance business transfer] scheme, and
- (b) immediately after the transfer either—
  - (i) the transferee company is resident in the United Kingdom, or
  - (ii) the asset is held for the purposes of a business carried on by the transferee company in the United Kingdom through a branch or agency,

this section applies as if the transferee company had made an election under this section in relation to that asset.

(5) F25 ...

F25 .....  
F26 .....

F27(6) .....

F27(7) .....

#### Textual Amendments

- F24** Words in s. 66(4)(a) substituted (with effect in accordance with Sch. 9 para. 17(1) to the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 9 para. 1(4)(a)**
- F25** Words in s. 66(5) repealed (with effect in accordance with Sch. 10 para. 17(2) to the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 14\(10\)\(a\)](#), **Sch. 27 Pt. 2(10)**
- F26** Words in s. 66(5) repealed (with effect in accordance with Sch. 9 para. 17(1) to the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 1\(4\)\(b\)](#), **Sch. 27 Pt. 2(9)**
- F27** S. 66(6)(7) repealed (with effect in accordance with Sch. 9 para. 17(1) to the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 1\(4\)\(c\)](#), **Sch. 27 Pt. 2(9)**

#### Modifications etc. (not altering text)

- C4** S. 66 modified by SI 1997/473 reg. 53E (as inserted (30.1.2003) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 2003 \(S.I. 2003/23\)](#), regs. 1(1), **10**

### 67 Mark to market: miscellaneous amendments

F28(1) .....

F28(2) .....

- (3) In section 81 of the Finance Act 1999 (c. 16) (acquisitions disregarded under insurance companies concession), at the end add—

“(13) If the relevant company changes from—

- (a) not recognising a profit or loss on an asset until it is realised, to
  - (b) bringing assets into account in each period of account at a fair value,
- then, in calculating the amount of any adjustment required under Schedule 22 to the Finance Act 2002 (calculation of adjustment on change of basis), the amount to be taken into account as the cost of the asset in relation to a period of account before the change is the cost of the previous acquisition.”

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- (4) The provisions of this section come into force as follows—
  - (a) the amendments in subsections (1) and (2) apply in relation to periods of account ending on or after 1st August 2001;
  - (b) the amendment in subsection (3) applies wherever an adjustment falls to be made under Schedule 22 to the Finance Act 2002 (see Part 5 of that Schedule).

**Textual Amendments**

**F28** S. 67(1)(2) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**F29 68 Expenditure involving crime**

.....

**Textual Amendments**

**F29** S. 68 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Financial instruments*

**69**<sup>F30</sup> .....

**Textual Amendments**

**F30** s. 69 repealed (with effect in accordance with s. 83(3)) by [2002 c. 23](#), s. 141, **Sch. 40**, Pt. 3(13) Note 2

**70**<sup>F31</sup> .....

**Textual Amendments**

**F31** S. 70 repealed (with effect in accordance with s. 83(3)) by [2002 c. 23](#), s. 141, **Sch. 40**, Pt. 3(13) Note 2

*Loan relationships*

**F32 71 Accounting method where rate of interest etc is reset**

.....

**Textual Amendments**

**F32** S. 71 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 532](#), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)



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**F33 72 Convertible securities etc: loan relationships**

.....

**Textual Amendments**

**F33** S. 72 repealed (with effect in accordance with s. 52(3), Sch. 10 para. 9(2)(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(6\)](#)

**F34 73 Convertible securities etc: issuing company not to be connected company**

.....

**Textual Amendments**

**F34** S. 73 repealed (with effect in accordance with s. 52(3), Sch. 10 para. 9(2)(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(6\)](#)

**F35 74 Convertible securities etc: debtor relationships**

.....

**Textual Amendments**

**F35** S. 74 repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(6\)](#)

**F36 75 Asset-linked loan relationships**

.....

**Textual Amendments**

**F36** Ss. 75-77 repealed (with effect in accordance with s. 52(3), Sch. 10 para. 11(2)(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(6\)](#)

**F36 76 Asset-linked loan relationships involving guaranteed returns**

.....

**Textual Amendments**

**F36** Ss. 75-77 repealed (with effect in accordance with s. 52(3), Sch. 10 para. 11(2)(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(6\)](#)

**F36 77 Loan relationships ceasing to be within section 93 of the Finance Act 1996**

.....

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#### Textual Amendments

**F36** Ss. 75-77 repealed (with effect in accordance with s. 52(3), Sch. 10 para. 11(2)(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 42 Pt. 2(6)**

<sup>F37</sup>**78** .....

#### Textual Amendments

**F37** S. 78 repealed (with effect in accordance with s. 83(3)) by [2002 c. 23](#), ss. 83, 141, [Sch. 27 para. 25](#), [Sch. 40, Pt. 3\(13\)](#) Note 2

### *Foreign exchange gains and losses, loan relationships and currency*

#### **79 Forex and exchange gains and losses from loan relationships etc**

- (1) The following provisions shall cease to have effect—
  - (a) paragraph 4 of Schedule 9 to the Finance Act 1996 (c. 8) (which excludes foreign exchange gains and losses from the computation of credits and debits under the loan relationships legislation); and
  - (b) in consequence, sections 125 to 169 of the Finance Act 1993 (c. 34) (taxation of foreign exchange gains and losses).
- (2) Schedule 23 to this Act (which makes provision in relation to exchange gains and losses from loan relationships etc) shall have effect.
- (3) The amendments made by subsection (1) and by Parts 1 and 2 of Schedule 23 have effect in relation to accounting periods beginning on or after 1st October 2002.

#### Modifications etc. (not altering text)

**C5** S. 79(1)(b) extended (retrospective to 30.9.2002) by [Finance Act 2003 \(c. 14\)](#), **s. 177(4)(8)(11)**

#### **80 Corporation tax: currency**

- (1) Schedule 24 to this Act (which makes provision in relation to corporation tax and currency) shall have effect.
- (2) This section has effect in relation to accounting periods beginning on or after 1st October 2002.

#### Modifications etc. (not altering text)

**C6** S. 80 extended (retrospective to 30.9.2002) by [Finance Act 2003 \(c. 14\)](#), **s. 177(4)(8)(11)**

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## 81 Transitional provision

- (1) The Treasury may by regulations make such transitional or consequential provision, or such savings (with or without modifications), as they may from time to time consider appropriate in consequence of, or otherwise in connection with, any provision of section 79 or 80 or Schedule 23 or 24 (or any repeal consequential on any such provision).
- (2) The power conferred by subsection (1) includes power—
  - (a) to make different provision for different cases or different purposes;
  - (b) to amend any statutory instrument; and
  - (c) to make incidental or supplementary provision.
- (3) The provision that may be made by virtue of subsection (1) or (2) includes provision for or in connection with bringing amounts into account—
  - (a) for the purposes of the Taxation of Chargeable Gains Act 1992 (c. 12), as if they were chargeable gains or allowable losses; or
  - (b) for the purposes of [<sup>F38</sup>Part 5 of the Corporation Tax Act 2009], as if they were credits or debits in respect of a loan relationship or a related transaction of the company concerned.
- (4) Nothing in any provision of Schedule 23 or 24 shall prejudice the operation of this section.
- (5) Nothing in this section or in Schedule 23 or 24 limits the operation of section 16 or 17 of the Interpretation Act 1978 (c. 30) (effect of repeals).

### Textual Amendments

**F38** Words in s. 81(3)(b) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 533** (with Sch. 2 Pts. 1, 2)

### Modifications etc. (not altering text)

**C7** S. 81 extended (retrospective to 30.9.2002) by Finance Act 2003 (c. 14), s. 177(6)(8)(11)

## *Loan relationships and other money debts*

## 82 Loan relationships: general amendments

- (1) Schedule 25 to this Act (which makes provision in relation to loan relationships) shall have effect.
- (2) The amendments made by Parts 1 and 2 of that Schedule have effect in relation to accounting periods beginning on or after 1st October 2002.

## *Derivative contracts*

## 83 Derivative contracts

- (1) The following shall have effect—
  - <sup>F39</sup>(a) .....

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- (b) Schedule 27 to this Act (which makes minor and consequential amendments relating to the taxation of derivative contracts); and
- (c) Schedule 28 to this Act (which contains transitional provisions etc in connection with the coming into force of this section and Schedules 26 and 27).

<sup>F40</sup>(2) .....

(3) This section has effect in relation to accounting periods beginning on or after 1st October 2002.

(4) Subsection (3) is subject to any specific provision of Schedule 28.

**Textual Amendments**

**F39** S. 83(1)(a) repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 534, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**F40** S. 83(2) repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 534, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**Modifications etc. (not altering text)**

**C8** S. 83 extended (retrospective to 30.9.2002) by Finance Act 2003 (c. 14), s. 177(4)(8)(11)

*Intangible fixed assets*

**84 Gains and losses from intangible fixed assets of company**

<sup>F41</sup>(1) .....

(2) Schedule 30 to this Act contains consequential amendments.

**Textual Amendments**

**F41** S. 84(1) repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 535, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Insurance*

**85 Gains of insurance company from venture capital investment partnership**

(1) In Chapter 3 of Part 6 of the Taxation of Chargeable Gains Act 1992 (c. 12) (insurance), after section 211 insert—

**“211A Gains of insurance company from venture capital investment partnership**

Schedule 7AD to this Act has effect with respect to the gains of an insurance company from a venture capital investment partnership.”.

(2) After Schedule 7AC to that Act (inserted by Part 1 of Schedule 8 to this Act) insert the Schedule 7AD set out in Schedule 31 to this Act.

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## 86 Lloyd’s underwriters

- (1) Schedule 32 to this Act (which makes provision about the taxation of Lloyd’s underwriters) has effect.
- (2) The amendments in that Schedule have effect in relation to quota share contracts (within the meaning of section 178 of the Finance Act 1993 (c. 34) or section 225 of the Finance Act 1994) entered into on or after 17th April 2002.

## <sup>F42</sup>87 Life policies etc: chargeable events

.....

### Textual Amendments

- F42** S. 87 omitted (with effect in accordance with Sch. 14 para. 18 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 14 para. 17(k)**

### *International matters*

## 88 Extension of power to give effect to double taxation arrangements

- (1) In section 788(1) of the Taxes Act 1988 (relief by agreement with other countries: power to give effect to arrangements), for “made with the government of any territory” substitute “ made in relation to any territory ”.
- (2) The following amendments are consequential on that above—
  - (a) in sections 788(7)(a), 790(3), (5)(b), (10A)(d) and (10C), 792(1) and (3), 793A(1)(a) and (3), 795A(1)(b), 812(2), 815AA(1) <sup>F43</sup>... of the Taxes Act 1988, for “with the government of” substitute “ in relation to ”;
  - (b) in the headings (or sidenotes) to sections 788 <sup>F44</sup>... of the Taxes Act 1988, for “countries” substitute “ territories ”;
  - (c) in section 816(1) of the Taxes Act 1988, for “government” substitute “ authorities ”;
  - <sup>F45</sup>(d) .....
  - <sup>F45</sup>(e) .....
  - (f) in sections 277(1) (twice) and (3) and 278(1) of the Taxation of Chargeable Gains Act 1992 (c. 12), for “country” substitute “ territory ”.
- (3) This section applies on and after the date on which this Act is passed in relation to arrangements made before that date (as well as in relation to arrangements made on or after that date).

### Textual Amendments

- F43** Words in s. 88(2)(a) repealed (19.7.2006) by Finance Act 2006 (c. 25), **Sch. 26 Pt. 8(2)**  
**F44** Words in s. 88(2)(b) repealed (19.7.2006) by Finance Act 2006 (c. 25), **Sch. 26 Pt. 8(2)**  
**F45** S. 88(2)(d)(e) repealed (19.7.2006) by Finance Act 2006 (c. 25), **Sch. 26 Pt. 8(2)**

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## 89 **Controlled foreign companies: territorial exclusions from s.748 exemptions**

- (1) In section 748 of the Taxes Act 1988 (controlled foreign companies: cases where no apportionment falls to be made under section 747(3)) after subsection (5) insert—

“(6) This section is subject to section 748A.”.

- (2) After section 748 of the Taxes Act 1988 insert—

### Territorial exclusions from exemption under section 748

- (1) Nothing in section 748 prevents an apportionment under section 747(3) falling to be made as regards an accounting period of a controlled foreign company if the company—
- (a) is a company incorporated in a territory to which this section applies as respects that accounting period; or
  - (b) is at any time in that accounting period liable to tax in such a territory by reason of domicile, residence or place of management; or
  - (c) at any time in that accounting period carries on business through a branch or agency in such a territory.
- (2) The condition in subsection (1)(c) above is not satisfied as regards an accounting period of a controlled foreign company if the business carried on by the company in that period through branches or agencies in territories to which this section applies, taken as a whole, is only a minimal part of the whole of the business carried on by the company in that period.
- (3) The territories to which this section applies as respects an accounting period of a controlled foreign company are those specified as such in regulations made by the Treasury.
- (4) Regulations under subsection (3) above—
- (a) may make different provision for different cases or with respect to different territories; and
  - (b) may contain such incidental, supplemental, consequential or transitional provision as the Treasury may think fit.
- (5) A statutory instrument containing regulations under subsection (3) above shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.”.
- (3) This section has effect in relation to accounting periods of controlled foreign companies beginning on or after the day on which this Act is passed.
- (4) In this section “accounting period” and “controlled foreign company” have the same meaning as in Chapter 4 of Part 17 of the Taxes Act 1988.

## 90 **Controlled foreign companies and treaty non-resident companies**

- (1) In section 747 of the Taxes Act 1988 (imputation of chargeable profits and creditable tax of controlled foreign companies), after subsection (1A) insert—

“(1B) In determining, for the purposes of any provision of this Chapter except subsection (1)(a) above, whether a company is a person resident in the United

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Kingdom, section 249 of the Finance Act 1994 (under which a company is treated as non-resident if it is so treated for double taxation relief purposes) shall be disregarded.”.

(2) Subsection (1)—

(a) shall be deemed to have come into force on 1st April 2002, and

[<sup>F46</sup>(b) does not apply to a company (“the non-resident company”) that—

(i) by virtue of section 249 of the Finance Act 1994 was treated as resident outside the United Kingdom, and not resident in the United Kingdom, immediately before that date, and

(ii) has not subsequently ceased to be so treated,

unless condition A or B is met in relation to the non-resident company at any time on or after 22nd March 2006.]

[<sup>F47</sup>(3) Condition A is met in relation to the non-resident company at any time on or after 22nd March 2006 if—

(a) immediately before 22nd March 2006 the non-resident company does not own directly or indirectly any company as a subsidiary company, and

(b) at any time on or after that date the non-resident company becomes the direct or indirect owner of a UK resident company as a subsidiary company.

(4) Condition B is met in relation to the non-resident company at any time on or after 22nd March 2006 if—

(a) immediately before 22nd March 2006 the non-resident company owns directly or indirectly any company as a subsidiary company (which may be a UK resident company),

(b) at any time (“the relevant time”) on or after that date the non-resident company becomes the direct or indirect owner of any UK resident company as a subsidiary company (or, as the case may be, another UK resident company), and

(c) directly or indirectly in consequence of, or otherwise in connection with, the ownership mentioned in paragraph (b) there is a qualifying change in activities.

(5) There is a qualifying change in activities if, at the relevant time or any subsequent time,—

(a) there is a major change in the nature, conduct or scale of the non-resident company’s activities, or

(b) there is a major change in the nature, conduct or scale of the activities of the group of companies of which the non-resident company is a member.

(6) In this section references to directly or indirectly owning a company are references to owning it—

(a) directly or through another company or companies, or

(b) partly directly and partly through another company or companies.

(7) In this section references to ownership are to be read as references to beneficial ownership.

(8) In this section “UK resident company”, in relation to any time, means any company which is resident in the United Kingdom at that time.]

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### Textual Amendments

**F46** S. 90(2)(b) substituted (19.7.2006) by Finance Act 2006 (c. 25), s. 78(2)

**F47** S. 90(3)-(8) inserted (19.7.2006) by Finance Act 2006 (c. 25), s. 78(3)

### *Supplementary charge in respect of ring fence trades*

## 91 Supplementary charge in respect of ring fence trades

After section 501 of the Taxes Act 1988 insert—

### “501A Supplementary charge in respect of ring fence trades

- (1) Where in any accounting period beginning on or after 17th April 2002 a company carries on a ring fence trade, a sum equal to 10 per cent of its adjusted ring fence profits for that period shall be charged on the company as if it were an amount of corporation tax chargeable on the company.
- (2) A company’s adjusted ring fence profits for an accounting period are the amount which, on the assumption mentioned in subsection (3) below, would be determined for that period (in accordance with this Chapter) as the profits of the company’s ring fence trade chargeable to corporation tax.
- (3) The assumption is that financing costs are left out of account in computing—
  - (a) the amount of the profits or loss of any ring fence trade of the company’s for each accounting period beginning on or after 17th April 2002; and
  - (b) where for any such period the whole or part of any loss relief is surrendered to the company in accordance with section 492(8), the amount of that relief or, as the case may be, that part.
- (4) For the purposes of this section, “financing costs” means the costs of debt finance.
- (5) In calculating the costs of debt finance for an accounting period the matters to be taken into account include—
  - (a) any costs giving rise to debits in respect of debtor relationships of the company under Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships);
  - (b) any exchange gain or loss, within the meaning of Chapter 2 of Part 2 of the Finance Act 1993, in relation to debt finance;
  - (c) any trading profit or loss, under Chapter 2 of Part 4 of the Finance Act 1994 (interest rate and currency contracts), in relation to debt finance;
  - (d) the financing cost implicit in a payment under a finance lease; and
  - (e) any other costs arising from what would be considered in accordance with generally accepted accounting practice to be a financing transaction.
- (6) Where an amount representing the whole or part of a payment falling to be made by a company—



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- (a) falls (or would fall) to be treated as a finance charge under a finance lease for the purposes of accounts relating to that company and one or more other companies and prepared in accordance with generally accepted accounting practice, but
  - (b) is not so treated in the accounts of the company,

the amount shall be treated for the purposes of this section as financing costs falling within subsection (5)(d) above.
- (7) If—
  - (a) in computing the adjusted ring fence profits of a company for an accounting period, an amount falls to be left out of account by virtue of subsection (5)(d) above, but
  - (b) the whole or any part of that amount is repaid,

the repayment shall also be left out of account in computing the adjusted ring fence profits of the company for any accounting period.
- (8) In this section “finance lease” means any arrangements—
  - (a) which provide for an asset to be leased or otherwise made available by a person to another person (“the lessee”), and
  - (b) which, under generally accepted accounting practice,—
    - (i) fall (or would fall) to be treated, in the accounts of the lessee or a person connected with the lessee, as a finance lease or a loan, or
    - (ii) are comprised in arrangements which fall (or would fall) to be so treated.
- (9) For the purposes of applying subsection (8)(b) above, the lessee and any person connected with the lessee are to be treated as being companies which are incorporated in a part of the United Kingdom.
- (10) In this section “accounts”, in relation to a company, includes any accounts which—
  - (a) relate to two or more companies of which that company is one, and
  - (b) are drawn up in accordance with—
    - (i) section 227 of the Companies Act 1985, or
    - (ii) Article 235 of the Companies (Northern Ireland) Order 1986.”.

## 92 Assessment, recovery and postponement of supplementary charge

- (1) After section 501A of the Taxes Act 1988 insert—

### “501B Assessment, recovery and postponement of supplementary charge

- (1) Subject to subsection (3) below, the provisions of section 501A(1) relating to the charging of a sum as if it were an amount of corporation tax shall be taken as applying, subject to the provisions of the Taxes Acts, and to any necessary modifications, all enactments applying generally to corporation tax, including—
- (a) those relating to returns of information and the supply of accounts, statements and reports;

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- (b) those relating to the assessing, collecting and receiving of corporation tax;
  - (c) those conferring or regulating a right of appeal; and
  - (d) those concerning administration, penalties, interest on unpaid tax and priority of tax in cases of insolvency under the law of any part of the United Kingdom.
- (2) Accordingly (but without prejudice to subsection (1) above) the Management Act shall have effect as if any reference to corporation tax included a reference to a sum chargeable under section 501A(1) as if it were an amount of corporation tax.
- (3) In any regulations made under section 32 of the Finance Act 1998 (as at 17th April 2002, the Corporation Tax (Treatment of Unrelieved Surplus Advance Corporation Tax) Regulations 1999)—
- (a) references to corporation tax do not include a reference to a sum chargeable on a company under section 501A(1) as if it were corporation tax; and
  - (b) references to profits charged to corporation tax do not include a reference to adjusted ring fence profits, within the meaning of section 501A(1).
- (4) In this section “the Taxes Acts” has the same meaning as in the Management Act.”.
- (2) In section 59E of the Taxes Management Act 1970 (c. 9) (further provision as to when corporation tax is due and payable) in subsection (11) (extension of references in the section to corporation tax) after paragraph (b) add—
- “(c) to any sum chargeable on a company under section 501A(1) of the principal Act (supplementary charge in respect of ring fence trades) as if it were an amount of corporation tax chargeable on the company”.
- (3) In Schedule 18 to the Finance Act 1998 (c. 36) (company tax returns: assessments and related matters) in paragraph 1 (meaning of “tax”) in the second sentence (amounts assessable or chargeable as if they were corporation tax) for the word “and” immediately preceding the paragraph beginning “section 747(4)(a)” substitute the following paragraph—
- “section 501A(1) of that Act (supplementary charge in respect of ring fence trades), and”.
- (4) In paragraph 8 of that Schedule (calculation of tax payable) after paragraph number 1 of the third step insert—
- “1A Any sum chargeable under section 501A(1) of that Act (supplementary charge in respect of ring fence trades).”.
- (5) Regulation 3 of the Instalment Payment Regulations (large companies) is amended as follows.
- (6) In paragraph (1) (which, subject to paragraphs (2) and (3), defines a large company) for “paragraphs (2) and (3),” substitute “ paragraphs (2) to (3A), ”.
- (7) After paragraph (3) insert—

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- “(3A) Any question whether a company is, or is not, a large company as respects an accounting period beginning on or after 17th April 2002 shall, so far as not falling to be determined by reference to the company’s total liability, be determined as it would have been determined apart from section 501A of the Taxes Act (supplementary charge in respect of ring fence trades).”.
- (8) The amendment by this section of any provision contained in regulations shall not be taken to have prejudiced any power to make further regulations revoking or amending that provision, whether in relation to the same or any other chargeable periods.
- (9) In this section “the Instalment Payment Regulations” means the Corporation Tax (Instalment Payments) Regulations 1998 (S.I. 1998/3175).

### 93 Supplementary charge: transitional provisions

- (1) In the case of a straddling period, that is to say, an accounting period which begins before 17th April 2002 and ends on or after that date—
- (a) sections 501A and 501B of the Taxes Act 1988 (which are inserted by sections 91 and 92) shall apply as if so much of the straddling period as falls before 17th April 2002, and so much of that period as falls on or after that date, were separate accounting periods; and
  - (b) all necessary apportionments between the two separate accounting periods shall be made in proportion to the number of days in those periods.
- (2) In the case of a straddling period, the Instalment Payment Regulations shall apply separately—
- (a) in relation to any tax chargeable on the company under section 501A(1) of the Taxes Act 1988; and
  - (b) in relation to any other tax chargeable on the company.
- (3) In their application by virtue of paragraph (a) of subsection (2), the Instalment Payment Regulations shall have effect in relation to the tax mentioned in that paragraph as if—
- (a) the deemed accounting period treated under subsection (1)(a) as beginning on 17th April 2002 were an accounting period for the purposes of those Regulations; and
  - (b) that tax were chargeable for that period.
- (4) Any reference in the Instalment Payment Regulations to the total liability of a company shall accordingly be construed—
- (a) in their application by virtue of paragraph (a) of subsection (2), as a reference to the tax mentioned in that paragraph; and
  - (b) in their application by virtue of paragraph (b) of that subsection, as a reference to the amount that would be the company’s total liability for the straddling period if the tax mentioned in paragraph (a) of that subsection were left out of account.
- (5) For the purposes of the Instalment Payment Regulations—
- (a) a company shall be regarded as a large company as respects the deemed accounting period under subsection (3)(a) if, and only if, it is a large company for those purposes as respects the straddling period; and

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(b) any question whether a company is a large company as respects the straddling period shall be determined as it would have been determined apart from section 501A of the Taxes Act 1988.

(6) In this section “the Instalment Payment Regulations” has the same meaning as in section 92.

*Deduction of tax*

**94 Deduction of tax: payments to exempt bodies etc**

F48(1) .....

F48(2) .....

F48(3) .....

F48(4) .....

(5) In section 98 of the Taxes Management Act 1970 (c. 9) (special returns, etc), in subsection (4B)—

(a) in paragraph (a), after “a company” insert “ or local authority ”,

(b) in paragraph (b)—  
(i) after “the company” insert “ or authority ”, and  
(ii) for “either”, in each place, substitute “ one ”,

(c) in paragraph (c), after “the company” insert “ or authority ”, and

(d) in paragraph (d), for “neither” substitute “ none ”.

(6) In that section, for subsection (4C) substitute—

“(4C) In subsection (4B) above—  
“company” includes a partnership of which any member is a company; and  
“local authority” includes a partnership of which any member is a local authority.”.

(7) The amendments made by this section apply for the purposes of payments made on or after 1st October 2002.

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**Textual Amendments**  
F48 S. 94(1)-(4) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

**F49 95 Deduction of tax by persons dealing in financial instruments**

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.....  
**Textual Amendments**  
F49 S. 95 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

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## 96 Cross-border royalties

<sup>F50</sup>(1) .....

<sup>F50</sup>(2) .....

(3) In section 98 of the Taxes Management Act 1970 (c. 9) (special returns etc)—

<sup>F51</sup>(a) .....

(b) after subsection (4C) insert—

“(4D) A payment is within this subsection if—

(a) it is a payment to which section 349(1) of the principal Act (requirement to deduct tax) applies,

(b) it is made by a company which, purporting to rely on section 349E(1) of that Act (power for companies to take account of double taxation treaty relief when paying royalties), deducts less tax from the payment than required by section 349(1) of that Act, and

(c) at the time the payment is made the payee (within the meaning of section 349E of that Act) is not entitled to relief in respect of the payment under any arrangements under section 788 of that Act (double taxation relief) and the company—

(i) does not believe that it is entitled to such relief, or

(ii) if it does so believe, cannot reasonably do so.”.

(4) This section applies in relation to payments made on or after 1st October 2002.

### Textual Amendments

**F50** S. 96(1)(2) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

**F51** S. 96(3)(a) repealed (with effect in accordance with Sch. 43 Pt. 5(3) Note of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 43 Pt. 5\(3\)](#)

## Charitable giving

## 97 Gifts of real property to charity

(1) In section 587B of the Taxes Act 1988 (gifts of shares and securities to charities) in subsection (9), in the definition of “qualifying investment”, omit the word “and” immediately preceding paragraph (d) and at the end of that paragraph insert “; and

(e) a qualifying interest in land”.

(2) After that subsection insert—

“(9A) In this section a “qualifying interest in land” means—

(a) a freehold interest in land, or

(b) a leasehold interest in land which is a term of years absolute, where the land in question is in the United Kingdom.

This subsection is subject to subsections (9B) to (9D) below.

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(9B) Where a person makes a disposal to a charity of—

- (a) the whole of his beneficial interest in such freehold or leasehold interest in land as is described in subsection (9A)(a) or (b) above, and
- (b) any easement, servitude, right or privilege so far as benefiting that land,

the disposal falling within paragraph (b) above is to be regarded for the purposes of this section as a disposal by the person of the whole of his beneficial interest in a qualifying interest in land.

(9C) Where a person who has a freehold or leasehold interest in land in the United Kingdom grants a lease for a term of years absolute (or, in the case of land in Scotland, grants a lease) to a charity of the whole or part of that land, the grant of that lease is to be regarded for the purposes of this section as a disposal by the person of the whole of the beneficial interest in the leasehold interest so granted.

(9D) For the purposes of subsection (9A) above, an agreement to acquire a freehold interest and an agreement for a lease are not qualifying interests in land.

(9E) In the application of this section to Scotland—

- (a) references to a freehold interest in land are references to the interest of the owner,
- (b) references to a leasehold interest in land which is a term of years absolute are references to a tenant's right over or interest in a property subject to a lease, and
- (c) references to an agreement for a lease do not include references to missives of let that constitute an actual lease.”.

(3) After subsection (11) of that section insert—

“(12) This section is supplemented by section 587C below.”.

(4) In consequence of the amendments made by subsections (1) to (3), the sidenote of section 587B becomes “Gifts of shares, securities and real property to charities etc”.

(5) After section 587B of the Taxes Act 1988 insert—

**“587C Supplementary provision for gifts of real property**

(1) This section applies for the purposes of section 587B where a qualifying investment is a qualifying interest in land.

(2) Where two or more persons—

- (a) are jointly beneficially entitled to the qualifying interest in land, or
- (b) are, taken together, beneficially entitled in common to the qualifying interest in land,

section 587B applies only if each of those persons disposes of the whole of his beneficial interest in the qualifying interest in land to the charity.

(3) Relief under section 587B shall be available to each of the persons referred to in subsection (2) above, but the amount that may be allowed as respects any of them shall be only such share of the relevant amount as they may agree in the case of that person.

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- (4) No person may make a claim for a relief under subsection (2) of section 587B unless he has received a certificate given by or on behalf of the charity.
  - (5) The certificate must—
    - (a) specify the description of the qualifying interest in land which is the subject of the disposal,
    - (b) specify the date of the disposal, and
    - (c) contain a statement that the charity has acquired the qualifying interest in land.
  - (6) If, in the case of a disposal of a qualifying interest in land, a disqualifying event occurs at any time in the relevant period, the person (or each of the persons) who made the disposal to the charity shall be treated as never having been entitled to relief under section 587B in respect of the disposal.
  - (7) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (6) above.
  - (8) For the purposes of subsection (6) above a disqualifying event occurs if the person (or any one of the persons) who made the disposal or any person connected with him (or any one of them)—
    - (a) becomes entitled to an interest or right in relation to all or part of the land to which the disposal relates, or
    - (b) becomes party to an arrangement under which he enjoys some right in relation to all or part of that land,otherwise than for full consideration in money or money's worth.
  - (9) A disqualifying event does not occur, for the purposes of subsection (6) above, if a person becomes entitled to an interest or right as mentioned in subsection (8)(a) above as a result of a disposition of property on death, whether the disposition is effected by will, under the law relating to intestacy or otherwise.
  - (10) For the purposes of subsection (6) above the relevant period is the period beginning with the date of the disposal of the qualifying interest in land and ending with—
    - (a) in the case of an individual, the fifth anniversary of the 31st January next following the end of the year of assessment in which the disposal was made, and
    - (b) in the case of a company, the sixth anniversary of the end of the accounting period in which the disposal was made.
  - (11) Section 839 (connected persons) applies for the purposes of this section.
  - (12) This section shall be construed as one with section 587B.”.
- (6) This section has effect in relation to any disposal of a qualifying interest in land to a charity where the disposal is made—
  - (a) in the case of a disposal to the charity by an individual, on or after 6th April 2002, or
  - (b) in the case of a disposal to the charity by a company, on or after 1st April 2002.

<sup>F52</sup>(7) .....

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F52(8) .....

**Textual Amendments**

F52 S. 97(7)(8) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

**F53 98 Gift aid: election to be treated as if gift made in previous tax year**

.....

**Textual Amendments**

F53 S. 98 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 415](#), **Sch. 3 Pt. 1** (with [Sch. 2](#))

*Films*

**F54F54 ... Restriction of relief to films genuinely intended for theatrical release**

.....

**Textual Amendments**

F54 Ss. 99-101 repealed (with effect in accordance with [Sch. 26 Pt. 3\(4\) Note 1](#) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 26 Pt. 3(4)**

**F54F54 ... Exclusion of deferments from production expenditure**

.....

**Textual Amendments**

F54 Ss. 99-101 repealed (with effect in accordance with [Sch. 26 Pt. 3\(4\) Note 1](#) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 26 Pt. 3(4)**

**F55 101 Restriction of relief for successive acquisitions of the same film**

.....

**Textual Amendments**

F55 S. 101 repealed (retrospective to 2.12.2004) by [Finance Act 2005 \(c. 7\)](#), [Sch. 3 para. 2\(1\)\(2\)](#), **Sch. 11 Pt. 2(3)** (with [Sch. 3 para. 2\(3\)](#))



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### Miscellaneous

## 102 Distributions: reasonable commercial return for use of principal secured

- (1) In section 209 of the Taxes Act 1988 (meaning of “distribution”) after subsection (3A) insert—

“(3AA) If, in the case of any security issued by a company, the amount of new consideration received by the company for the issue of the security exceeds the amount of the principal secured by the security—

- (a) the amount of the principal so secured shall be treated for the purposes of paragraph (d) of subsection (2) above as increased to the amount of the new consideration so received; and
- (b) subsection (3A) above, so far as relating to that paragraph, shall not have effect in relation to the security;

but this subsection is subject to sections 209A and 209B.”.

- (2) After that section insert—

### “209A Section 209(3AA): link to shares of company or associated company

- (1) Subsection (3AA) of section 209 does not apply in relation to a security issued by a company (the “issuing company”) if the security is one which to a significant extent reflects dividends or other distributions in respect of, or fluctuations in the value of, shares in one or more companies each of which is—

- (a) the issuing company; or
- (b) an associated company of the issuing company;

but this subsection is subject to the following provisions of this section.

- (2) Subsection (1) above does not prevent subsection (3AA) of section 209 above from applying in relation to a security if—

- (a) the issuing company is a bank or securities house;
- (b) the security is issued by the issuing company in the ordinary course of its business; and
- (c) the security reflects dividends or other distributions in respect of, or fluctuations in the value of, shares in companies falling within paragraph (a) or (b) of subsection (1) above by reason only that the security reflects fluctuations in a qualifying index.

- (3) In subsection (2)(c) above “qualifying index” means an index whose underlying subject matter includes both—

- (a) shares in one or more companies falling within paragraph (a) or (b) of subsection (1) above, and
- (b) shares in one or more companies falling within neither of those paragraphs,

and which is an index such that the shares falling within paragraph (b) above represent a significant proportion of the market value of the underlying subject matter of the index.

- (4) In this section—

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“bank” has the meaning given by section 840A;

“securities house” means any person—

- (a) who is authorised for the purposes of the Financial Services and Markets Act 2000; and
- (b) whose business consists wholly or mainly of dealing in financial instruments as principal;

and in paragraph (b) above “financial instrument” has the meaning given by section 349(5) and (6).

- (5) For the purposes of this section a company is an “associated company” of another at any time if at that time one has control of the other or both are under the control of the same person or persons.
- (6) For the purposes of subsection (5) above, “control”, in relation to a company, means the power of a person to secure—
  - (a) by means of the holding of shares or the possession of voting power in or in relation to the company or any other company, or
  - (b) by virtue of any powers conferred by the articles of association or other document regulating the company or any other company,
 that the affairs of the company are conducted in accordance with his wishes.
- (7) There shall be left out of account for the purposes of subsection (6) above—
  - (a) any shares held by a company, and
  - (b) any voting power or other powers arising from shares held by a company,
 if a profit on a sale of the shares would be treated as a trading receipt of a trade carried on by the company and the shares are not, within the meaning of Chapter 1 of Part 12, assets of an insurance company’s long-term insurance fund (see section 431(2)).

### **209B Section 209(3AA): hedging arrangements**

- (1) Subsection (3AA) of section 209 does not at any time apply in relation to a security issued by a company (the “issuing company”) if at that time, or any earlier time on or after 17th April 2002, there are or have been any hedging arrangements that relate to some or all of the company’s liabilities under the security.
- (2) Subsection (1) above does not prevent subsection (3AA) of section 209 from applying in relation to a security at any time if—
  - (a) conditions 1 to 4 below are satisfied in relation to any such hedging arrangements at that time; and
  - (b) at all earlier times on or after 17th April 2002 when there have been hedging arrangements that relate to some or all of the company’s liabilities under the security, conditions 1 to 4 below were satisfied in relation to those hedging arrangements.
- (3) Where subsection (3AA) of section 209 at any time ceases to apply in relation to a security by virtue of this section, subsection (2)(d) of that section shall have effect in relation to the security as from that time as it would have had effect if subsection (3AA) had never applied in relation to the security.

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- (4) Condition 1 is that the hedging arrangements do not constitute, include, or form part of, any scheme or arrangement the purpose or one of the main purposes of which is the avoidance of tax or stamp duty.
  - (5) Condition 2 is that the hedging arrangements are such that, where for the purposes of corporation tax a deduction in respect of the security falls to be made at any time by the issuing company, then at that time, or within a reasonable time before or after it, any amounts intended under the hedging arrangements to offset some or all of that deduction arise—
    - (a) to the issuing company; or
    - (b) to a company which is a member of the same group of companies as the issuing company.
  - (6) Condition 3 is that the whole of every amount arising as mentioned in subsection (5) above is brought into charge to corporation tax—
    - (a) by a company falling within paragraph (a) or (b) of that subsection, or
    - (b) by two or more companies, taken together, each of which falls within paragraph (a) or (b) of that subsection.
  - (7) Condition 4 is that for the purposes of corporation tax any deductions in respect of expenses of establishing or administering the hedging arrangements are reasonable, in proportion to the amounts required to be brought into charge to corporation tax by subsection (6) above.
  - (8) For the purposes of this section “hedging arrangements”, in relation to a security, means any scheme or arrangement for the purpose, or for purposes which include the purpose, of securing that an amount of income or gain accrues, or is received or receivable, whether directly or indirectly, which is intended to offset some or all of the amounts which fall to be brought into account, in accordance with generally accepted accounting practice, in respect of amounts accruing or falling to be paid in accordance with the terms of the security.
  - (9) Any reference in this section to two companies being members of the same group of companies is a reference to their being members of the same group of companies for the purposes of Chapter 4 of Part 10 of this Act (group relief).”.
- (3) This section has effect in relation to interest and other distributions out of assets of a company in respect of securities of the company where the interest is paid, or the distribution is made, on or after 17th April 2002.

### **103 References to accounting practice and periods of account**

- (1) In section 832(1) of the Taxes Act 1988 (interpretation of the Tax Acts), at the appropriate places insert—

““generally accepted accounting practice” has the meaning given by section 836A;”;

““for accounting purposes” means for the purposes of accounts drawn up in accordance with generally accepted accounting practice;”;

and

““period of account”—

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- (a) in relation to a person, means any period for which the person draws up accounts, and
- (b) in relation to a trade, profession, vocation or other business means any period for which accounts of the business are drawn up;”

<sup>F56</sup>(2) .....

- (3) In section 288(1) of the Taxation of Chargeable Gains Act 1992 (interpretation), at the appropriate place insert—

““period of account” has the meaning given by section 832(1) of the Taxes Act;”.

- (4) In the following provisions for “normal accounting practice” or “normal accountancy practice”, wherever occurring, substitute “generally accepted accounting practice”

(a) in the Taxes Act 1988, sections <sup>F57</sup>... <sup>F58</sup>..., 494AA(2), 798B(1) and 837A(2), <sup>F59</sup>...;

(b) in the Finance Act 1993 (c. 34), sections <sup>F60</sup>... 150(6)(c) and (11)(c), 154(11)(c), (12)(d), (13)(b), (13A)(d) and (13B)(d), 155(7), (11)(d) and (12)(b), 156(2)(e) and (4)(b) and 159(1)(b);

(c) in the Finance Act 1994 (c. 9), section 156(3)(a) and (4)(a);

<sup>F61</sup>(d) .....

(e) in the Finance Act 1997 (c. 16), in Schedule 12, paragraphs 1(1)(c) and (2)(a), 3(1) and (2), 4(5), 6(1)(a), 15(1)(c) and (2), 22, 28(5) and 30(1);

(f) in the Finance Act 2000 (c. 17), <sup>F62</sup>... in Schedule 15, paragraph 29(4), <sup>F63</sup>...;

(g) in the Capital Allowances Act 2001 (c. 2), sections 179(1)(f), 219(1) <sup>F64</sup>...;

<sup>F65</sup>(h) .....

<sup>F66</sup>(5) .....

- (6) The amendments made by subsections (1) to (3) above have effect for the purposes of provisions of this Act using the expressions mentioned (including provisions inserted by amendment in other enactments) whenever those provisions are expressed to have effect or to come, or to have come, into force.

This is without prejudice to the general effect of those amendments.

#### Textual Amendments

**F56** S. 103(2) repealed (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 11 Pt. 2\(7\)](#)

**F57** Word in s. 103(4)(a) repealed (with effect in accordance with Sch. 26 Pt. 3(12) Note of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 26 Pt. 3\(12\)](#)

**F58** Word in s. 103(4)(a) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 2](#) (with [Sch. 2](#))

**F59** Words in s. 103(4)(a) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

**F60** Word in s. 103(4)(b) repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(6\)](#)

**F61** S. 103(4)(d) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

**F62** Words in s. 103(4)(f) repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

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- F63** Words in s. 103(4)(f) repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)
- F64** Words in s. 103(4)(g) repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)
- F65** S. 103(4)(h) repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)
- F66** S. 103(5) repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

#### **F67** 104 Discounted securities etc

##### **Textual Amendments**

- F67** S. 104 repealed (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 3** (with Sch. 2)

#### **105 Financial trading stock**

**F68** (1) .....

- (2) In Schedule 12 to the Finance Act 1988 (c. 39) (building societies: change of status)—
  - (a) in paragraph 1 (which provides that paragraphs 2 to 7 apply where there is a transfer of the whole of a building society’s business to a successor company in accordance with section 97 etc of the Building Societies Act 1986 (c. 53)) for “2” substitute “ 3 ”; and
  - (b) omit paragraph 2 (which relates to gilt-edged securities and other financial trading stock and is superseded by Chapter 2 of Part 4 of the Finance Act 1996).

##### **Textual Amendments**

- F68** S. 105(1) repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

#### **F69** 106 Valuation of trading stock on transfer of trade

##### **Textual Amendments**

- F69** S. 106 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

#### **107 Banks etc in compulsory liquidation**

- (1) Schedule 12 to the Finance (No. 2) Act 1992 (c. 48) is amended is follows.

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- (2) In paragraph 3 (taxation of certain receipts under Case VI of Schedule D) omit paragraph (c) of sub-paragraph (3) (which has become unnecessary because no interest or dividends any longer fall within it).
- (3) At the end of paragraph 3, insert—
  - “(5) This paragraph and paragraph 4 below have effect for the purposes of corporation tax notwithstanding anything in section 80(5) of the Finance Act 1996 (matters to be brought into account in the case of loan relationships only under Chapter 2 of Part 4 of that Act).”.
- (4) In paragraph 4 (relief from tax) omit sub-paragraph (3) (which provides for deductions from sums excluded from paragraph 3(2) by paragraph 3(3)(c)).
- (5) The amendments made by this section have effect in relation to accounting periods beginning on or after 1st October 2002.

#### <sup>F70</sup> 108 Manufactured dividends and interest

.....

##### Textual Amendments

**F70** S. 108 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

#### <sup>F71</sup> 109 Venture capital trusts

.....

##### Textual Amendments

**F71** S. 109 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

## PART 4

### STAMP DUTY AND STAMP DUTY RESERVE TAX

#### *Stamp duty*

#### 110 Land in disadvantaged areas

- (1) In subsection (1) of section 92 of the Finance Act 2001 (c. 9) (stamp duty: exemption for land in disadvantaged areas), for the words before paragraph (a) substitute “*Noad valorem* stamp duty shall be chargeable on—”.
- (2) After subsection (6) of that section insert—
  - “(6A) This section and Schedule 30 to this Act have effect subject to section 92A.”
- (3) After that section insert—

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### **“92A Restriction of exemption in the case of residential property etc**

- (1) Regulations may provide for an exemption conferred by section 92 or by Schedule 30 to this Act not to apply in cases specified by reference to either or both of the following—
  - (a) whether the land in question is residential property;
  - (b) the amount or value of the consideration.
- (2) Regulations may contain provision corresponding to or modifying that made by Schedule 30 to this Act in the case of—
  - (a) a building or land only part of which falls within subsection (1)(a) or (b) of section 92B (meaning of “residential property”), or
  - (b) an interest in or right over land that subsists only partly as mentioned in subsection (1)(c) of that section.
- (3) Where by virtue of regulations under this section the availability of an exemption depends on the land in question not being, or not being entirely, residential property, the certification under section 92(2) must include a statement that the land is not residential property or, as the case may be, that it is not residential property to the extent stated.
- (4) Where by virtue of regulations under this section the availability of an exemption depends on the amount or value of the consideration not exceeding a specified amount, the instrument in question must be certified at that amount (or at a lower amount).

The reference here to an instrument being certified at an amount shall be construed in accordance with paragraph 6 of Schedule 13 to the Finance Act 1999 (as if the reference were contained in paragraph 4 of that Schedule).
- (5) The power to make regulations under this section is exercisable by the Treasury.
- (6) Regulations under this section—
  - (a) may make different provision for different cases, and
  - (b) may contain such incidental, supplementary, consequential or transitional provision as appears to the Treasury to be necessary or expedient.
- (7) Regulations under this section must be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.

### **92B Meaning of “residential property”**

- (1) In section 92A “residential property” means—
  - (a) a building that is used or suitable for use as a dwelling, or is in the process of being constructed or adapted for such use;
  - (b) land that is or forms part of the garden or grounds of a building within paragraph (a) (including any building or structure on such land);
  - (c) an interest in or right over land that subsists for the benefit of a building within paragraph (a) or of land within paragraph (b).

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- (2) For the purposes of subsection (1) use of a building as—
- (a) residential accommodation for school pupils,
  - (b) residential accommodation for students, other than accommodation falling within subsection (3)(b),
  - (c) residential accommodation for members of any of the armed forces, or
  - (d) an institution that is the sole or main residence of at least 90% of its residents and does not fall within any of paragraphs (a) to (f) of subsection (3),
- is use of a building as a dwelling.
- (3) For the purposes of subsection (1) use of a building as—
- (a) a home or other institution providing residential accommodation for children,
  - (b) a hall of residence for students in further or higher education,
  - (c) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder,
  - (d) a hospital or hospice,
  - (e) a prison or similar establishment, or
  - (f) a hotel or inn or similar establishment,
- is not use of a building as a dwelling.
- (4) Where a building is used in a manner specified in subsection (3), no account shall be taken for the purposes of subsection (1)(a) of its suitability for any other use.
- (5) Where a building that is not in use is suitable for at least one of the uses specified in subsection (2) and at least one of those specified in subsection (3)
- 
- (a) if there is one such use for which it is most suitable, or if the uses for which it is most suitable are all specified in the same subsection, no account shall be taken for the purposes of subsection (1)(a) of its suitability for any other use;
  - (b) otherwise, the building shall be treated for those purposes as suitable for use as a dwelling.
- (6) Regulations under section 92A may provide that, where there is a single contract for the conveyance, transfer or lease of land comprising or including six or more separate dwellings, none of that land counts as residential property for the purposes of the regulations.
- (7) The Treasury may by order amend this section so as to change or clarify the cases where use of a building is, or is not, use of a building as a dwelling for the purposes of subsection (1).
- (8) An order under subsection (7) may contain such incidental, supplementary, consequential or transitional provision as appears to the Treasury to be necessary or expedient.



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- (9) An order under subsection (7) must be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (10) In this section “building” includes part of a building.”
- (4) In paragraph 1(1) of Schedule 30 to the Finance Act 2001 (c. 9) (stamp duty reduced for land partly in a disadvantaged area), for the words from “stamp duty” to “1999” substitute “*ad valorem* stamp duty”.
- (5) In sub-paragraph (1) of paragraph 3 of that Schedule (certification of instruments for stamp duty purposes)—
- (a) for the words from “a transaction” to “shall be disregarded” substitute “a conveyance, transfer or lease is exempted from stamp duty by section 92(1) or paragraph 1 above (read with section 92A) the transaction in question shall be disregarded”;
- (b) at the end of the sub-paragraph insert—
- “This is without prejudice to section 92A(4) (instrument must be certified where exemption depends on amount or value of consideration).”
- (6) Regulations under section 92A of the Finance Act 2001 (inserted by subsection (3) above) may contain provision revoking the Variation of Stamp Duties Regulations 2001 (S.I. 2001/3746) (which provide for section 92(1) of, and paragraph 1 of Schedule 30 to, that Act not to apply in cases where the consideration for the conveyance etc exceeds £150,000).

## 111 Withdrawal of group relief

- (1) This section applies where—
- (a) an instrument (“the relevant instrument”) transferring land in the United Kingdom from one company (“the transferor company”) to another (“the transferee company”) has been stamped on the basis that group relief applies,
- (b) before the end of the period of [<sup>F72</sup>three years] beginning with the date on which the instrument was executed the transferee company ceases to be a member of the same group as the transferor company, and
- (c) at the time when [<sup>F73</sup>the transferee company ceases] to be a member of the same group as the transferor company [<sup>F74</sup>it or a relevant associated company holds] an estate or interest in land—
- (i) that was transferred [<sup>F75</sup>to the transferee company] by the relevant instrument, or
- (ii) that is derived from an estate or interest that was so transferred, [<sup>F76</sup>and that has not subsequently been transferred at market value by a duly stamped instrument on which *ad valorem* duty was paid and in respect of which group relief was not claimed].
- (2) In those circumstances—
- (a) group relief in relation to the relevant instrument, or an appropriate proportion of it, is withdrawn, and
- (b) the stamp duty that would have been payable on stamping the relevant instrument but for group relief if the estate or interest in land transferred by that instrument had been transferred at market value, or an appropriate

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proportion of the duty that would have been so paid, is payable by the transferee company within 30 days after that company ceases to be a member of the same group as the transferor company.

- (3) In subsection (2)(a) and (b) “an appropriate proportion” means an appropriate proportion having regard to what was transferred [<sup>F77</sup>to the transferee company] by the relevant instrument and [<sup>F78</sup>what is held by that company or, as the case may be, that company and any relevant associated companies, at the time it or they cease to be members] of the same group as the transferor company.
- (4) In this section “group relief” means relief under any of the following provisions—
- (a) section 42 of the Finance Act 1930 (c. 28) or section 11 of the Finance Act (Northern Ireland) 1954 (c. 23 (N.I.)) (transfer of property between associated bodies corporate);
  - (b) section 151 of the Finance Act 1995 (c. 4) (leases etc between associated bodies corporate).
- [<sup>F79</sup>(4A) In this section “relevant associated company”, in relation to the transferee company, means a company that—
- (a) is a member of the same group as the transferee company immediately before that company ceases to be a member of the same group as the transferor company, and
  - (b) ceases to be a member of the same group as the transferor company in consequence of the transferee company so ceasing.]
- (5) In this section—
- (a) references to the transfer of land include the grant or surrender of an estate or interest in or over land;
  - (b) “company” includes any body corporate; and
  - (c) references to a company being in the same group as another company are to the companies being associated bodies corporate within the meaning of the relevant group relief provision.
- (6) Schedule 34 to this Act contains provisions supplementing this section.
- (7) Where the relevant instrument transfers land in the United Kingdom together with other property, the provisions of this section and of Schedule 34 apply as if there were two separate instruments, one relating to land in the United Kingdom and the other relating to other property.
- (8) This section applies where the relevant instrument is executed after 23rd April 2002.
- (9) But this section does not apply to an instrument giving effect to a contract made on or before 17th April 2002, 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 24th April 2002.

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### Textual Amendments

- F72** Words in s. 111(1)(b) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\), s. 126\(2\)\(11\)](#) (with [s. 126\(9\)\(10\)](#))
- F73** Words in s. 111(1)(c) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\), s. 126\(3\)\(a\)\(i\)\(11\)](#) (with [s. 126\(9\)\(10\)](#))
- F74** Words in s. 111(1)(c) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\), s. 126\(3\)\(a\)\(ii\)\(11\)](#) (with [s. 126\(9\)\(10\)](#))
- F75** Words in s. 111(1)(c)(i) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\), s. 126\(3\)\(b\)\(11\)](#) (with [s. 126\(9\)\(10\)](#))
- F76** Words in s. 111(1)(c) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\), s. 126\(3\)\(c\)\(11\)](#) (with [s. 126\(9\)\(10\)](#))
- F77** Words in s. 111(3) inserted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\), s. 126\(4\)\(a\)\(11\)](#) (with [s. 126\(9\)\(10\)](#))
- F78** Words in s. 111(3) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\), s. 126\(4\)\(b\)\(11\)](#) (with [s. 126\(9\)\(10\)](#))
- F79** S. 111(4A) inserted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\), s. 126\(5\)\(11\)](#) (with [s. 126\(9\)\(10\)](#))

## 112 Restriction of relief for company acquisitions

- (1) Section 76 of the Finance Act 1986 (c. 41) (relief where company acquires the whole or part of the undertaking of another company) is amended as follows.
- (2) In subsection (2) for “the condition mentioned in subsection (3) below” substitute “the first and second conditions (as defined below)”.
- (3) In subsection (3) for “The condition” substitute “The first condition”.
- (4) After subsection (3) insert—

“(3A) The second condition applies only in relation to an instrument transferring land in the United Kingdom and is that the acquiring company is not associated with another company that is a party to arrangements with the target company relating to shares of the acquiring company issued in connection with the transfer of the undertaking or part.

(3B) Where an instrument transfers land in the United Kingdom together with other property, the provisions of this section apply as if there were two separate instruments, one relating to land in the United Kingdom and the other relating to other property.”.
- (5) In subsection (5) for “subsection (2) above” (twice) substitute “this section”.
- (6) After subsection (6) insert—

“(6A) For the purposes of subsection (3A) above—

  - (a) companies are associated if one has control of the other or both are controlled by the same person or persons, and
  - (b) “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable.

The references in paragraph (a) above to control shall be construed in accordance with section 416 of the Taxes Act 1988.”.

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- (7) This section applies to instruments executed after 23rd April 2002.
- (8) But this section does not apply to an instrument giving effect to a contract made on or before 17th April 2002, 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.
- (9) This section shall be deemed to have come into force on 24th April 2002.

### 113 Withdrawal of relief for company acquisitions

- (1) This section applies where—
  - (a) an instrument (“the relevant instrument”) transferring land in the United Kingdom from one company to another company (“the acquiring company”) has been stamped on the basis that relief under section 76 of the Finance Act 1986 (c. 41) (“section 76 relief”) applies,
  - (b) before the end of the period of [<sup>F80</sup>three years] beginning with the date on which the instrument was executed control of the acquiring company changes, and
  - (c) at the time control of that company changes the acquiring company [<sup>F81</sup>or a relevant associated company] holds an estate or interest in land—
    - (i) that was transferred [<sup>F82</sup>to the acquiring company] by the relevant instrument, or
    - (ii) that is derived from an estate or interest so transferred, [<sup>F83</sup>and that has not subsequently been transferred at market value by a duly stamped instrument on which *ad valorem* duty was paid and in respect of which section 76 relief was not claimed].
- (2) In those circumstances—
  - (a) section 76 relief in relation to the relevant instrument, or an appropriate proportion of it, is withdrawn, and
  - (b) the additional stamp duty that would have been payable on stamping the relevant instrument but for section 76 relief if the estate or interest in land transferred by that instrument had been transferred at market value, or an appropriate proportion of that additional duty, is payable by the acquiring company within 30 days after control of that company changes.
- (3) In subsection (2)(a) and (b) “an appropriate proportion” means an appropriate proportion having regard to what was transferred by the relevant instrument and [<sup>F84</sup>what is held by that company or, as the case may be, by that company and any relevant associated companies] at the time control of it changes.
- [<sup>F85</sup>(3A) In this section “relevant associated company”, in relation to the acquiring company, means a company—
  - (a) that is controlled by the acquiring company immediately before the control of that company changes, and
  - (b) of which control changes in consequence of the change of control of that company.]

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- (4) In this section—
- (a) references to the transfer of land include the grant or surrender of an estate or interest in or over land;
  - (b) “control” shall be construed in accordance with section 416 of the Taxes Act 1988; and
  - (c) references to control of a company changing are to the company becoming controlled—
    - (i) by a different person,
    - (ii) by a different number of persons, or
    - (iii) by two or more persons at least one of whom is not the person, or one of the persons, by whom the company was previously controlled.
- (5) Schedule 35 to this Act contains provisions supplementing this section.
- (6) Where the relevant instrument transfers land in the United Kingdom together with other property, the provisions of this section and of Schedule 35 apply as if there were two separate instruments, one relating to land in the United Kingdom and the other relating to other property.
- (7) This section applies where the relevant instrument is executed after 23rd April 2002.
- (8) But this section does not apply to an instrument giving effect to a contract made on or before 17th April 2002, 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.
- (9) This section shall be deemed to have come into force on 24th April 2002.

#### Textual Amendments

- F80** Words in s. 113(1)(b) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\), s. 127\(2\)\(9\)](#) (with s. 127(7)(8))
- F81** Words in s. 113(1)(c) inserted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\), s. 127\(3\)\(a\)\(9\)](#) (with s. 127(7)(8))
- F82** Words in s. 113(1)(c)(i) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\), s. 127\(3\)\(b\)\(9\)](#) (with s. 127(7)(8))
- F83** Words in s. 113(1)(c) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\), s. 127\(3\)\(c\)\(9\)](#) (with s. 127(7)(8))
- F84** Words in s. 113(3) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\), s. 127\(4\)\(9\)](#) (with s. 127(7)(8))
- F85** S. 113(3A) inserted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\), s. 127\(5\)\(9\)](#) (with s. 127(7)(8))

## 114 Penalties for late stamping

- (1) Section 15B of the Stamp Act 1891 (c. 39) (late stamping: penalties) is amended as follows.
- (2) In subsection (1)—

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- (a) in paragraph (a) (penalty where instrument not stamped within 30 days of execution), after “is executed in the United Kingdom” insert “ or relates to land in the United Kingdom ”;
  - (b) in paragraph (b) (penalty where instrument not stamped within 30 days of instrument being first received in the United Kingdom), after “is executed outside the United Kingdom” insert “ and does not relate to land in the United Kingdom ”.
- (3) After that subsection insert—
- “(1A) For the purposes of subsection (1) every instrument that (whether or not it also relates to any other transaction) relates to a transaction which to any extent involves land in the United Kingdom is an instrument relating to land in the United Kingdom.”.
- (4) This section applies in relation to instruments executed on or after the day on which this Act is passed.

## **115 Contracts for the sale of an estate or interest in land chargeable as conveyances**

- (1) This section applies to a contract or agreement for the sale of an estate or interest in land in the United Kingdom where—
- (a) the amount or value of the consideration exceeds £10 million, or
  - (b) the instrument forms part of a larger transaction or series of transactions in respect of which the amount or value, or aggregate amount or value, of the consideration exceeds £10 million.
- (2) If, in the case of such a contract or agreement that is not otherwise chargeable to stamp duty, a conveyance or transfer made in conformity with the contract or agreement is not presented to the Commissioners for stamping with the *ad valorem* duty chargeable on it—
- (a) within the period of 90 days after the execution of the contract or agreement, or
  - (b) within such longer period as the Commissioners may think reasonable in the circumstances of the case,
- the contract or agreement shall be chargeable with the same *ad valorem* duty, to be paid by the purchaser, as if it were an actual conveyance on sale of the estate or interest contracted or agreed to be sold.
- (3) The Commissioners—
- (a) may refuse to allow a longer period unless they are provided with a copy of the contract or agreement and such other evidence as they may reasonably require as to the facts and circumstances relevant to their decision,
  - (b) may allow a longer period subject to compliance with such conditions as they think fit, and
  - (c) shall not allow any longer period if it appears to them that the whole, or substantially the whole, of the intended consideration has been paid or transferred.
- (4) Where an instrument to which this section applies is presented for stamping before the end of the period mentioned in subsection (2)—
- (a) any adjudication to the effect that stamp duty is not chargeable does not affect the operation of this section, and

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- (b) the fact that duty may be chargeable under this section may be denoted on the instrument in such manner as the Commissioners think fit.
- (5) Where an instrument is chargeable with duty under this section—
  - (a) section 14(4) of the Stamp Act 1891 (c. 39) (inadmissibility of unstamped instruments) does not apply in relation to it until after the end of the period mentioned in subsection (2) above, and
  - (b) sections 15A and 15B of that Act (late stamping: interest and penalties), apply in relation to it as if it had been executed at the end of that period.
- (6) The *ad valorem* duty paid upon a contract or agreement under this section shall be repaid by the Commissioners if the contract or agreement is afterwards rescinded or annulled or is for any other reason not substantially performed or carried into effect.
- (7) Schedule 36 contains provisions supplementing this section.
- (8) This section and that Schedule apply to contracts or agreements executed after the day on which this Act is passed.

## **116 Abolition of duty on instruments relating to goodwill**

- (1) No stamp duty is chargeable on an instrument for the sale, transfer or other disposition of goodwill.
- (2) Schedule 37 to this Act contains provisions supplementing this section.
- (3) This section and that Schedule shall be construed as one with the Stamp Act 1891 (c. 39).
- (4) This section applies to instruments executed on or after 23rd April 2002.
- (5) This section shall be deemed to have come into force on that date.

### *Stamp duty and stamp duty reserve tax*

## <sup>F86</sup>**117 Power to extend exceptions relating to recognised exchanges**

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### **Textual Amendments**

**F86** S. 117 repealed (11.8.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), s. 50(6), [Sch. 11 Pt. 3\(2\)](#); [S.I. 2005/2007](#), art. 2

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## PART 5

### OTHER TAXES

#### *Inheritance tax*

#### 118 IHT: rate bands

(1) For the Table in Schedule 1 to the Inheritance Tax Act 1984 (c. 51) substitute—

**“Table of Rates of Tax**

<i>Portion of value</i>		<i>Rate of tax</i>
Lower limit (£)	Upper limit (£)	Per cent.
0	250,000	Nil
250,000		40”

(2) Subsection (1) shall apply to any chargeable transfer made on or after 6th April 2002; and section 8(1) of that Act (indexation of rate bands) shall not have effect as respects any difference between the retail prices index for the month of September 2000 and that for the month of September 2001.

#### 119 IHT: powers over, or exercisable in relation to, settled property or a settlement

(1) The Inheritance Tax Act 1984 is amended in accordance with the following provisions of this section.

(2) After section 47 (meaning of “reversionary interest”) insert—

**“47A Settlement power**

In this Act “settlement power” means any power over, or exercisable (whether directly or indirectly) in relation to, settled property or a settlement.”.

(3) After section 55 (reversionary interest acquired by beneficiary) insert—

**“55A Purchased settlement powers**

(1) Where a person makes a disposition by which he acquires a settlement power for consideration in money or money’s worth—

- (a) section 10(1) above shall not apply to the disposition;
- (b) the person shall be taken for the purposes of this Act to make a transfer of value;
- (c) the value transferred shall be determined without bringing into account the value of anything which the person acquires by the disposition; and
- (d) sections 18 and 23 to 27 above shall not apply in relation to that transfer of value.

(2) For the purposes of this section, a person acquires a settlement power if he becomes entitled—



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- (a) to a settlement power,
  - (b) to exercise, or to secure or prevent the exercise of, a settlement power (whether directly or indirectly), or
  - (c) to restrict, or secure a restriction on, the exercise of a settlement power (whether directly or indirectly),as a result of transactions which include a disposition (whether to him or another) of a settlement power or of any power of a kind described in paragraph (b) or (c) above which is exercisable in relation to a settlement power.”.
- (4) In section 272 (general interpretation)—
  - (a) insert the following definition at the appropriate place—

““settlement power” has the meaning given by section 47A above;”;

and
  - (b) in the definition of “property”, at the end insert “ but does not include a settlement power ”.
- (5) In consequence of the amendments made by this section, the title of Chapter 2 of Part 3 of the Inheritance Tax Act 1984 (c. 51) becomes “Interests in possession, reversionary interests and settlement powers”.
- (6) The amendments made by this section have effect in relation to transfers of value on or after 17th April 2002.
- (7) The amendments made by subsections (2) and (4) shall also be deemed always to have had effect (subject to and in accordance with the other provisions of the Inheritance Tax Act 1984) for the purpose of determining the value, immediately before his death, of the estate of any person who died before 17th April 2002, for the purposes of the transfer of value which that person is treated by section 4(1) of that Act as having made immediately before his death.

## **120 IHT: variation of dispositions taking effect on death**

- (1) In section 142 of the Inheritance Tax Act 1984 (alteration of dispositions taking effect on death), for subsection (2) (election to treat subsequent variation of dispositions taking effect on death as if effected by deceased) substitute—
  - “(2) Subsection (1) above shall not apply to a variation unless the instrument contains a statement, made by all the relevant persons, to the effect that they intend the subsection to apply to the variation.
  - (2A) For the purposes of subsection (2) above the relevant persons are—
    - (a) the person or persons making the instrument, and
    - (b) where the variation results in additional tax being payable, the personal representatives.Personal representatives may decline to make a statement under subsection (2) above only if no, or no sufficient, assets are held by them in that capacity for discharging the additional tax.”.
- (2) After section 218 of that Act insert—

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### **“218A Instruments varying dispositions taking effect on death**

- (1) Where—
- (a) an instrument is made varying any of the dispositions of the property comprised in the estate of a deceased person immediately before his death,
  - (b) the instrument contains a statement under subsection (2) of section 142 above, and
  - (c) the variation results in additional tax being payable,
- the relevant persons (within the meaning of that subsection) shall, within six months after the day on which the instrument is made, deliver a copy of it to the Board and notify them of the amount of the additional tax.
- (2) To the extent that any of the relevant persons comply with the requirements of this section, the others are discharged from the duty to comply with them.”.
- (3) In section 245A of that Act (failure to provide information etc)—
- (a) after subsection (1) insert—
 

“(1A) A person who fails to comply with the requirements of section 218A above shall be liable—

    - (a) to a penalty not exceeding £100; and
    - (b) to a further penalty not exceeding £60 for every day after the day on which the failure has been declared by a court or the Special Commissioners and before the day on which the requirements are complied with.”.
  - (b) in subsection (4), insert “ (1A)(b), ” after “subsection (1)(b),” and after paragraph (a) insert—
 

“(aa) he complies with the requirements of section 218A above,”.
- (4) This section applies in relation to instruments made on or after 1st August 2002.

#### *Air passenger duty*

### <sup>F87</sup> **121 Air passenger duty: extension of area to which EEA rates apply**

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#### **Textual Amendments**

**F87** S. 121 omitted (with effect in accordance with Sch. 5 para. 7 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 5 para. 6(c)**

#### *Landfill tax*

### **122 Landfill tax: rate**

- (1) In section 42 of the Finance Act 1996 (c. 8) (amount of landfill tax), in subsections (1)(a) and (2) for “£12” substitute “ £13 ”.

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- (2) This section has effect in relation to taxable disposals made, or treated as made, on or after 1st April 2002.

### *Climate change levy*

## **123 Climate change levy: electricity produced in combined heat and power station**

- (1) In Schedule 6 to the Finance Act 2000 (c. 17) (climate change levy), after paragraph 20 insert—

### **“Exemption: electricity produced in combined heat and power stations**

20A (1) A supply of electricity is exempt from the levy chargeable under paragraph 5(1) if—

- (a) the supply is not one that is deemed to be made under paragraph 23(3),
  - (b) the supply is made under a contract that contains a CHP declaration given by the supplier,
  - (c) prescribed conditions are fulfilled, and
  - (d) the supplier, and each other person (if any) who is a generator of any CHP electricity allocated by the supplier to supplies under the contract, has in a written notice given to the Commissioners agreed that he will fulfil those conditions so far as they may apply to him.
- (2) Sub-paragraph (1) does not apply in relation to a supply to a person of electricity produced in a wholly or partly exempt combined heat and power station where the supply is made to that person from the station.
- (3) In this paragraph “CHP declaration” means a declaration that, in each averaging period, the amount of electricity supplied by exempt CHP supplies made by the supplier in the period will not exceed the difference between—
- (a) the total amount of CHP electricity that during that period is either acquired or generated by the supplier, and
  - (b) so much of that total amount as is allocated by the supplier otherwise than to exempt CHP supplies made by him in the period.

In this sub-paragraph “averaging period” has the same meaning as in paragraph 20B; and “exempt CHP supplies” means supplies made on the basis that they are exempt under this paragraph.

- (4) For the purposes of this paragraph and paragraph 20B, electricity is “CHP electricity” if—
- (a) the electricity was—
    - (i) produced in a fully exempt combined heat and power station, or
    - (ii) produced in a partly exempt combined heat and power station and originally supplied from the station without

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- causing the limit referred to in paragraph 16(2) to be exceeded,
- (b) the electricity is not renewable source electricity (within the meaning of paragraph 19), and
  - (c) prescribed conditions are fulfilled.
- (5) The conditions that may be prescribed under sub-paragraph (1)(c) include, in particular, conditions in connection with—
- (a) the giving of effect to CHP declarations;
  - (b) the supply of information;
  - (c) the inspection of records and, for that purpose, the production of records in legible form and entry into premises;
  - (d) monitoring by the Gas and Electricity Markets Authority, or the Director General of Electricity Supply for Northern Ireland, of the application of provisions of, or made under, this paragraph;
  - (e) the doing of things to or by a person authorised by the Authority or the Director General (as well as the doing of things to or by the Authority or the Director General);
  - (f) things being done at times or in ways specified by the Authority, the Director General or such an authorised person.
- (6) A condition prescribed under sub-paragraph (1)(c) may be one that is required to be fulfilled throughout a period, including a period ending after the time when a supply whose exemption turns on the fulfilment of the condition is treated as being made.
- (7) The conditions that may be prescribed under sub-paragraph (4)(c) include in particular conditions in connection with any of the matters mentioned in paragraphs (b) to (f) of sub-paragraph (5).
- (8) Each of—
- (a) the Gas and Electricity Markets Authority, and
  - (b) the Director General of Electricity Supply for Northern Ireland,
- shall supply the Commissioners with such information (whether or not obtained under this paragraph), and otherwise give the Commissioners such co-operation, as the Commissioners may require in connection with the application of this paragraph (whether generally or in relation to any particular case).
- (9) Paragraph 19(10) (disclosure of information) applies in relation to sub-paragraph (8) above as it applies in relation to paragraph 19(8).

### **Exemption under paragraph 20A: averaging periods**

- 20B (1) This paragraph applies where a person (“the supplier”) makes supplies of electricity on the basis that they are exempt under paragraph 20A (“exempt CHP supplies”).
- (2) The rules about balancing and averaging periods are—
- (a) a balancing period is a period of three months;
  - (b) when a balancing period ends, a new one begins;

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- (c) the first balancing period and the first averaging period begin at the same time;
  - (d) unless the supplier specifies an earlier time, that time is the time when he is treated as making the first of the exempt CHP supplies;
  - (e) when an averaging period ends, a new one begins;
  - (f) an averaging period ends once it has run for two years (but may end sooner under paragraph (g) or sub-paragraph (4)(a) or (5)(a));
  - (g) if the supplier stops making exempt CHP supplies, the end of the balancing period in which he makes the last exempt CHP supply is also the end of the averaging period in which the balancing period falls.
- (3) At the end of each balancing period calculate—
- (a) the total of—
    - (i) the quantity of CHP electricity that the supplier acquired or generated in that period, and
    - (ii) any balancing credit carried forward to that balancing period; and
  - (b) the total of—
    - (i) the quantity of electricity supplied by exempt CHP supplies made by him in that period, and
    - (ii) any balancing debit carried forward to that balancing period.
- (4) If the total mentioned in sub-paragraph (3)(a) exceeds that mentioned in sub-paragraph (3)(b)—
- (a) the averaging period within which the balancing period fell ends at the end of the balancing period, and
  - (b) a balancing credit equal to the difference between the two totals is carried forward to the next balancing period.
- (5) If the totals mentioned in paragraphs (a) and (b) of sub-paragraph (3) are the same—
- (a) the averaging period within which the balancing period fell ends at the end of the balancing period, and
  - (b) no balancing credit or debit is carried forward to the next balancing period.
- (6) Sub-paragraphs (7) and (8) apply if the total mentioned in sub-paragraph (3)(b) exceeds that mentioned in sub-paragraph (3)(a).
- (7) Where the end of the balancing period is by virtue of sub-paragraph (2) (g) the end of an averaging period, the supplier is liable to account to the Commissioners for an amount equal to the amount that would be payable by way of levy on a taxable supply that—
- (a) is made at the end of the balancing period, and
  - (b) is a supply of a quantity of electricity equal to the difference between the two totals.

For the purposes of this Schedule, the amount for which the supplier is liable to account shall be treated as an amount of levy

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for which he is liable to account for an accounting period ending at the end of the balancing period.

(8) Where sub-paragraph (7) does not apply, a balancing debit equal to the difference between the two totals is carried forward to the next balancing period.”.

(2) Subsection (1) has effect in relation to supplies of electricity made on or after such day as the Treasury may by order made by statutory instrument appoint.

#### Commencement Information

**I7** S. 123(1) has effect as specified by [The Finance Act 2002, section 123, \(Appointed Day\) Order 2003 \(S.I. 2003/603\)](#), [art. 2](#)

### 124 Climate change levy: certification requirement

In Schedule 6 to the Finance Act 2000 (c. 17) (climate change levy), after paragraph 149 insert—

#### “Certification of electricity from fully or partly exempt combined heat and power station

149A (1) The Commissioners may by regulations make provision for the Gas and Electricity Markets Authority, or the Director General of Electricity Supply for Northern Ireland, to certify as respects any quantity of electricity that—

- (a) the electricity has been produced in a fully exempt combined heat and power station;
- (b) the electricity has been produced in a partly exempt combined heat and power station and supplied from the station without causing the limit referred to in paragraph 16(2) to be exceeded.

(2) Regulations under this paragraph may provide that for any purposes of this Schedule (or any regulations made under it)—

- (a) electricity is not to be regarded as having been produced as specified in sub-paragraph (1)(a) unless it has been certified under that provision;
- (b) electricity is not to be regarded as having been produced and supplied as specified in sub-paragraph (1)(b) unless it has been certified under that provision.

(3) Regulations under this paragraph may in particular provide that the supply of any electricity does not qualify for the exemption under paragraph 16(2) unless the electricity is certified as specified in sub-paragraph (1)(b).

(4) Regulations under this paragraph may also make provision for determining whether electricity is produced and supplied as specified in sub-paragraph (1)(b).”.

### 125 Climate change levy: exemption for renewable sources

(1) In Schedule 6 to the Finance Act 2000 (c. 17) (climate change levy), in paragraph 20(7), (exemption under paragraph 19: liability to account)—

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- (a) for the words from “(2)(c)” to “2 years)” substitute “ (2)(g) ”,
  - (b) after paragraph (a) insert “and”, and
  - (c) omit paragraph (c) and the preceding “and”.
- (2) This section has effect in relation to averaging periods under paragraph 20 of that Schedule which end on or after the day on which this Act is passed.

**F88 126 Climate change levy: electricity produced from coal mine methane**

**Textual Amendments**

**F88** S. 126 omitted (with effect in accordance with s. 149(3) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\), s. 149\(2\)\(a\)](#)

**127 Climate change levy: incorrect certificates**

- (1) In Schedule 6 to the Finance Act 2000 (climate change levy), in sub-paragraph (2)(a) of paragraph 101 (civil penalties: incorrect notifications etc)—
- (a) in sub-paragraph (ii) for “18 and 21, or” substitute “ 15, 18 and 21, ”;
  - (b) before the word “and” at the end of sub-paragraph (iii) insert—  
“, or  
(iv) a reduced-rate supply (or reduced-rate supplies),”.

- (2) This section applies in relation to certificates given in respect of any supplies made on or after 24th April 2002.

**128 Climate change levy: invoices incorrectly showing levy due**

- (1) In Schedule 6 to the Finance Act 2000 (climate change levy), immediately before paragraph 142 insert—

**“Invoices incorrectly showing levy due**

- 141A (1) This paragraph applies where—
- (a) a person issues an invoice showing an amount as levy chargeable on a supply, and
  - (b) no levy is chargeable on the supply, or the amount chargeable is less than the amount shown.
- (2) The person shall be liable to a penalty unless he satisfies the Commissioners or, on appeal, a tribunal that there is a reasonable excuse for the inclusion in the invoice of the false information.
- (3) The amount of the penalty is £50 or, if more, the following amount—
- (a) where no levy is chargeable, the amount shown as chargeable;
  - (b) where an amount of levy is chargeable, the difference between that amount and the amount shown as chargeable.

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- (4) It is irrelevant for the purposes of sub-paragraph (1) whether or not the supply shown on the invoice actually takes place or has taken place.
- (5) A reference in this paragraph to an invoice is a reference to any kind of invoice (and not just a climate change levy accounting document).”.
- (2) This section applies only in relation to invoices issued on or after the day on which this Act is passed.

### *Aggregates levy*

## 129 **Aggregates levy: transitional relief for Northern Ireland**

- (1) After section 30 of the Finance Act 2001 (c. 9) (credit for aggregates levy) insert—

### **“30A Transitional tax credit in Northern Ireland**

- (1) The Commissioners may by regulations make provision of the kind described in section 30(2) above (entitlement to tax credit) in relation to cases where aggregate is used in Northern Ireland for a prescribed purpose—
- (a) on or after the commencement date, and
  - (b) before 1st April 2007.
- (2) In relation to the use of aggregate in the year ending with a date shown in the first column of the following table, the amount of any tax credit to which a person would otherwise be entitled by virtue of the regulations shall be reduced by the percentage of that amount shown opposite that date in the second column.

<i>Year ending</i>	<i>Reduction in tax credit</i>
31st March 2004	20%
31st March 2005	40%
31st March 2006	60%
31st March 2007	80%

- (3) Subsections (3) to (5) of section 30 above apply to regulations under this section as they apply to regulations under that section.”.
- (2) In section 17(6) of that Act (certain tax credits to be disregarded in determining whether aggregate has already been charged to levy), in paragraph (a) after “section 30(1)(c)” insert “ or 30A ”.

## 130 **Aggregates levy: amendments to provisions exempting spoil etc**

- (1) In section 17(3) of the Finance Act 2001 (c. 9) (aggregate that is exempt)—
- (a) in paragraph (e) (by-products of extracting china clay or ball clay), after “or other by-products” insert “, not including the overburden, ”;
  - (b) after that paragraph insert—
    - “(f) it consists wholly of the spoil from any process by which—



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(i) coal, lignite, slate or shale, or  
(ii) a substance listed in section 18(3) below,  
has been separated from other rock after being extracted or won with that other rock;”.

(2) Omit section 17(4)(b) of that Act (aggregate exempt if it consists, or is part of anything consisting, wholly or mainly of spoil from the separation of coal from other rock after extraction).

(3) This section shall be deemed to have come into force on 1st April 2002.

### **131 Aggregates levy: crushing and cutting rock**

(1) In section 17(3) of the Finance Act 2001 (exempt aggregate), omit paragraph (a) (exemption for rock that has not been subjected to an industrial crushing process).

(2) In section 18(2)(a) of that Act (exemption for production of dimension stone), for “dimension stone” substitute “stone with one or more flat surfaces”.

(3) The following amendments to that Act are consequential on that made by subsection (1)—

- (a) in section 20(1) (originating sites), omit—
  - (i) the words “and is not rock” in paragraphs (a) and (b), and
  - (ii) paragraph (c);
- (b) in section 21 (operators of sites), omit subsection (2)(b);
- (c) in section 24 (the register), omit subsections (6)(b) and (8)(a).

(4) This section shall be deemed to have come into force on 1st April 2002.

### **132 Aggregates levy: miscellaneous amendments**

(1) Schedule 38 to this Act, which makes amendments to provisions in Part 2 of the Finance Act 2001 (aggregates levy), has effect.

(2) In section 197(2) of the Finance Act 1996 (c. 8) (enactments for which interest rates are set under section 197), in paragraph (h) (aggregates levy provisions) in subparagraph (ii) for “paragraph 8(3)(a)” substitute “paragraphs 6 and 8(3)(a)”.

(3) This section shall be deemed to have come into force on 1st April 2002.

### **133 Aggregates levy: amendments to provisions about civil penalties**

(1) Part 2 of Schedule 6 to the Finance Act 2001 (c. 9) (aggregates levy: civil penalties) is amended as follows.

<sup>F89</sup>(2) .....

<sup>F89</sup>(3) .....

<sup>F89</sup>(4) .....

(5) After paragraph 9 insert—

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## 9A “Incorrect records etc evidencing claim for tax credit

- (1) This paragraph applies where—
  - (a) a claim is made for a tax credit in such a case as is mentioned in—
    - (i) section 30(1)(c) of this Act (aggregate used in a prescribed industrial or agricultural process), or
    - (ii) section 30A of this Act (transitional tax credit in Northern Ireland);
  - (b) a record or other document is provided to the Commissioners as evidence for the claim; and
  - (c) the record or document is incorrect.
- (2) The person who provided the document to the Commissioners, and any person who provided it to anyone else with a view to its being used as evidence for a claim for a tax credit, shall be liable to a penalty.
- (3) The amount of the penalty shall be equal to 105 per cent of the difference between—
  - (a) the amount of tax credit that would have been due on the claim if the record or document had been correct, and
  - (b) the amount (if any) of tax credit actually due on the claim.
- (4) The providing of a record or other document shall not give rise to a penalty under this paragraph if the person who provided it satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for his having provided it.
- (5) Where by reason of providing a record or other document—
  - (a) a person is convicted of an offence (whether under this Act or otherwise), or
  - (b) a person is assessed to a penalty under paragraph 7 or 9 above,
 that person shall not by reason of the providing of the record or document be liable also to a penalty under this paragraph.”
- (6) This section shall be deemed to have come into force on 1st May 2002.

### Textual Amendments

**F89** S. 133(2)-(4) omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 21\(j\)](#) (with savings in S.I. 2009/511, art. 4(f)); [S.I. 2009/571](#), art. 2 (with art. 6)

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## PART 6

### MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

#### *Recovery of taxes etc due in other member States*

#### **134 Recovery of taxes etc due in other member States**

(1) Schedule 39 to this Act has effect with respect to the recovery in the United Kingdom of amounts in respect of which a request for enforcement has been made in accordance with the Mutual Assistance Recovery Directive by an authority in another member State.

[<sup>F90</sup>(2) The “Mutual Assistance Recovery Directive” means Council Directive [2008/55/EC](#)]

<sup>F91</sup>(2A) . . . . .

(3) No obligation of secrecy imposed by statute or otherwise precludes a tax authority in the United Kingdom—

- (a) from disclosing information to another tax authority in the United Kingdom in connection with a request for enforcement made by the competent authority of another member State;
- (b) from disclosing information that is required to be disclosed to the competent authority of another member State by virtue of the Mutual Assistance Recovery Directive;
- (c) from disclosing information for the purposes of a request made by the tax authority under that Directive for the enforcement in another member State of an amount claimed by the authority in the United Kingdom.

(4) In subsection (3) “tax authority in the United Kingdom” means—

- (a) the Commissioners of Customs and Excise,
- (b) the Commissioners of Inland Revenue, or
- (c) in relation to agricultural levies of the European Community within the meaning of section 6 of the European Communities Act 1972 (c. 72), any relevant Minister within the meaning of that section.

(5) Subsection (3)(a) does not apply in relation to disclosure by the Commissioners of Inland Revenue to a relevant Minister.

(6) The Treasury may by regulations make such provision as appears to them appropriate for the purpose of giving effect to any future amendments of the Mutual Assistance Recovery Directive.

The regulations may amend, replace or repeal any of the provisions of subsections (1) to (4) above or of Schedule 39.

(7) Regulations under subsection (6) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

#### **Textual Amendments**

**F90** S. 134(2) substituted (with effect in accordance with reg. 4 of the amending S.I.) by [The Recovery of Taxes etc Due in Other Member States \(Amendment of Section 134 of the Finance Act 2002\) Regulations 2008 \(S.I. 2008/2871\)](#), regs. 2, **3(a)**

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**F91** S. 134(2A) omitted (with effect in accordance with reg. 4 of the amending S.I.) by virtue of [The Recovery of Taxes etc Due in Other Member States \(Amendment of Section 134 of the Finance Act 2002\) Regulations 2008 \(S.I. 2008/2871\)](#), regs. 2, **3(b)**

**Modifications etc. (not altering text)**

**C9** S. 134 applied (with modifications) (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), s. **322**

*Mandatory e-filing*

**135 Mandatory e-filing**

- (1) [<sup>F92</sup>The Commissioners for Her Majesty’s Revenue and Customs] (“the Commissioners”) may make regulations requiring the use of electronic communications for the delivery by specified persons of specified information required or authorised to be delivered by or under legislation relating to a taxation matter.
- (2) Regulations under this section may make provision—
  - (a) as to the electronic form to be taken by information delivered to the [<sup>F93</sup>Revenue and Customs] using electronic communications;
  - (b) requiring persons to prepare and keep records of information delivered to [<sup>F93</sup>Revenue and Customs] by means of electronic communications;
  - (c) for the production of the contents of records kept in accordance with the regulations;
  - (d) as to conditions that must be complied with in connection with the use of electronic communications for the delivery of information;
  - (e) for treating information as not having been delivered unless conditions imposed by any of the regulations are satisfied;
  - (f) for determining the time at which and person by whom information is to be taken to have been delivered;
  - (g) for authenticating whatever is delivered.
- (3) Regulations under this section may also make provision (which may include provision for the application of conclusive or other presumptions) as to the manner of proving for any purpose—
  - (a) whether any use of electronic communications is to be taken as having resulted in the delivery of information;
  - (b) the time of delivery of any information for the delivery of which electronic communications have been used;
  - (c) the person by whom information delivered by means of electronic communications was delivered;
  - (d) the contents of anything so delivered;
  - (e) the contents of any records;
  - (f) any other matter for which provision may be made by regulations under this section.
- (4) Regulations under this section may—
  - (a) allow any authorisation or requirement for which the regulations may provide to be given or imposed by means of a specific or general direction given by the Commissioners;

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- (b) provide that the conditions of any such authorisation or requirement are to be taken to be satisfied only where the [<sup>F93</sup>Revenue and Customs] are satisfied as to specified matters;
  - (c) allow a person to refuse to accept delivery of information in an electronic form or by means of electronic communications except in such circumstances as may be specified in or determined under the regulations;
  - (d) allow or require use to be made of intermediaries in connection with—
    - (i) the delivery of information by means of electronic communications;
    - or
    - (ii) the authentication or security of anything transmitted by any such means.
- (5) Regulations under this section may contain provision—
- (a) requiring the [<sup>F93</sup>Revenue and Customs] to notify persons appearing to them to be, or to have become, a person of a specified description and accordingly required to use electronic communications for any purpose in accordance with the regulations,
  - (b) enabling a person so notified to have the question whether he is a person of such a description determined in the same way as an appeal.
- (6) Regulations under this section may provide—
- (a) that information delivered by means of electronic communications must meet standards of accuracy and completeness set by specific or general directions given by the Commissioners, and
  - (b) that failure to meet those standards may be treated—
    - (i) as a failure to deliver the information, or
    - (ii) as a failure to comply with the requirements of the regulations.
- (7) The power to make provision by regulations under this section includes power—
- (a) to provide for a contravention of, or any failure to comply with, the regulations to attract a penalty of a specified amount not exceeding £3,000;
  - (b) to provide that specified enactments relating to penalties imposed for the purposes of any taxation matter (including enactments relating to assessments, review and appeal) apply, with or without modifications, in relation to penalties under the regulations;
  - [<sup>F94</sup>(ba) to specify other consequences of contravention of, or failure to comply with, the regulations (which may include disregarding a return delivered otherwise than by the use of electronic communications);]
  - (c) to make different provision for different cases;
  - (d) to make such incidental, supplemental, consequential and transitional provision in connection with any provision contained in any of the regulations as the Commissioners think fit.
- (8) References in this section to the delivery of information include references to any of the following (however referred to)—
- (a) the production or furnishing to a person of any information, account, record or document;
  - (b) the giving, making, issue or surrender to, or service on, any person of any notice, notification, statement, declaration, certificate or direction;
  - (c) the imposition on any person of any requirement or the issue to any person of any request;

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- (d) the making of any return, claim, election or application;
  - (e) the amendment or withdrawal of anything mentioned in paragraphs (a) to (d) above.
- (9) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.
- (10) In this section—
- [<sup>F95</sup>“ the Revenue and Customs ” means—
  - (a) the Commissioners,
  - (b) any officer of Revenue and Customs, and
  - (c) any other person who for the purposes of electronic communications is acting under the authority of the Commissioners;]
- “legislation” means any enactment, Community legislation or subordinate legislation;
- “specified” means specified by or under regulations under this section;
- “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30);
- [<sup>F96</sup>“taxation matter” means any matter relating to a tax (or duty) for which the Commissioners are responsible.]

#### Textual Amendments

- F92** Words in s. 135(1) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 95\(1\)\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F93** Words in s. 135(2)-(5) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 95\(1\)\(b\)](#); S.I. 2005/1126, art. 2(2)(h)
- F94** S. 135(7)(ba) inserted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), s. 93(2)
- F95** Words in s. 135(10) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 95\(1\)\(c\)](#); S.I. 2005/1126, art. 2(2)(h)
- F96** Words in s. 135(10) substituted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), s. 93(3)

#### Modifications etc. (not altering text)

- C10** S. 135(8) applied by SI 2001/1004 reg. 90A(2) (as inserted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), [23](#))

### 136 Use of electronic communications under other provisions

- (1) Any power to make subordinate legislation for or in connection with the delivery of information conferred in relation to a taxation matter on—
- (a) the Commissioners of Inland Revenue, or
  - (b) the Treasury,
- includes power to make any such provision in relation to the delivery of that information as could be made in exercise of the power conferred by section 135.
- (2) Provision made in exercise of the powers conferred by section 135 or subsection (1) above has effect notwithstanding so much of any enactment or subordinate legislation as would otherwise—

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- (a) allow information to be delivered otherwise than by means of electronic communications, or
  - (b) preclude the use of an intermediary in connection with its delivery.
- (3) Expressions used in this section and section 135 have the same meaning in this section as in that section.
- (4) Nothing in this section shall be read as restricting the generality of the power conferred by section 135.

### *Lorry road-user charge*

#### **137 Lorry road-user charge**

- (1) A tax, to be known as lorry road-user charge, shall be charged in respect of use of roads by lorries.
- (2) The persons by whom lorry road-user charge shall be payable, the rates at which it shall be charged, and the lorries, roads and use in respect of which it shall be charged, shall be such as Parliament may determine.
- (3) The amount of lorry road-user charge charged in respect of use of any roads by a lorry shall be calculated, in such manner as Parliament may determine, by reference to the distance travelled on those roads by the lorry.
- [<sup>F97</sup>(4) Lorry road-user charge—
- (a) shall be under the care and management of the Commissioners of Customs and Excise, and
  - (b) shall be administered and enforced in accordance with such provisions as Parliament may determine.]

[<sup>F98</sup>(5) All money and securities for money collected or received for or on account of lorry road-user charge shall—

    - (a) if collected or received in Great Britain, be placed to the general account of the Commissioners of Customs and Excise kept at the Bank of England under section 17 of the Customs and Excise Management Act 1979;
    - (b) if collected or received in Northern Ireland, be paid into the Consolidated Fund of the United Kingdom in such manner as the Treasury may direct.]

[<sup>F99</sup>(7) A Minister of the Crown or government department may—

      - (a) incur expenditure in connection with preparations for lorry road-user charge (including any fuel credit to be paid in respect of fuelling of lorries chargeable in respect of lorry road-user charge);
      - (b) enter into contracts in respect of the development or provision of equipment, systems or services to be used in connection with lorry road-user charge (including any fuel credit).]

#### **Textual Amendments**

**F97** S. 137(4) substituted (22.7.2004) by [Finance Act 2004 \(c. 12\), s. 292\(2\)](#)

**F98** S. 137(5) substituted for s. 137(5)(6) (22.7.2004) by [Finance Act 2004 \(c. 12\), s. 292\(3\)](#)

**F99** S. 137(7) substituted (7.4.2005) by [Finance Act 2005 \(c. 7\), s. 100](#)

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### *Registers of UK gilts*

#### **138 Authority of Bank of England to discharge functions in place of Bank of Ireland**

- (1) The Bank of England has authority, in the event of the Bank of Ireland ceasing to perform any of its functions in relation to United Kingdom government stock, to discharge any of the Bank of Ireland’s functions in relation to such stock in place of the Bank of Ireland.
- (2) The enactments relating to United Kingdom government stock have effect in relation to anything done in the circumstances mentioned in subsection (1) for the purposes of discharging any such functions—
  - (a) as if any reference to the Bank of Ireland were a reference to the Bank of England, and
  - (b) as if any reference to an officer of the Bank of Ireland were a reference to the corresponding officer of the Bank of England.
- (3) In particular, sections 59 and 66 of the National Debt Act 1870 (c. 71) (provisions protecting the Bank and its officers from liability) apply to the Bank of England and to officers of that Bank in relation to anything done in the circumstances mentioned in subsection (1) above for the purposes of discharging any functions of the Bank of Ireland in relation to United Kingdom government stock.
- (4) In this section—
 

“enactment” includes an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978 (c. 30);

“United Kingdom government stock” means stock or bonds of any of the descriptions included in Part 1 of Schedule 11 to the Finance Act 1942 (c. 21) (whether on or after the passing of this Act).
- (5) This section shall be deemed always to have had effect.

#### **139 Closure of UK gilts registers kept in Ireland**

- (1) The Treasury may by order made by statutory instrument provide—
  - (a) that no further stock or bonds may be registered in either of the Irish gilts registers on or after such day as the order may appoint (“the appointed day”), and
  - (b) for the transfer to the English gilts register of the entries subsisting in each of those registers at the beginning of the appointed day.
- (2) The power conferred by subsection (1)(b) includes power to make provision in relation to stock and bonds which were not registered in either of the Irish gilts registers on the appointed day, but which should have been.
- (3) An order under this section may contain such consequential, incidental, supplementary and transitional provision as appears to the Treasury to be necessary or expedient, including provision amending, repealing or revoking any enactment.
- (4) In subsection (3) “enactment” means any enactment contained in—
  - (a) an Act, whenever passed, or
  - (b) an instrument, whenever made, under an Act, whenever passed.
- (5) In this section—



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“the English gilts register” is the register required to be kept at the office of the Chief Registrar of the Bank of England under section 47 of the Finance Act 1942 (c. 21) (registration of government stock); and

“the Irish gilts registers” are—

- (a) the register required to be kept in Belfast under that section, and
- (b) the register required to be kept in Dublin under that section.

- (6) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of the House of Commons.

#### 140 Administration of UK gilts

- (1) In section 47 of the Finance Act 1942 (transfer and registration of government stock)

- (a) for subsection (1)(b) (power to provide for the keeping of stock and bond registers by the Banks of England and Ireland) substitute—

- “(b) for the administration of such stock and bonds (including the registration of holders) by such one or more persons as the Treasury may appoint in accordance with the regulations and the closure of any register;”

and

- (b) after subsection (1E) insert—

- “(1EA) Persons appointed in accordance with regulations under subsection (1)(b) shall be appointed on such terms (including terms as to the making of payments by the Treasury) as the Treasury consider appropriate, and the persons who may be so appointed include the Bank of England.”

- (2) The Treasury may by order made by statutory instrument make such consequential, incidental, supplementary and transitional provision as appears to the Treasury to be necessary or expedient in consequence of the amendments made by subsection (1), including provision amending, repealing or revoking any enactment.

- (3) In subsection (2) “enactment” means any enactment contained in—

- (a) an Act, whenever passed, or
  - (b) an instrument, whenever made, under an Act, whenever passed.

- (4) A statutory instrument containing an order under subsection (2) is subject to annulment in pursuance of a resolution of the House of Commons.

- (5) Sums payable by the Treasury by virtue of section 47(1EA) of the Finance Act 1942 (c. 21) (as inserted by subsection (1) above) shall be met out of the National Loans Fund with recourse to the Consolidated Fund.

- (6) This section shall come into force on such day as the Treasury may by order made by statutory instrument appoint.

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#### Commencement Information

**18** S. 140 in force at 11.3.2004 by S.I. 2004/689, art. 2

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## *Supplementary*

### **141 Repeals**

- (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.
- (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.

### **142 Interpretation**

In this Act “the Taxes Act 1988” means the Income and Corporation Taxes Act 1988 (c. 1)<sup>F100</sup>, and “ITA 2007” means the Income Tax Act 2007”].

#### **Textual Amendments**

**F100** Words in s. 142 inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 416](#) (with [Sch. 2](#))

### **143 Short title**

This Act may be cited as the Finance Act 2002.

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## SCHEDULES

### SCHEDULE 1

Section 4

#### BEER FROM SMALL BREWERIES: REDUCED RATE OF DUTY

- 1 (1) Section 36 of the Alcoholic Liquor Duties Act 1979 (c. 4) (beer: charge of excise duty) is amended as follows.
  - (2) In subsection (1), for “at the rate of £11.89 per hectolitre per cent of alcohol in the beer” substitute “at the rates specified in subsection (1AA) below”.
  - (3) After subsection (1), insert—

“(1AA) The rates at which the duty shall be charged are—

    - (a) in the case of beer that is not small brewery beer, £11.89 per hectolitre per cent of alcohol in the beer;
    - (b) in the case of small brewery beer produced in a singleton brewery, the rate per hectolitre per cent of alcohol in the beer that is given by section 36D below;
    - (c) in the case of small brewery beer produced in a co-operated brewery, the rate per hectolitre per cent of alcohol in the beer that is given by section 36F below.”.
- 2 In that Act, after that section (and before the heading “*Reliefs from excise dut*”) insert—

*“Reduced rates of excise duty*

#### **36A Beer from small breweries: introductory**

- (1) For the purposes of section 36(1AA) above (but subject to subsection (2) below)—
  - (a) whether beer produced in a singleton brewery is “small brewery beer” is determined in accordance with section 36C below, and
  - (b) whether beer produced in a co-operated brewery is “small brewery beer” is determined in accordance with section 36E below.
- (2) Beer is not small brewery beer if it is produced by a person on any premises in circumstances in which he is required to be, but is not, registered under section 47 below in respect of those premises.

#### **36B Interpretation of provisions relating to small brewery beer**

- (1) The following provisions of this section have effect for the purposes of section 36(1AA) above, section 36A above, this section and sections 36C to 36F below.

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- (2) A brewery is a “singleton brewery” at any particular time in a calendar year if it is not a co-operated brewery at that time.
- (3) A brewery is a “co-operated brewery” at any particular time in a calendar year if—
  - (a) a person who produces beer in the brewery at that time or any earlier time in that year, or
  - (b) a person connected with such a person,
 also produces beer in any other brewery at that time or any earlier time in that year.
- (4) “Brewery” means premises (whether or not in the United Kingdom) on which beer is produced and that are situated physically apart from any other premises on which beer is produced.
- (5) “The standard beer duty rate” means the rate of duty specified by section 36(1AA)(a) above.
- (6) References to “the grossed-up amount” of an estimate of the amount of a brewery’s production in a calendar year are to the amount given by—

$$\frac{E}{(365-N)} \times 365$$

where—

E is the amount of the estimate, and

N is the number of days (if any) in the calendar year before the brewery begins to be used as beer-production premises.

- (7) References to a brewery being used as beer-production premises are, in the case of a brewery in the United Kingdom, to there being at least one person who is required to be registered under section 47 below in respect of the brewery.
- (8) Any question whether a person is connected with another shall be determined in accordance with section 839 of the Income and Corporation Taxes Act 1988.

### **36C Meaning of “small brewery beer”: beer from singleton breweries**

- (1) This section applies to beer produced in a brewery at a time in a calendar year (“the current year”) when the brewery is a singleton brewery.
- (2) The beer is “small brewery beer” if the following conditions are satisfied; but this is subject to subsections (9) and (10) below.
- (3) The first condition is that either—
  - (a) no beer was produced in the brewery in the previous calendar year (“the previous year”), or
  - (b) the amount of beer produced in the brewery in the previous year was not more than 30,000 hectolitres.

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- (4) For the purposes of subsection (3)(b) above, where the brewery was in use as beer-production premises during part only of the previous year, the amount of beer produced in the previous year in the brewery shall be taken to have been—

$$\frac{A}{D} \times 365$$

where—

A is the amount of beer actually produced in the previous year in the brewery, and

D is the number of days in that part of the previous year.

- (5) The second condition is that the amount of the estimate under subsection (9) below of the brewery's production in the current year is not more than 30,000 hectolitres.
- (6) The third condition is that if the brewery begins to be used as beer-production premises part-way through the current year, the grossed-up amount of that estimate is not more than 30,000 hectolitres.
- (7) The fourth condition is that less than half of the beer produced in the brewery in the previous year was produced under licence.
- (8) The fifth condition is that the beer is not produced under licence.
- (9) Beer produced in the brewery in the current year before the person who first produces beer in the brewery in that year has made a reasonable estimate of the amount of beer that will be produced in the brewery in that year is not small brewery beer.
- (10) Beer produced in the brewery in the current year after the amount of beer produced in the brewery in the current year has reached 30,000 hectolitres is not small brewery beer.
- (11) Subsection (10) above is without prejudice to section 167(4) of the Customs and Excise Management Act 1979 (recovery of duty unpaid by reason of untrue document or statement).

### **36D Rate of duty for small brewery beer from singleton breweries**

- (1) This section applies to small brewery beer produced in a brewery at a time in a calendar year ("the current year") when the brewery is a singleton brewery.
- (2) The rate of duty in the case of that beer ("the brewery rate") is determined in accordance with this section.
- (3) Subsection (4) below applies if—
- beer was produced in the brewery in the previous calendar year ("the previous year") and the amount produced in the brewery in that year was not more than 5,000 hectolitres, or
  - no beer was produced in the brewery in the previous year and the grossed-up amount of the estimate under section 36C(9) above of

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the brewery's production in the current year is not more than 5,000 hectolitres.

- (4) If this subsection applies, "the brewery rate" is 50% of the standard beer duty rate at the time concerned; but this is subject to rounding under subsection (7) below.
- (5) Subsection (6) below applies if—
- (a) beer was produced in the brewery in the previous year and the amount produced in the brewery in that year was more than 5,000 hectolitres but not more than 30,000 hectolitres, or
  - (b) no beer was produced in the brewery in the previous year and the grossed-up amount of the estimate under section 36C(9) above of the brewery's production in the current year is more than 5,000 hectolitres but not more than 30,000 hectolitres.
- (6) If this subsection applies, "the brewery rate" is, subject to rounding under subsection (7) below, given by—

$$\frac{P-2,500}{P} \times \text{the standard beer duty rate at the time c}$$

where—

if this subsection applies by reason of subsection (5)(a) above, P is the amount, in hectolitres, of beer produced in the brewery in the previous year, and

if this subsection applies by reason of subsection (5)(b) above, P is the grossed-up amount (expressed in hectolitres) mentioned in subsection (5)(b).

- (7) Where a rate given by subsection (4) or (6) above would (apart from this subsection) not be a whole number of pennies, the rate given by that subsection shall be taken to be the rate actually given by that subsection rounded up to the nearest penny.
- (8) Where the brewery was in use as beer-production premises during part only of the previous year, for the purposes of subsections (3)(a), (5)(a) and (6) above the amount of beer produced in the brewery in the previous year shall be taken to have been—

$$\frac{A}{D} \times 365$$

where—

A is the amount of beer actually produced in the previous year in the brewery, and

D is the number of days in that part of the previous year.

### **36E Meaning of "small brewery beer": beer from co-operated breweries**

- (1) This section applies to beer produced in a brewery at a time in a calendar year ("the current year") when the brewery is a co-operated brewery.

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- (2) The beer is “small brewery beer” if the following conditions are satisfied; but this is subject to subsections (10) and (11) below.
- (3) In this section—
- “the group” means the group of breweries consisting of—
- (a) the co-operated brewery, and
- (b) every brewery (other than the co-operated brewery) in which beer is produced at the time mentioned in subsection (1) above, or at any earlier time in the current year, by—
- (i) a person who produces beer in the co-operated brewery at the time so mentioned or at any earlier time in the current year, or
- (ii) a person connected with such a person;
- “group brewery” means a brewery that is in the group;
- “the previous year” means the calendar year immediately preceding the current year.
- (4) The first condition is that either—
- (a) no beer was produced in the previous year in the group, or
- (b) the amount given by  $PY + GE$  is not more than 30,000 hectolitres, where—
- PY is the amount of beer produced in the previous year in the group, and
- GE is the aggregate of the grossed-up amount of each estimate that—
- (i) is an estimate for the purposes of subsection (10) below of the amount of the production in the current year in a group brewery in which no beer was produced in the previous year, and
- (ii) is made no later than the time mentioned in subsection (1) above.
- (5) For the purposes of subsection (4)(b) above, where a group brewery was in use as beer-production premises during part only of the previous year, the amount of beer produced in the previous year in that brewery shall be taken to have been—

$$\frac{A}{D} \times 365$$

where—

A is the amount of beer actually produced in the previous year in that brewery, and

D is the number of days in that part of the previous year.

- (6) The second condition is that the aggregate of each estimate that—
- (a) is an estimate for the purposes of subsection (10) below of the amount of a group brewery’s production in the current year, and
- (b) is made no later than the time mentioned in subsection (1) above, is not more than 30,000 hectolitres.

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- (7) The third condition is that if any group brewery begins to be used as beer-production premises part-way through the current year, the aggregate of the grossed-up amount of each estimate that—
  - (a) is an estimate for the purposes of subsection (10) below of the amount of a group brewery’s production in the current year, and
  - (b) is made no later than the time mentioned in subsection (1) above, is not more than 30,000 hectolitres.
- (8) The fourth condition is that less than half of the beer produced in the previous year in each group brewery was produced under licence.
- (9) The fifth condition is that the beer is not produced under licence.
- (10) Beer produced in the co-operated brewery at an unestimated time is not small brewery beer; and here “unestimated time” means a time in the current year when there is a group brewery for which there does not exist a reasonable estimate, made by the person who first produces beer in that brewery in that year, of the amount of beer that will be produced in that brewery in that year.
- (11) Beer produced in the co-operated brewery in the current year after the amount of beer produced in the group in the current year has reached 30,000 hectolitres is not small brewery beer.
- (12) Subsection (11) above is without prejudice to section 167(4) of the Customs and Excise Management Act 1979 (recovery of duty unpaid by reason of untrue document or statement).

### **36F Rate of duty for small brewery beer from co-operated breweries**

- (1) This section applies to small brewery beer produced in a brewery at a time in a calendar year (“the current year”) when the brewery is a co-operated brewery.
- (2) The rate of duty in the case of that beer (“the brewery rate”) is determined in accordance with this section.
- (3) In this section—
  - “the group” means the group of breweries consisting of—
    - (a) the co-operated brewery, and
    - (b) every brewery (other than the co-operated brewery) in which beer is produced at the time mentioned in subsection (1) above, or at any earlier time in the current year, by—
      - (i) a person who produces beer in the co-operated brewery at the time so mentioned or at any earlier time in the current year, or
      - (ii) a person connected with such a person;
  - “group brewery” means a brewery that is in the group;
  - “the previous year” means the calendar year immediately preceding the current year;
  - “the notional previous year’s production” has the meaning given by subsection (4) below.



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(4) In this section “the notional previous year’s production” means the amount, in hectolitres, given by  $PY + GE$  where—

PY is the amount of beer produced in the group in the previous year, and

GE is the aggregate of the grossed-up amount of each estimate that—

(a) is an estimate for the purposes of section 36E(10) above of the amount of the production in the current year in a group brewery in which no beer was produced in the previous year, and

(b) is made no later than the time mentioned in subsection (1) above.

(5) Where a group brewery was in use as beer-production premises during part only of the previous year, in calculating PY for the purposes of subsection (4) above the amount of beer produced in that brewery in the previous year shall be taken to have been—

$$\frac{A}{D} \times 365$$

where—

A is the amount of beer actually produced in the previous year in that brewery, and

D is the number of days in that part of the previous year.

(6) Subsection (7) below applies if—

(a) beer was produced in at least one group brewery in the previous year and the notional previous year’s production is not more than 5,000 hectolitres, or

(b) no beer was produced in the group in the previous year and the aggregate of each estimate that—

(i) is an estimate for the purposes of section 36E(10) above of the amount of a group brewery’s production in the current year, and

(ii) is made no later than the time mentioned in subsection (1) above,

is not more than 5,000 hectolitres.

(7) If this subsection applies, “the brewery rate” is 50% of the standard rate at the time mentioned in subsection (1) above; but this is subject to rounding under subsection (10) below.

(8) Subsection (9) below applies if—

(a) beer was produced in at least one group brewery in the previous year and the notional previous year’s production is more than 5,000 hectolitres but not more than 30,000 hectolitres, or

(b) no beer was produced in the group in the previous year and the aggregate mentioned in subsection (6)(b) above is more than 5,000 hectolitres but not more than 30,000 hectolitres.

(9) If this subsection applies, “the brewery rate” is, subject to rounding under subsection (10) below, given by—

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$$\frac{P-2,500}{P} \times \text{the standard rate}$$

where—

if this subsection applies by reason of subsection (8)(a) above, P is the previous year's notional production,

if this subsection applies by reason of subsection (8)(b) above, P is the amount, in hectolitres, of the aggregate mentioned in subsection (6)(b) above, and

“the standard rate” means the standard beer duty rate at the time mentioned in subsection (1) above.

- (10) Where a rate given by subsection (7) or (9) above would (apart from this subsection) not be a whole number of pennies, the rate given by that subsection shall be taken to be the rate actually given by that subsection rounded up to the nearest penny.

### **36G Assessments where incorrectly low rate of duty applied**

- (1) Subsection (3) below applies if—
- (a) duty is charged by section 36 above on any beer, and
  - (b) it appears at the excise duty point that the beer is small brewery beer for the purposes of section 36(1AA) above, but
  - (c) it turns out that the beer was not small brewery beer for those purposes (because, for example, circumstances were not as they appeared at that point or they subsequently changed).
- (2) Subsection (3) below also applies if—
- (a) duty is charged by section 36 above on any beer that is small brewery beer for the purposes of section 36(1AA) above, and
  - (b) the rate of duty that at the excise duty point appeared to be the correct rate turns out to have been lower than the correct rate (because, for example, circumstances were not as they appeared at that point or they subsequently changed).
- (3) In any such case the Commissioners—
- (a) may assess the amount that is the difference between—
    - (i) the actual amount of the duty charged on the beer by section 36 above, and
    - (ii) the lower amount that, at the excise duty point, appeared to be the amount charged,
 as being excise duty due from the person liable to pay the duty charged on the beer by section 36 above, and
  - (b) may notify him or his representative accordingly.
- (4) Where two or more persons are liable to pay the duty charged on the beer—
- (a) the reference in subsection (3)(a) above to the person liable to pay the duty is to any one or more of those persons, and

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- (b) the reference in subsection (3)(b) above to notifying the person liable or his representative is to notifying each person assessed or his representative.

### **36H Power to vary reduced rate provisions**

- (1) The Treasury may by order made by statutory instrument make provision amending this Act for the purpose of causing excise duty to be charged on a description of beer—
  - (a) at a reduced rate instead of at the standard rate;
  - (b) at the standard rate instead of at a reduced rate;
  - (c) at a different reduced rate.
- (2) In this section—
  - “reduced rate” means a rate lower than the standard rate, and
  - “the standard rate” means the rate specified by section 36(1AA) (a) above.
- (3) An order under subsection (1) above may—
  - (a) make different provision for different cases;
  - (b) make such consequential amendments in this Act and other enactments as appear to the Treasury to be necessary or expedient;
  - (c) make such other consequential provision, and such incidental and transitional provision, as appears to the Treasury to be necessary or expedient.
- (4) A statutory instrument by which there is made an order under subsection (1) above shall be laid before the House of Commons after being made.

Unless the instrument is approved by the House of Commons before the expiration of 28 days beginning with the date on which the instrument was made, the order shall cease to have effect on the expiration of that period.

Where the order so ceases to have effect, that does not prejudice—

- (a) anything previously done under the order, or
- (b) the making of a new order.

In reckoning any such period of 28 days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the House of Commons is adjourned for more than 4 days.”.

#### **Commencement Information**

- 19** Sch. 1 para. 2 wholly in force; Sch. 1 para. 2 in force for specified purposes at 1.6.2002, otherwise Sch. 1 para. 2 in force at 24.7.2002, see. s. 4

- 3 In section 49(1) of the Alcoholic Liquor Duties Act 1979 (c. 4) (beer regulations), after paragraph (j) insert—
- “(k) requiring the production of certificates as to matters relating to beer imported into the United Kingdom and the beer’s production and producer, whether as alternative conditions for charging the duty on

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the beer at a rate lower than that specified by section 36(1AA)(a) above or as evidence that conditions for charging the duty at such a rate are satisfied.”.

- 4 (1) The Finance Act 1994 (c. 9) is amended as follows.
  - (2) In section 12A(3)(bb) (recovery of amounts assessed under the Alcoholic Liquor Duties Act 1979), for “or 11” substitute “, 11 or 36G ”.
  - (3) In section 12B(2) (meaning of “relevant time” in section 12A), after paragraph (eb) insert—
    - “(ec) in the case of an assessment under section 36G of that Act, the the time at which the requirement to pay the duty took effect (which time, in a case where there was an excise duty point for the beer fixed under section 1 of the Finance (No. 2) Act 1992, is that excise duty point);”.
  - (4) In section 14(1)(ba) (review of assessments), for “or 11” substitute “, 11 or 36G ”.

SCHEDULE 2

Section 5

HYDROCARBON OIL DUTIES: MINOR AND  
CONSEQUENTIAL AMENDMENTS RELATING TO BIODIESEL

*Introduction*

- 1 The Hydrocarbon Oil Duties Act 1979 (c. 5) is amended as follows.

*Biodiesel and bioblend not to be treated as fuel substitute*

- 2 In section 6A(1) (fuel substitutes: charge of duty) after “which is not hydrocarbon oil” insert “, biodiesel or bioblend ”.

*Exclusion of bioblend from rebates on heavy oil*

- 3 In section 11 (rebate on heavy oil), after subsection (5) insert—
  - “(6) No rebate shall be allowed under this section in respect of bioblend.”.

*Repayment of duty in case of biodiesel used otherwise than as road fuel*

**F101**4 . . . . .

**Textual Amendments**

**F101** Sch. 2 para. 4 omitted (retrospective to 1.4.2008) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 5 paras. 25\(d\)\(ii\), 26\(b\)](#)

*Mixing biodiesel and rebated heavy oil*

- 5 (1) In section 20AAA (mixing of rebated oil), after subsection (2A) insert—

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“(2B) Where a mixture is produced in contravention of Part 2B of Schedule 2A to this Act, a duty of excise shall be charged on the mixture.”.

- (2) In section 20AAA(3) (producer of mixture liable to pay duty), for “or (2A)” substitute “, (2A) or (2B)”.
- (3) After Part 2A of Schedule 2A (mixing of rebated oil) insert—

## “PART 2B

### BIODIESEL

#### *Mixing biodiesel with rebated heavy oil*

- 7B (1) A mixture is produced in contravention of this paragraph if it is produced by mixing—
- biodiesel or a substance containing biodiesel, and
  - rebated heavy oil.

(2) In sub-paragraph (1)(b) above “rebated heavy oil” means heavy oil in respect of which a rebate has been allowed under section 11 of this Act.”.

- (4) In paragraph 9(1A) of that Schedule (rates of duty for mixtures of heavy oil), after “subsection (2A)” insert “ or (2B)”.
- (5) In paragraph 10(1) of that Schedule (credit for duty paid on ingredients of mixture), after “section 6” insert “, 6AA, 6AB or 6A”.
- (6) In section 20AAB (mixing of rebated oil: supplementary), in subsection (1)(a) for “or (2A)” substitute “, (2A) or (2B)”.
- (7) In section 22 (prohibition on use of petrol substitutes on which duty has not been paid), after subsection (1) insert—

“(1AA) Where any person—

- puts any biodiesel to a chargeable use (within the meaning of section 6AA above), and
- knows or has reasonable cause to believe that there is duty charged under section 6AA above on that biodiesel which has not been paid and is not lawfully deferred,

his putting the biodiesel to that use shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any goods in respect of which any person contravenes this subsection shall be liable to forfeiture.”.

- (8) In section 22(1A) (section 10 of the Finance Act 1994 does not apply), after “subsection (1)” insert “ or (1AA)”.

#### *Interpretation*

- 6 In section 27(1) (interpretation) at the appropriate places insert—

““bioblend” has the meaning given by section 6AB(2) above;”,

and

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““biodiesel” has the meaning given by section 2AA above;”.

PROSPECTIVE

*Provision in relation to bioblend corresponding to that made by section 6 of the Finance Act 1998 in relation to section 6 of the Hydrocarbon Oil Duties Act 1979*

- 7 (1) In section 6AB (which charges excise duty on bioblend and is inserted by section 5 of this Act), in subsection (1), omit the words from “and delivered” to the end.
- (2) For subsection (6) of that section substitute—
- “(6) Where—
- (a) imported bioblend is removed to relevant premises,
  - (b) the bioblend undergoes a production process at those premises or any other relevant premises, and
  - (c) any duty charged on the importation of the bioblend has not become payable at any time before the production time,
- the duty charged on importation shall not become payable at any time after the production time.
- (7) In subsection (6) above—
- “the production time” means the time at which the bioblend undergoes the production process; and
  - “relevant premises” means—
    - (a) a refinery,
    - (b) other premises used for the production of hydrocarbon oil, or
    - (c) premises of such description as may be specified in regulations made by the Commissioners.
- (8) For the purposes of subsection (6) above, bioblend undergoes a production process if—
- (a) hydrocarbon oil, or bioblend, of any description, or biodiesel, is obtained from it, or
  - (b) it is subjected to any process of purification or blending.”.

## SCHEDULE 3

Section 6

### HYDROCARBON OIL DUTIES: REBATED HEAVY OIL ETC

#### PART 1

##### REGULATING TRADERS IN REBATED HEAVY OIL

- 1 In the Hydrocarbon Oil Duties Act 1979 (c. 5), after section 23 insert—

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### **“23A Regulation of traders in controlled oil**

- (1) If a revenue trader who is not a registered excise dealer and shipper—
  - (a) buys or sells controlled oil in the course of a trade or business, or
  - (b) in the course of a trade or business deals in controlled oil,his buying or selling, or dealing in, the oil shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).
- (2) Subsection (1) above does not apply to the buying of oil by a revenue trader if—
  - (a) the oil is for use by the trader, and
  - (b) that use does not involve selling or dealing in hydrocarbon oil.
- (3) Subsection (1) above does not apply to the selling of oil by a revenue trader if—
  - (a) that oil was for use by the trader,
  - (b) that use did not involve selling or dealing in hydrocarbon oil,
  - (c) that use came to an end before the oil was used, and
  - (d) the oil is sold after the use ends.
- (4) Where a revenue trader who is not a registered excise dealer and shipper is entitled to the possession of any controlled oil, the oil is liable to forfeiture.
- (5) Subsection (4) above does not apply to oil if—
  - (a) that oil is for use by the revenue trader, and
  - (b) that use does not involve selling or dealing in hydrocarbon oil.
- (6) Subsection (4) above does not apply to oil if—
  - (a) the oil was for use by the revenue trader,
  - (b) that use did not involve selling or dealing in hydrocarbon oil,
  - (c) that use has come to an end,
  - (d) that use came to an end before the oil was used, and
  - (e) the oil is being held pending sale or other disposal.
- (7) Where oil is liable to forfeiture by virtue of subsection (4) above—
  - (a) anything mixed with the oil,
  - (b) any container in which the oil (and anything mixed with it) is kept, and
  - (c) any equipment kept for dispensing the contents of any such container,is liable to forfeiture.

### **23B Power to provide for exceptions to section 23A**

- (1) The Commissioners may by regulations make provision for—
  - (a) exceptions to section 23A(1) above in addition to those allowed by section 23A(2) and (3) above;
  - (b) exceptions to section 23A(4) above in addition to those allowed by section 23A(5) and (6) above;
  - (c) exceptions to section 23A(7) above.

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- (2) Regulations under subsection (1) above may provide for exceptions allowed by such regulations to have effect subject to conditions—
- (a) specified by such regulations;
  - (b) specified by the Commissioners under such regulations.”.

#### Commencement Information

**I10** Sch. 3 para. 1 in force at 24.7.2002 for specified purposes, see s. 6(3)(4); Sch. 3 para. 1 in force at 1.4.2003 in so far as not already in force by [S.I. 2002/3056](#), [art. 2](#)

- 2 In section 100H(1) of the Customs and Excise Management Act 1979 (c. 2) (particular provision that may be made by registered excise dealers and shippers regulations), after paragraph (n) insert—
- “(p) authorised by section 24AA of the Hydrocarbon Oil Duties Act 1979 (regulation of traders in controlled oil).”.
- 3 In the Hydrocarbon Oil Duties Act 1979 (c. 5), after section 24 insert—

#### **“24AA Registered excise dealers and shippers regulations: special provision for traders in controlled oil**

- (1) For the purposes of section 100H(1)(p) of the Management Act (registered excise dealers and shippers regulations may, in particular, make provision authorised by this section), this section authorises provision—
- (a) requiring traders in controlled oil to notify prescribed information;
  - (b) requiring traders in controlled oil to make prescribed returns;
  - (c) authorising a trader in controlled oil to carry out or arrange for the carrying out of any prescribed activity falling within section 100H(1)(b) of the Management Act in relation to controlled oil, but subject to prescribed conditions or restrictions;
  - (d) requiring a trader in controlled oil to give security by prescribed means for amounts that may become due from him by way of repayment of rebate;
  - (e) for taking into account, in determining whether a trader in controlled oil has—
    - (i) contravened any provision of registered excise dealers and shippers regulations, or
    - (ii) failed to comply with any prescribed condition, restriction or requirement,
 the extent to which the trader has followed guidance issued by the Commissioners (including guidance issued after the making of provision under this paragraph referring to it).

- (2) In this section—

“prescribed” has the meaning given by section 100H(3) of the Management Act;

“trader in controlled oil” means a registered excise dealer and shipper carrying on a trade or business that consists of or includes the dealing in, buying or selling of controlled oil.”.



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4 (1) Section 27 of the Hydrocarbon Oil Duties Act 1979 (c. 5) (interpretation) is amended as follows.

(2) In subsection (1) insert (at the appropriate place)—

““controlled oil” means hydrocarbon oil in respect of which a rebate has been allowed under section 11(1)(b), (ba) or (c) or 13AA;”.

(3) In the Table set out in subsection (3) (expressions used in the Act that have a meaning given by another Act included in the Customs and Excise Acts 1979), under the heading “Management Act” insert (at the appropriate places)—

““registered excise dealer and shipper””,

and

““revenue trader””.

## PART 2

### MINOR AMENDMENTS RELATING TO REBATES

5 The Hydrocarbon Oil Duties Act 1979 is amended as follows.

6 In section 12(1) (no rebate allowed on heavy oil intended for use in a road vehicle), after “no rebate” insert “ under section 11 above ”.

7 In section 12(2) (oil not to be used in road vehicles if rebate has been allowed under section 11(1) or 13AA(1)), for “section 11(1)” substitute “ section 11 ”.

8 In section 24(2) (regulations made for the purposes of section 12 or 13AA), for “under subsection (2) of that section” substitute “ under subsection (2) of section 12, or subsection (3) of section 13AA, ”.

9 In section 27(1) (interpretation), in the definition of “rebate”, after “section 11,” insert “ 13AA, ”.

## SCHEDULE 4

Section 12

### POOL BETTING DUTY ETC

## PART 1

### AMENDMENTS OF THE BETTING AND GAMING DUTIES ACT 1981

1 The Betting and Gaming Duties Act 1981 (c. 63) is amended as follows.

2 For sections 6 to 8 (pool betting duty: charge, rate and payment) substitute—

*“Pool betting duty*

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## 6 The duty

A duty of excise to be known as pool betting duty shall be charged in accordance with sections 7 to 8C.

## 7 Duty charged on net pool betting receipts

- (1) If the amount of a person's net pool betting receipts for an accounting period is greater than zero, pool betting duty is charged on those receipts.
- (2) The amount of that duty is 15 per cent of the amount of the receipts.

### 7A Calculating net pool betting receipts

For the purposes of section 7, the amount of a person's net pool betting receipts for an accounting period is—

### 7B Net pool betting receipts: meaning of “dutable pool bet”

- (1) For the purposes of a calculation under section 7A of the amount of a person's net pool betting receipts for any accounting period, a bet (wherever made) is a “dutable pool bet” if—
  - (a) the bet is made by way of pool betting, and
  - (b) the following conditions are satisfied.
- (2) The first condition is that—
  - (a) the bet is made by means of a totalisator situated in the United Kingdom and that person is the operator, or
  - (b) the bet is made otherwise than by means of a totalisator and that person is the promoter and is in the United Kingdom.
- (3) The second condition is that the bet is not—
  - (a) made by way of sponsored pool betting,
  - (b) made as mentioned in section 4(3), or
  - (c) made for community benefit.
- (4) The third condition is that if the bet was made before 31st March 2002, at least one event to which it relates takes place on or after that date.

### 7C Net pool betting receipts: calculating stake money

- (1) This section applies for the purpose of calculating S in a calculation under section 7A.
- (2) Any payment that entitles a person to make a bet shall, if he makes the bet, be treated as stake money on the bet.
- (3) All payments made—
  - (a) for or on account of or in connection with bets that are dutable pool bets for the purposes of the calculation,
  - (b) in addition to the stake money, and
  - (c) by the persons making the bets,

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shall be treated as amounts due in respect of the bets except in so far as the contrary is proved by the person whose net pool betting receipts are being calculated.

#### **7D Net pool betting receipts: when stakes etc fall due**

- (1) Subsections (2) to (5) apply for the purpose of calculating S in a calculation under section 7A but have effect subject to any regulations under subsection (6).
- (2) Where—
  - (a) a person makes a bet, and
  - (b) the bet relates to a single event, or to two or more events all taking place on the same day,any sum due to a person in respect of the bet shall be treated as falling due on the day on which the event or events take place.
- (3) Where—
  - (a) a person makes a bet, and
  - (b) subsection (2) does not apply,any sum due to a person in respect of the bet shall (subject to subsection (5)) be treated as falling due when the bet is made.
- (4) Subsections (2) and (3) have effect in relation to a sum irrespective of when it is actually paid or required to be paid (even where a sum that those subsections require to be treated as falling due on or after 31st March 2002 was actually paid, or required to be paid, before that date).
- (5) As respects a bet made before 31st March 2002 that relates to events at least one of which takes place before that date and at least one of which takes place on or after that date, any sum paid on or after that date in respect of the bet shall be treated as falling due when it is paid.
- (6) The Commissioners may by regulations make provision as to when any sum due to a person in respect of a bet is to be treated as falling due for the purpose of calculating S in a calculation under section 7A.
- (7) Provision made by regulations under subsection (6) may not provide for a sum due to a person in respect of a bet to be treated as falling due—
  - (a) earlier than when the bet is made, or
  - (b) later than when the bet is determined.
- (8) Regulations made under subsection (6) may—
  - (a) make provision that applies generally or only in relation to a specified description of bet;
  - (b) make different provision for different purposes;
  - (c) make provision relating to bets made before the regulations are made (including bets made before the passing of the Finance Act 2002);
  - (d) make transitional provision.

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### **7E Net pool betting receipts: expenses and profits**

- (1) Subsections (2) and (3) apply for the purpose of calculating E in a calculation under section 7A.
- (2) The expenses and profits falling within this subsection are (subject to subsection (3))—
  - (a) those of the person whose net pool betting receipts are being calculated, and
  - (b) those of any other person concerned with or benefiting from the promotion of the betting concerned.
- (3) Expenses and profits do not fall within subsection (2) so far as they are—
  - (a) provided out of amounts due, in respect of bets that are dutiable pool bets for the purposes of the calculation, to the person whose net pool betting receipts are being calculated, or
  - (b) referable to matters other than—
    - (i) the promotion or management of the betting concerned, or
    - (ii) activities ancillary to, or connected with, such promotion or management.
- (4) The Commissioners may by regulations make provision as to the accounting period to which expenses and profits falling within subsection (2) are to be treated as attributable for the purpose of calculating E in a calculation under section 7A.
- (5) Regulations made under subsection (4) may—
  - (a) make provision that applies generally or only in relation to a specified description of bet;
  - (b) make different provision for different purposes;
  - (c) make provision applying in respect of expenses incurred, and profits accruing, before the regulations are made (including any incurred or accruing before the passing of the Finance Act 2002);
  - (d) make transitional provision.

### **7F Net pool betting receipts: calculating winnings**

- (1) Subsections (2) to (5) apply for the purpose of calculating W in a calculation under section 7A.
- (2) The reference to paying an amount to a person includes a reference to holding it in an account if the person is notified that the amount is being held for him in the account and that he is entitled to withdraw it on demand.
- (3) The return of a stake shall be treated as a payment by way of winnings.
- (4) Only payments of money shall be taken into account.
- (5) Where a bet made before 31st March 2002 relates to events at least one of which takes place before that date and at least one of which takes place on or after that date, no account shall be taken of any payment by way of winnings on the bet.

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- (6) The Commissioners may by regulations make provision as to when amounts paid by way of winnings are to be treated as being paid for the purposes of calculating W in a calculation under section 7A.
- (7) Regulations made under subsection (6) may—
  - (a) make provision that applies generally or only in relation to a specified description of bet;
  - (b) make different provision for different purposes;
  - (c) make provision applying in respect of amounts paid before the regulations are made (including amounts paid before the passing of the Finance Act 2002);
  - (d) make transitional provision.

## **8 Payment and recovery**

- (1) Pool betting duty charged on a person's net pool betting receipts for an accounting period—
  - (a) becomes due at the end of the period,
  - (b) shall be paid by the person, and
  - (c) shall, subject to any regulations under subsection (3) and any directions under paragraph 3 of Schedule 1 to this Act, be paid when it becomes due.
- (2) Pool betting duty that is due to be paid may be recovered from the following persons as if they were jointly and severally liable to pay the duty—
  - (a) the person on whose net pool betting receipts the duty is charged ("the primary payer");
  - (b) a person responsible for the management of any business in the course of which any bets have been made that are dutiable pool bets for the purposes of calculations under section 7A of the amount of the primary payer's net pool betting receipts for any accounting period;
  - (c) a person responsible for the management of any totalisator used for the purposes of any such business;
  - (d) where a person within any of paragraphs (a) to (c) is a company, a director.
- (3) The Commissioners may by regulations—
  - (a) make provision as to when pool betting duty is to be paid (including provision repealing paragraph 3 of Schedule 1 to this Act and the reference to that paragraph in subsection (1)(c));
  - (b) make provision as to how pool betting duty is to be paid.
- (4) Regulations made under subsection (3) may—
  - (a) make provision that applies generally or only in relation to a specified person or class of person;
  - (b) make different provision for different purposes;
  - (c) make transitional provision.

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### **8A Meaning of “bet made for community benefit” in sections 6 to 8**

- (1) For the purposes of sections 6 to 8 (but subject to any direction under subsection (3)), a bet is made “for community benefit” if—
  - (a) the promoter of the betting concerned is a community society or is bound to pay all benefits accruing from the betting to such a society, and
  - (b) the person making the bet knows, when making it, that the purpose of the betting is to benefit such a society.
- (2) In the case of a bet made by means of a totalisator, the reference in subsection (1) to the promoter of the betting concerned is a reference to the operator.
- (3) The Commissioners may direct that any bet specified by the direction, or of a description so specified, is not a bet made for community benefit.
- (4) The power conferred by subsection (3) may not be exercised unless the Commissioners consider that an unreasonably large part of the amounts paid in respect of the bets concerned will, or may, be applied otherwise than—
  - (a) in the payment of winnings, or
  - (b) for the benefit of a community society.
- (5) In this section “community society” means—
  - (a) a society established and conducted for charitable purposes only, or
  - (b) a society established and conducted wholly or mainly for the support of athletic sports or athletic games and not established or conducted for purposes of private gain.
- (6) In this section “society” includes any club, institution, organisation or association of persons, by whatever name called.

### **8B Meaning of “accounting period” in sections 6 to 8**

- (1) For the purposes of sections 6 to 8—
  - (a) each period that ends with the last Saturday in a calendar month, and begins with the Sunday immediately following the previous such Saturday, is an accounting period, but
  - (b) the Commissioners may by regulations make provision for some other specified period to be an accounting period.
- (2) Regulations made under subsection (1)(b) may—
  - (a) make provision that applies generally or only in relation to a specified person or class of person;
  - (b) make different provision for different purposes;
  - (c) make transitional provision.

### **8C Meaning of “bet” in sections 6 to 8A**

- (1) For the purposes of sections 6 to 8A, “bet” does not include the taking of a ticket or chance in a lottery.

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- (2) Where payments are made for the chance of winning any money or money's worth on terms under which the persons making the payments have a power of selection that may (directly or indirectly) determine the winner, those payments shall be treated as bets for the purposes of sections 6 to 8A notwithstanding that the power is not exercised.
- (3) Subsection (2) has effect subject to section 12(3).
- (4) Where any payment entitles a person to take part in a transaction that is, on his part only, not a bet made by way of pool betting by reason of his not in fact making any stake as if the transaction were such a bet, the transaction shall be treated as such a bet for the purposes of pool betting duty (and section 7C(3) shall apply to any such payment)."

#### Commencement Information

**III** Sch. 4 para. 2 wholly in force; Sch. 4 para. 2 in force at 31.3.2002 for specified purposes, otherwise in force at 24.7.2002, see s. 12(5)(7)(a)(8)

- 3 In section 2(2) (bets to which section 2(1) does not apply)—
  - (a) in paragraph (b), after "bet," insert " or ", and
  - (b) omit paragraph (d) and the word "or" preceding it.
- 4 In section 4(6) (bets to which subsections (1) to (3) do not apply), for the words from "do not apply" to the end substitute " do not apply to on-course bets. "
- 5 In section 9(2) (bets to which section applies), omit "or coupon betting" (in both places).
- 6 In section 9(3) (bets to which section does not apply)—
  - (a) in paragraph (a), omit "or coupon betting",
  - (b) for sub-paragraphs (i) to (iv) of paragraph (a) substitute—
    - (i) the bet is not made by means of a totalisator, and
    - (ii) the promoter is in the Isle of Man; or",

and

  - (c) in paragraph (aa)(i), omit "or coupon betting".

#### Commencement Information

**III2** Sch. 4 para. 6 wholly in force; Sch. 4 para. 6(b) in force at 31.3.2002; Sch. 4 para. 6(a)(c) in force at 24.4.2002, see s. 12(5)(6)

- 7 For section 9(6) substitute—

“(6) Section 8C(1) to (3) above shall have effect for the purposes of subsections (2)(a) and (5) above as it has effect for the purposes of sections 6 to 8A above.”.
- 8 Omit section 11 (definition of coupon betting).
- 9 In section 12(3) (interpretation of sections 1 to 10 etc), omit "(except in sections 6, 7, 8, 9(2)(a) and 9(5) in their application to coupon betting)".
- 10 (1) Schedule 1 (administration etc of betting duties) is amended as follows.

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- (2) In paragraph 1, in the definition of “pool betting business”, at the end insert “ or would or might involve such sums becoming so payable if receipts from bets made for community benefit (as defined by section 8A of this Act) were not excluded from that duty. ”.
- (3) After paragraph 2 insert—
- “2A (1) Pool betting duty shall be under the care and management of the Commissioners.
- (2) Without prejudice to any other provision of this Schedule, the Commissioners may make regulations providing for any matter for which provision appears to them to be necessary for the administration or enforcement of pool betting duty or for the protection of the revenue from pool betting duty.
- (3) Regulations under sub-paragraph (2) above may in particular—
- (a) provide for payments on account of pool betting duty which may become chargeable to be made in advance;
- (b) provide for the giving of security by means of a deposit or otherwise for duty due or to become due.”.
- (4) In paragraph 3, omit “shall be under the care and management of the Commissioners, and”.
- (5) In paragraph 4(2), for “sub-paragraphs (3) and (4)” substitute “ sub-paragraph (3) ”.
- (6) Omit paragraph 4(4) to (6).
- (7) In paragraph 5(1), for “made entry or given notice in accordance with paragraph 4(2) or (4)” substitute “ made entry in accordance with paragraph 4(2) ”.
- (8) Renumber paragraph (b) of paragraph 5(2) as paragraph 5(3).
- (9) In what remains of paragraph 5(2) after that renumbering, for the words from “paragraph 12(3) below, except that” to the end substitute “ sub-paragraph (3) below. ”.
- (10) In paragraph 6(2), omit paragraph (b).
- (11) Omit paragraphs 8 and 12.
- (12) In paragraph 13(1)(b), after “any of paragraphs 2,” insert “ 2A, ”.
- (13) In paragraph 14(1), omit the words after paragraph (b).
- <sup>F102</sup>(14) .....

#### Textual Amendments

**F102** Sch. 4 para. 10(14) repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 6(3)

#### Commencement Information

**I13** Sch. 6 para. 10 wholly in force; Sch. 6 para. 10(1)(2)(5)-(11)(13)(14) in force at 24.4.2002; Sch. 6 para. 10(3)(4)(12) in force at 24.7.2002, see s. 12(6)(7)(b)



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## PART 2

### MINOR AMENDMENTS AND TRANSITIONAL PROVISIONS

#### *Amendment in the Excise Duties (Surcharges or Rebates) Act 1979*

- 11 In section 1(3) of the Excise Duties (Surcharges or Rebates) Act 1979 (c. 8) (liability to duty other than pool betting duty adjusted if order under section in force when duty becomes due), omit the words from “, except that if the duty is pool betting duty” to the end.

#### *Amendments in Schedule 5 to the Finance Act 1994*

- 12 (1) Paragraph 6 of Schedule 5 to the Finance Act 1994 (c. 9) (decisions under the Betting and Gaming Duties Act 1981 that are subject to review and appeal) is amended as follows.
- (2) In sub-paragraph (2)(a) (decisions in connection with requiring security for duty)—
- (a) after “regulations under paragraph 2” insert “ or 2A ”, and
- (b) after “in relation to general betting duty” insert “ or pool betting duty ”.
- (3) After sub-paragraph (2) insert—
- “(3) Any decision consisting in the giving of a direction under section 8A(3) of the Betting and Gaming Duties Act 1981 (pool betting duty: direction that bet is not made for community benefit).”

#### **Commencement Information**

**I14** Sch. 4 para. 12 wholly in force; Sch. 4 para. 12(1)(3) in force at 24.4.2002; Sch. 4 para. 12(2) in force at 24.7.2002, see. s. 12(6)(7)(b)

#### *Duty charged before 31st March 2002*

- 13 (1) If—
- (a) stake money is paid before 31st March 2002 in respect of a bet to which this paragraph applies, and
- (b) pool betting duty charged on that money before that date is not paid before 24th April 2002,
- that duty ceases on 24th April 2002 to be charged on that money.
- (2) If—
- (a) stake money is paid before 31st March 2002 in respect of such a bet, and
- (b) pool betting duty charged on that money before that date is paid before 24th April 2002,
- the person who paid that duty becomes entitled on 24th April 2002 to a credit equal to the amount of the duty.
- (3) Effect is given to such a credit by setting it (until fully utilised) against pool betting duty that the person is liable to pay in respect of accounting periods for the purposes of pool betting duty that begin on or after 31st March 2002 (taking earlier such periods before later ones).

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- (4) Such a credit does not—
- (a) carry interest,
  - (b) affect the payability of the duty mentioned in sub-paragraph (2), or
  - (c) entitle any person to any payment in respect of the credit.
- (5) This paragraph applies to a bet if—
- (a) it is a dutiable pool bet for the purposes of a calculation, under the section 7A of the Betting and Gaming Duties Act 1981 inserted by this Schedule, of the amount of a person's net pool betting receipts for any accounting period, and
  - (b) it is made before 31st March 2002 but all the events to which it relates take place on or after that date.

*Notifications under paragraph 4(4) of Schedule 1 to that Act of premises used in connection with coupon betting*

- 14 Any notification under paragraph 4(4) of Schedule 1 to the Betting and Gaming Duties Act 1981 (c. 63) (duty to notify premises used for purposes of pool betting business in connection only with coupon betting) that is effective immediately before 24th April 2002 shall on and after that date have effect (until withdrawn) as a notification made on 31st March 2002 under paragraph 4(3) of that Schedule (duty to notify premises used for purposes of betting business in connection only with general betting).

## SCHEDULE 5

Section 19

### VEHICLE EXCISE DUTY: REGISTERED VEHICLES ETC

- 1 The Vehicle Excise and Registration Act 1994 (c. 22) is amended as follows.

#### Commencement Information

**I15** Sch. 5 para. 1 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 1 in force at 30.11.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

- 2 For section 1(1) substitute—
- “(1) A duty of excise (“vehicle excise duty”) shall be charged in respect of every mechanically propelled vehicle that—
- (a) is registered under this Act (see section 21), or
  - (b) is not so registered but is used, or kept, on a public road in the United Kingdom.
- (1A) Vehicle excise duty shall also be charged in respect of every thing (whether or not it is a vehicle) that has been, but has ceased to be, a mechanically propelled vehicle and—
- (a) is registered under this Act, or
  - (b) is not so registered but is used, or kept, on a public road in the United Kingdom.
- (1B) In the following provisions of this Act “vehicle” means—

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- (a) a mechanically propelled vehicle, or
  - (b) any thing (whether or not it is a vehicle) that has been, but has ceased to be, a mechanically propelled vehicle.
- (1C) Vehicle excise duty charged in respect of a vehicle by subsection (1)(a) or (1A)(a) shall be paid on a licence to be taken out—
- (a) by the person in whose name the vehicle is registered under this Act, or
  - (b) if that person is not the person keeping the vehicle, by either of those persons.
- (1D) Vehicle excise duty charged in respect of a vehicle by subsection (1)(b) or (1A)(b) shall be paid on a licence to be taken out by the person keeping the vehicle.”.

#### Commencement Information

**I16** Sch. 5 para. 2 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 2 in force at 30.11.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

- 3 For section 2(2) to (4) (rates where duty charged in respect of keeping but not use) substitute—
- “(2) Subsection (1) applies subject to the following provisions of this section.
- (3) Where vehicle excise duty is charged by section 1(1)(b) or (1A)(b) in respect of the keeping of a vehicle on a road (and not in respect of its use), duty in respect of such keeping is chargeable by reference to the general rate currently specified in paragraph 1(2) of Schedule 1.
- (4) Subsections (5) and (6) apply where—
- (a) vehicle excise duty is charged by section 1(1)(a) or (1A)(a) in respect of a vehicle, and
  - (b) were the vehicle not registered under this Act, duty would not be charged by section 1(1)(b) or (1A)(b) in respect of the use of the vehicle on a road.
- (5) Where one or more use licences have previously been issued for the vehicle, the duty charged by section 1(1)(a) or (1A)(a) is chargeable by reference to the annual rate currently applicable to a vehicle of the same description as that of the vehicle on the occasion of the issue of that licence (or the last of those licences).
- (6) In any other case, the duty charged by section 1(1)(a) or (1A)(a) is chargeable by reference to the general rate currently specified in paragraph 1(2) of Schedule 1.
- (7) In subsection (5) “use licence” means—
- (a) a vehicle licence issued for the use of a vehicle, or
  - (b) a vehicle licence that is issued by reason of a vehicle being registered under this Act but which would have been issued for the use of the vehicle if the vehicle had not been registered under this Act.”.

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#### Commencement Information

**I17** Sch. 5 para. 3 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 3 in force at 30.11.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

4 For section 7(4) (vehicle licence valid only for vehicle for which it is issued) substitute—

“(4) A vehicle licence is issued for the vehicle specified in the application for the licence (and for no other).”.

#### Commencement Information

**I18** Sch. 5 para. 4 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 4 in force at 30.11.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

5 After section 7 insert—

#### “7A Supplement payable on late renewal of vehicle licence

(1) Regulations may make provision for a supplement of a prescribed amount to be payable in prescribed cases where—

- (a) a vehicle licence taken out for a vehicle expires, and
- (b) no vehicle licence is issued for the vehicle—
  - (i) before the end of such period beginning with the expiry of the expired licence as may be prescribed, and
  - (ii) for a period beginning with that expiry.

(2) A supplement under this section—

- (a) shall be payable by such person, or jointly and severally by such persons, as may be prescribed;
- (b) shall become payable at such time as may be prescribed;
- (c) may be of an amount that varies according to the length of the period between—
  - (i) the expiry of the licence by reason of whose non-renewal the supplement becomes payable, and
  - (ii) the time at which the supplement is paid or that licence is renewed.

(3) A supplement under this section that has become payable—

- (a) is in addition to any vehicle excise duty charged in respect of the vehicle concerned;
- (b) does not cease to be payable by reason of a vehicle licence being taken out for the vehicle after the supplement has become payable;
- (c) may, without prejudice to section 6 or 7B(2) and (3) or any other provision of this Act, be recovered as a debt due to the Crown.

(4) In this section—

- (a) references to the expiry of a vehicle licence include a reference to—
  - (i) its surrender, and

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- (ii) its being treated as no longer in force for the purposes of subsection (2) of section 31A by subsection (4) of that section;
  - (b) “prescribed” means prescribed by, or determined in accordance with, regulations;
  - (c) “regulations” means regulations made by the Secretary of State with the consent of the Treasury.
- (5) No regulations to which subsection (6) applies shall be made under this section unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (6) This subsection applies to regulations under this section that—
- (a) provide for a supplement to be payable in a case where one would not otherwise be payable,
  - (b) increase the amount of a supplement,
  - (c) provide for a supplement to become payable earlier than it would otherwise be payable, or
  - (d) provide for a supplement to be payable by a person by whom the supplement would not otherwise be payable.

#### **7B Late-renewal supplements: further provisions**

- (1) The Secretary of State may by regulations make provision for notifying the person in whose name a vehicle is registered under this Act about—
- (a) any supplement under section 7A that may or has become payable on non-renewal of a vehicle licence for the vehicle;
  - (b) when failure to renew a vehicle licence may result in the person being guilty of an offence under section 31A.
- (2) The Secretary of State may by regulations make provision—
- (a) for assessing an amount of supplement due under section 7A from any person and for notifying that amount to that person or any person acting in a representative capacity in relation to that person;
  - (b) for an amount assessed and notified under such regulations to be deemed to be an amount of vehicle excise duty due from the person assessed and recoverable accordingly;
  - (c) for review of decisions under such regulations and for appeals with respect to such decisions or decisions on such reviews.
- (3) Regulations under subsection (2) may, in particular, make provision that, subject to any modifications that the Secretary of State considers appropriate, corresponds or is similar to—
- (a) any provision made by sections 12A and 12B of the Finance Act 1994 (assessments related to excise duty matters), or
  - (b) any provision made by sections 14 to 16 of that Act (customs and excise reviews and appeals).
- (4) Sums received by way of supplements under section 7A shall be paid into the Consolidated Fund.”

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#### Commencement Information

**I19** Sch. 5 para. 5 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 5 in force at 30.11.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

6 (1) In section 22 (registration regulations), in subsection (1D) (power to require details about unlicensed vehicles), after paragraph (a) insert—

“(aa) who does not renew a vehicle licence for a vehicle registered under this Act in his name,”.

(2) After that subsection insert—

“(1DA) For the purposes of subsection (1D)(aa) a person shall be regarded as not renewing a vehicle licence for a vehicle registered in his name if—

- (a) a vehicle for which a vehicle licence is in force is registered in his name, and
- (b) he does not, at such time as may be prescribed by the regulations or within such period as may be so prescribed, take out a vehicle licence to have effect from the expiry of the vehicle licence mentioned in paragraph (a).”.

#### Commencement Information

**I20** Sch. 5 para. 6 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 6 in force at 30.11.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

7 In section 29(7) (rate of duty by reference to which penalty is calculated), for “section 2(2) to (4)” substitute “section 2(3) to (6)”.

#### Commencement Information

**I21** Sch. 5 para. 7 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 7 in force at 30.11.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

8 After section 31 insert—

*“Offence of being registered keeper of unlicensed vehicle*

#### **31A Offence by registered keeper where vehicle unlicensed**

- (1) If a vehicle registered under this Act is unlicensed, the person in whose name the vehicle is registered is guilty of an offence.
- (2) For the purposes of this section a vehicle is unlicensed if no vehicle licence or trade licence is in force for or in respect of the vehicle.
- (3) Subsection (1) does not apply to a vehicle if—
  - (a) it is an exempt vehicle in respect of which regulations under this Act require a nil licence to be in force and a nil licence is in force in respect of the vehicle, or

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- (b) it is an exempt vehicle that is not one in respect of which regulations under this Act require a nil licence to be in force.
- (4) Where a vehicle for which a vehicle licence is in force is transferred by the holder of the licence to another person, the licence is to be treated for the purposes of subsection (2) as no longer in force unless it is delivered to the other person with the vehicle.
- (5) Where—
  - (a) an application is made for a vehicle licence for any period, and
  - (b) a temporary licence is issued pursuant to the application,subsection (4) does not apply to the licence applied for if, on a transfer of the vehicle during the currency of the temporary licence, the temporary licence is delivered with the vehicle to the transferee.

### **31B Exceptions to section 31A**

- (1) A person (“the registered keeper”) in whose name an unlicensed vehicle is registered at any particular time (“the relevant time”) does not commit an offence under section 31A at that time if any of the following conditions are satisfied.
- (2) The first condition is that the registered keeper—
  - (a) is not at the relevant time the person keeping the vehicle, and
  - (b) if previously he was the person keeping the vehicle, he has by the relevant time complied with any requirements under section 22(1)
  - (d)—
    - (i) that are prescribed for the purposes of this condition, and
    - (ii) that he is required to have complied with by the relevant or any earlier time.
- (3) The second condition is that—
  - (a) the registered keeper is at the relevant time the person keeping the vehicle,
  - (b) at the relevant time the vehicle is neither kept nor used on a public road, and
  - (c) the registered keeper has by the relevant time complied with any requirements under section 22(1D)—
    - (i) that are prescribed for the purposes of this condition, and
    - (ii) that he is required to have complied with by the relevant or any earlier time.
- (4) The third condition is that—
  - (a) the vehicle has been stolen before the relevant time,
  - (b) the vehicle has not been recovered by the relevant time, and
  - (c) any requirements under subsection (6) that, in connection with the theft, are required to have been complied with by the relevant or any earlier time have been complied with by the relevant time.
- (5) The fourth condition is that the relevant time falls within a period (“the grace days”)—

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- (a) beginning with the expiry of the last vehicle licence to be in force for the vehicle, and
  - (b) of a prescribed length,
- and a vehicle licence for the vehicle is taken out within the grace days for a period beginning with the grace days.
- (6) The Secretary of State may by regulations make provision for the purposes of subsection (4)(c) as to the persons to whom, the times at which and the manner in which the theft of a vehicle is to be notified.
  - (7) The Secretary of State may by regulations make provision amending this section for the purpose of providing for further exceptions to section 31A(1) (or varying or revoking any such further exceptions).
  - (8) A person accused of an offence under section 31A(1) is not entitled to the benefit of an exception conferred by or under this section unless evidence is adduced that is sufficient to raise an issue with respect to that exception, but where evidence is so adduced it is for the prosecution to prove beyond reasonable doubt that the exception does not apply.
  - (9) In this section—
    - (a) references to the expiry of a vehicle licence include a reference to—
      - (i) its surrender, and
      - (ii) its being treated as no longer in force for the purposes of subsection (2) of section 31A by subsection (4) of that section;
    - (b) “prescribed” means prescribed by regulations made by the Secretary of State.

### **31C Penalties for offences under section 31A**

- (1) A person guilty of an offence under section 31A(1) is liable on summary conviction to—
  - (a) an excise penalty of—
    - (i) level 3 on the standard scale, or
    - (ii) five times the amount of vehicle excise duty chargeable in respect of the vehicle concerned,
 whichever is the greater; and
  - (b) if subsection (3) applies to him, an excise penalty (in addition to any under paragraph (a)) of an amount that complies with subsection (2).
- (2) An amount complies with this subsection if it—
  - (a) is not less than the greater of—
    - (i) the maximum of the penalty to which the person is liable under subsection (1)(a), and
    - (ii) the amount of the supplement (if any) that became payable by him by reason of non-renewal of the vehicle licence for the vehicle that last expired before the commission of the offence; and
  - (b) is not more than the greatest of—



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- (i) the maximum of the penalty to which the person is liable under subsection (1)(a),
  - (ii) the amount mentioned in paragraph (a)(ii), and
  - (iii) ten times the amount of vehicle excise duty chargeable in respect of the vehicle.
- (3) This subsection applies to the person if—
- (a) he was, at the time proceedings for the offence were commenced, the person in whose name the vehicle concerned was registered under this Act, and
  - (b) that vehicle was unlicensed throughout the period beginning with the commission of the offence and ending with the commencement of those proceedings.
- (4) The amount of vehicle excise duty chargeable in respect of a vehicle is to be taken for the purposes of subsections (1) and (2) to be an amount equal to the annual rate of duty applicable to the vehicle at the date on which the offence was committed.
- (5) Where in the case of a vehicle kept (but not used) on a public road that annual rate differs from the annual rate by reference to which the vehicle was at that date chargeable under section 2(3) to (6), the amount of the vehicle excise duty chargeable in respect of the vehicle is to be taken for those purposes to be an amount equal to the latter rate.
- (6) In the case of a conviction for a continuing offence, the offence is to be taken for the purposes of subsections (4) and (5) to have been committed on the date or latest date to which the conviction relates.
- (7) In this section, references to the expiry of a vehicle licence include a reference to—
- (a) its surrender, and
  - (b) its being treated as no longer in force for the purposes of subsection (2) of section 31A by subsection (4) of that section.

*Offences under sections 29 and 31A: supplementary”.*

#### **Commencement Information**

**I22** Sch. 5 para. 8 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 8 in force at 19.12.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

- 9 (1) In section 32 (sections 29 to 31: supplementary), in subsection (1) (discharges to be treated as convictions)—
- (a) in the words before paragraph (a), after “section 29” insert “ or 31A ”, and
  - (b) in the words after paragraph (c), after “sections 29 to 31” insert “ or (as the case may be) sections 31A to 31C ”.
- (2) In the heading of that section, for “31” substitute “ 31C ”.

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#### Commencement Information

**I23** Sch. 5 para. 9 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 9 in force at 19.12.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

10 In section 33(3)(b) (offences of not exhibiting licence are without prejudice to offences of not having a licence), after “sections 29” insert “, 31A”.

#### Commencement Information

**I24** Sch. 5 para. 10 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 10 in force at 19.12.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

11 In section 34(4) (rate of duty by reference to which penalty is calculated), for “section 2(2) to (4)” substitute “ section 2(3) to (6) ”.

#### Commencement Information

**I25** Sch. 5 para. 11 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 11 in force at 30.11.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

12 In section 47 (proceedings in England and Wales or Northern Ireland), in each of subsections (1) and (2)(a) (who may prosecute and time limit), after “section 29,” insert “ 31A, ”.

#### Commencement Information

**I26** Sch. 5 para. 12 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 12 in force at 19.12.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

13 In section 48(3)(a) (proceedings in Scotland: time limit), after “section 29,” insert “ 31A, ”.

#### Commencement Information

**I27** Sch. 5 para. 13 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 13 in force at 19.12.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

14 In section 53 (burden of proof of certain matters in proceedings for certain offences), after “section 29,” insert “ 31A, ”.

#### Commencement Information

**I28** Sch. 5 para. 14 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 14 in force at 19.12.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

15 In section 54 (single witness sufficient in Scottish proceedings), after “section 29” insert “ , 31A ”.

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**Commencement Information**

**I29** Sch. 5 para. 15 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 15 in force at 19.12.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

16 In section 57 (regulations), after subsection (7) insert—

“(7A) Subsection (7) does not apply to a statutory instrument containing regulations under section 7A to which subsection (6) of that section applies.”.

**Commencement Information**

**I30** Sch. 5 para. 16 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 16 in force at 30.11.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

17 In section 62(1) (definitions), for the definition of “vehicle” substitute—

““vehicle” shall be construed in accordance with section 1(1B);”.

**Commencement Information**

**I31** Sch. 5 para. 17 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 17 in force at 30.11.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#); Sch. 5 para. 17 in force at 24.7.2002 for specified purposes, see s. 19(2)(3)

<sup>F103</sup>SCHEDULE 6

Section 37

**Textual Amendments**

**F103** Sch. 6 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with Sch. 7)

SCHEDULE 7

Section 43

CHARGEABLE GAINS: ROLL-OVER OF DEGROUPING CHARGE: MODIFICATION OF ENACTMENTS

The following Schedule is inserted after Schedule 7AA to the Taxation of Chargeable Gains Act 1992 (c. 12)—

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## “SCHEDULE 7AB

### ROLL-OVER OF DEGROUPING CHARGE: MODIFICATION OF ENACTMENTS

#### **Introductory**

- 1 (1) This Schedule sets out how sections 152 and 153 and other related enactments are modified for the purposes of section 179B (roll-over of degrouping charge on business assets).
- (2) In the enactments as so modified—
- “company A” and “company B” have the same meanings as in section 179;
  - “relevant asset” means the asset mentioned in section 179B(1);
  - “deemed sale” means the sale of the relevant asset that is treated as taking place by virtue of section 179(3) or (6);
  - “deemed sale consideration” means the amount for which company A is treated as having sold the relevant asset;
  - “time of accrual” means—
    - (a) in a case where section 179(3) applies, the time at which, by virtue of section 179(4), the gain or loss accruing on the deemed sale is treated as accruing to company A;
    - (b) in a case where section 179(6) applies, the latest time at which the company satisfies the conditions in section 179(7).

#### **Section 152**

- 2 (1) For subsection (1) of section 152 (roll-over relief) substitute—
- (“) If—
- (a) company B was carrying on a trade at the time when it disposed of the relevant asset to company A,
  - (b) the relevant asset was used, and used only, for the purposes of that trade throughout the period when it was owned by company B,
  - (c) an amount that is not less than the deemed sale consideration is applied by company A in acquiring other assets, or an interest in other assets (“the new assets”),
  - (d) on acquisition the new assets are taken into use, and used only, for the purposes of a trade carried on by company A,
  - (e) both the relevant asset and the new assets are within the classes of assets listed in section 155, and
  - (f) company A makes a claim as respects the amount applied as mentioned in paragraph (c),
- company A shall be treated for the purposes of this Act as if the deemed sale consideration were (if otherwise of a greater amount) reduced to such amount as would secure that neither a gain nor a loss accrues to the company in respect of the deemed sale.
- (1A) Where subsection (1) applies, company A shall be treated for the purposes of this Act as if the amount or value of the consideration for the acquisition of, or of the interest in, the new assets were reduced by the same amount as the amount of the reduction under that subsection.

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- (1B) Subsection (1) does not affect the value at which company A is treated by virtue of section 179 as having reacquired the relevant asset.
- (1C) Subsection (1A) does not affect the treatment for the purposes of this Act of the other party to the transaction involving the new assets. "
- (2) In subsection (2) of that section (application of subsection (1) where old assets held on 6th April 1965)—
- (a) for "subsection (1)(a)" substitute "subsection (1)";
  - (b) for "subsection (1)(b)" substitute "subsection (1A)".
- (3) In subsection (3) of that section (reinvestment period), for "after the disposal of, or of the interest in, the old assets" substitute "after the time of accrual".
- (4) In subsection (5) of that section (new assets must be acquired for purposes of trade), for "the trade" substitute "the trade carried on by company A".
- (5) In subsection (6) of that section (apportionment where part of building etc not used for purposes of trade), omit "or disposal" and insert at the end "or of the deemed sale consideration".
- (6) After that subsection insert—
- (“) In subsection (6) “period of ownership”, in relation to the relevant asset, means the period during which the asset was owned by company B. "
- (7) In subsection (7) of that section (apportionment where old assets not used for purposes of trade throughout period of ownership)—
- (a) for the words from the beginning to “period of ownership” substitute “If the relevant asset was not used for the purposes of the trade carried on by company B throughout the period during which it was owned by that company”;
  - (b) for the words from “or disposal” to the end substitute “of the asset or of the deemed sale consideration”.
- (8) In subsection (9) of that section (“period of ownership” does not include period before 31st March 1982), for ““period of ownership” does not” substitute “the references to the period during which the relevant asset was owned by company B do not”.
- (9) In subsection (11) of that section (apportionment of consideration for assets not all of which are subject of claim), omit “or disposal” and insert at the end “; and similarly in relation to the deemed sale consideration”.

### **Section 153**

- 3 For subsection (1) of section 153 (assets only partly replaced) substitute—
- (“) If—
- (a) an amount that is less than the deemed sale consideration is applied by company A in acquiring other assets, or an interest in other assets (“the new assets”),
  - (b) the difference between the deemed sale consideration and the amount so applied (“the shortfall”) is less than the amount of the gain (whether all chargeable gain or not) accruing on the deemed sale,
  - (c) the conditions in paragraphs (a), (b), (d) and (e) of section 152(1) are satisfied,
- and

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(d) company A makes a claim as respects the amount applied as mentioned in paragraph (a) above,

company A shall be treated for the purposes of this Act as if the amount of the gain accruing as mentioned in paragraph (b) above were reduced to the same amount as the shortfall (with a proportionate reduction, if not all of that gain is chargeable gain, in the amount of the chargeable gain).

(1A) Where subsection (1) applies, company A shall be treated for the purposes of this Act as if the amount or value of the consideration for the acquisition of, or of the interest in, the new assets were reduced by the amount by which the gain is reduced (or as the case may be the amount by which the chargeable gain is proportionately reduced) under that subsection.

(1B) Subsection (1) does not affect the value at which company A is treated by virtue of section 179 as having reacquired the relevant asset.

(1C) Subsection (1A) does not affect the treatment for the purposes of this Act of the other party to the transaction involving the new assets. "

### **Section 153A**

- 4 (1) In subsection (1) of section 153A (provisional application of sections 152 and 153)—
- (a) for the words from “a person” to “takes place” substitute “company A declares, in its return for the chargeable period in which the time of accrual falls”;
  - (b) for “the trade” substitute “a trade carried on by company A”;
  - (c) for “the whole or any specified part of the consideration” substitute “an amount equal to the deemed sale consideration or any specified part of that amount”.
- (2) In subsection (5) of that section (meaning of “relevant day”), for paragraphs (a) and (b) substitute “the fourth anniversary of the last day of the accounting period of company A in which the time of accrual falls”.

### **Section 155**

- 5 In section 155 (relevant classes of assets), in Head A of Class 1, after paragraph 2 insert — “In Head A “the trade” means—
- (a) for the purposes of determining whether the relevant asset is within this head, the trade carried on by company B;
  - (b) for the purposes of determining whether the new assets are within this head, the trade carried on by company A. "

### **Section 159**

- 6 (1) In subsection (1) of section 159 (new assets must be chargeable assets), for the words from “in the case of a person” to the second “in relation to him” substitute “if the relevant asset (or, as the case may be, the property mentioned in section 179(3)(b)) is a chargeable asset in relation to company A at the time of accrual, unless the new assets are chargeable assets in relation to that company”.
- (2) In subsection (2) of that section (subsection (1) not to apply where new assets acquired by UK resident after disposal of old ones)—
- (a) for paragraph (a) substitute—
  - (“ company A acquires the new assets after the time of accrual, and ”;

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- (b) in paragraph (b) for “the person” substitute “that company”.
- (3) In subsection (3) of that section (subsection (2) not to apply in certain cases where new assets acquired by dual resident), for “the person” substitute “company A”.
- (4) In subsection (6) of that section (definitions)—
  - (a) in paragraph (a) for “ “the old assets” and “the new assets” have the same meanings” substitute “ “the new assets” has the same meaning”;
  - (b) omit paragraph (b).
- (5) Omit subsection (7) of that section (acquisitions before 14th March 1989).

### **Section 175**

- 7 (1) In subsection (2) of section 175 (single-trade rule for group members not to apply in case of dual resident investing company)—
  - (a) for “the consideration for the disposal of the old assets” substitute “the amount of the deemed sale consideration”;
  - (b) for “ “the old assets” and “the new assets” have the same meanings” substitute “ “the new assets” has the same meaning”.
- (2) In subsection (2A) of that section (claim by two group members to be treated as same person for roll-over purposes), for paragraph (a) substitute—
  - (“ company A is a member of a group of companies at the time of accrual, ”.
- (3) In subsection (2AA) of that section (conditions for claim under subsection (2A))—
  - (a) in paragraph (a) for the words from the beginning to “chargeable assets” substitute “that company A is resident in the United Kingdom at the time of accrual, or the relevant asset (or, as the case may be, the property mentioned in section 179(3)(b)) is a chargeable asset”
  - (b) in paragraph (b) for “the assets” substitute “the new assets (within the meaning of section 152)”.
- (4) Immediately before subsection (2B) of that section (roll-over relief for group member not itself carrying on trade) insert—
  - (“ Section 152 or 153 shall apply where—
    - (a) company B was not carrying on a trade at the time when it disposed of the relevant asset to company A, but was a member of a group of companies at that time, and
    - (b) immediately before that time the relevant asset was used, and used only, for the purposes of the trade which (in accordance with subsection (1) above) is treated as carried on by the members of the group which carried on a trade, as if company B had been carrying on that trade. ”.
- (5) In subsection (2B) of that section—
  - (a) omit paragraph (a);
  - (b) in paragraph (b), for “those purposes” substitute “the purposes of the trade which (in accordance with subsection (1) above) is treated as carried on by the members of the group which carry on a trade”.
- (6) Omit subsection (4) of that section (acquisitions before 20th March 1990).

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### **Section 185**

- 8 (1) In subsection (3) of section 185 (no roll-over relief in certain cases where company acquires new assets after becoming non-resident)—
- (a) omit “the company”;
  - (b) for paragraph (a) substitute—
  - (“ the time of accrual falls before the relevant time; and ”;
  - (c) insert “the company” at the beginning of paragraph (b).
- (2) In subsection (5) of that section (definitions), in paragraph (c) for “ “the old assets” and “the new assets” have the same meanings” substitute “ “the new assets” has the same meaning”.

### **Section 198**

- 9 (1) For subsection (1) of section 198 (replacement of business assets used in connection with oil fields) substitute—
- (“ If at the time of accrual the relevant asset (or, as the case may be, the property mentioned in section 179(3)(b)) was used by company A for the purposes of a ring fence trade carried on by it, section 152 or 153 shall not apply unless the new assets are on acquisition taken into use, and used only, for the purposes of that trade. ”.
- (2) In subsection (3) of that section (new asset conclusively presumed to be depreciating asset), for “in relation to any of the consideration on a material disposal” substitute “in a case falling within subsection (1) above”.
- (3) In subsection (5) of that section (definitions), omit paragraph (a).

### **Schedule 22 to the Finance Act 2000**

- 10 In sub-paragraph (2) of paragraph 67 of Schedule 22 to the Finance Act 2000 (c. 17) (no roll-over relief for tonnage tax assets)—
- (a) after “the disposal”, in the first and third places, insert “or deemed sale”;
  - (b) in paragraph (a) after “Asset No.1” insert “or, as the case may be, the deemed sale consideration”.

## SCHEDULE 8

Section 44(2)

### CHARGEABLE GAINS: EXEMPTIONS IN CASE OF SUBSTANTIAL SHAREHOLDING

#### PART 1

#### NEW SCHEDULE 7AC TO THE TAXATION OF CHARGEABLE GAINS ACT 1992

- 1 The following Schedule is inserted after Schedule 7AB to the Taxation of Chargeable Gains Act 1992 (c. 12)—



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## “SCHEDULE 7AC

### EXEMPTIONS FOR DISPOSALS BY COMPANIES WITH SUBSTANTIAL SHAREHOLDING

#### PART 1

#### THE EXEMPTIONS

##### *The main exemption*

- 1 (1) A gain accruing to a company (“the investing company”) on a disposal of shares or an interest in shares in another company (“the company invested in”) is not a chargeable gain if the requirements of this Schedule are met.
- (2) The requirements are set out in—
  - Part 2 (the substantial shareholding requirement), and
  - Part 3 (requirements to be met in relation to the investing company and the company invested in).
- (3) The exemption conferred by this paragraph does not apply in the circumstances specified in paragraph 5 or the cases specified in paragraph 6.

##### *Subsidiary exemption: disposal of asset related to shares where main exemption conditions met*

- 2 (1) A gain accruing to a company (“company A”) on a disposal of an asset related to shares in another company (“company B”) is not a chargeable gain if either of the following conditions is met.
- (2) The first condition is that—
  - (a) immediately before the disposal company A holds shares or an interest in shares in company B, and
  - (b) any gain accruing to company A on a disposal at that time of the shares or interest would, by virtue of paragraph 1, not be a chargeable gain.
- (3) The second condition is that—
  - (a) immediately before the disposal company A does not hold shares or an interest in shares in company B but is a member of a group and another member of that group does hold shares or an interest in shares in company B, and
  - (b) if company A, rather than that other company, held the shares or interest, any gain accruing to company A on a disposal at that time of the shares or interest would, by virtue of paragraph 1, not be a chargeable gain.
- (4) Where assets of a company are vested in a liquidator under section 145 of the Insolvency Act 1986 or Article 123 of the Insolvency (Northern Ireland) Order 1989 or otherwise, this paragraph applies as if the assets were vested in, and the acts of the liquidator in relation to the assets were the acts of,

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the company (acquisitions from or disposals to him by the company being disregarded accordingly).

- (5) The exemption conferred by this paragraph does not apply in the circumstances specified in paragraph 5 or the cases specified in paragraph 6.

***Subsidiary exemption: disposal of shares or related asset where main exemption conditions previously met***

- 3 (1) A gain accruing to a company (“company A”) on a disposal of shares, or an interest in shares or an asset related to shares, in another company (“company B”) is not a chargeable gain if the following conditions are met.

- (2) The conditions are—

- (a) that at the time of the disposal company A meets the requirement in paragraph 7 (the substantial shareholding requirement) in relation to company B;
- (b) that a chargeable gain or allowable loss would, apart from this paragraph, accrue to company A on the disposal (but see sub-paragraph (3) below);
- (c) that at the time of the disposal—
  - (i) company A is resident in the United Kingdom, or
  - (ii) any chargeable gain accruing to company A on the disposal would, by virtue of section 10(3), form part of that company’s chargeable profits for corporation tax purposes;
- (d) that there was a time within the period of two years ending with the disposal (“the relevant period”) when, if—
  - (i) company A, or
  - (ii) a company that at any time in the relevant period was a member of the same group as company A,
 

had disposed of shares or an interest in shares in company B that it then held, a gain accruing would, by virtue of paragraph 1, not have been a chargeable gain; and
- (e) that, if at the time of the disposal the requirements of paragraph 19 (requirements relating to company invested in) are not met in relation to company B, there was a time within the relevant period when company B was controlled by—
  - (i) company A, or
  - (ii) company A together with any persons connected with it, or
  - (iii) a company that at any time in the relevant period was a member of the same group as company A, or
  - (iv) any such company together with any persons connected with it.

- (3) Sub-paragraph (1) does not apply if—

- (a) the condition in sub-paragraph (2)(b) is met but would not be met but for a failure to meet the requirement in paragraph 18(1)(b) (requirement as to investing company to be met immediately after the disposal), and
- (b) the failure to meet that requirement is not due to—
  - (i) the fact that company A has been wound up or dissolved, or

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- (ii) where the winding up or dissolution takes place as soon as is reasonably practicable in the circumstances, the fact that company A is about to be wound up or dissolved.
- (4) In determining for the purpose of sub-paragraph (2)(d) whether a gain accruing on the hypothetical disposal referred to would have been a chargeable gain, the requirements of paragraph 18(1)(b) and of paragraph 19(1)(b) (requirement as to company invested in to be met immediately after the disposal) shall be assumed to be met.
- (5) Where—
  - (a) immediately before the disposal company B holds an asset,
  - (b) the expenditure allowable in computing any gain or loss on that asset, were it to be disposed of by company B immediately before that disposal, would fall to be reduced because of a claim to relief under section 165 (gifts relief) in relation to an earlier disposal, and
  - (c) that earlier disposal took place within the relevant period,
 sub-paragraph (1) does not prevent a gain accruing to company A on the disposal from being a chargeable gain but any loss so accruing is not an allowable loss.
- (6) Where assets of company B are vested in a liquidator under section 145 of the Insolvency Act 1986 or Article 123 of the Insolvency (Northern Ireland) Order 1989 or otherwise, sub-paragraph (5)(a) applies as if the assets were vested in the company.
- (7) In determining “the relevant period” for the purposes of sub-paragraph (2)(d) or (e) or sub-paragraph (5)(c), section 28 (time of disposal under contract) applies with the omission of subsection (2) (postponement of time of disposal in case of conditional contract).
- (8) The exemption conferred by this paragraph does not apply in the circumstances specified in paragraph 5 or the cases specified in paragraph 6.

***Application of exemptions in priority to provisions deeming there to be no disposal etc***

- 4 (1) For the purposes of determining whether an exemption conferred by this Schedule applies, the question whether there is a disposal shall be determined without regard to—
  - (a) section 116(10) (reorganisation, conversion of securities, etc treated as not involving disposal),
  - (b) section 127 (share reorganisations etc treated as not involving disposal), or
  - (c) section 192(2)(a) (distribution not treated as capital distribution).
- (2) Sub-paragraph (1) does not apply to a disposal of shares if the effect of its applying would be that relief attributable to the shares under Schedule 15 to the Finance Act 2000 (corporate venturing scheme) would be withdrawn or reduced under paragraph 46 of that Schedule (withdrawal or reduction of investment relief on disposal of shares).
- (3) Where or to the extent that an exemption conferred by this Schedule does apply—

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- (a) the provisions mentioned in sub-paragraph (1)(a) and (b) do not apply in relation to the disposal, and
  - (b) the provision mentioned in sub-paragraph (1)(c) does not apply in relation to the subject matter of the disposal.
- (4) Where section 127 is disapplied by sub-paragraph (3)(a) in a case in which that section would otherwise have applied in relation to the disposal by virtue of paragraph 84 of Schedule 15 to the Finance Act 2000 (corporate venturing scheme: share exchanges), paragraph 85 of that Schedule (attribution of relief to new shares) does not apply.
- (5) In this paragraph any reference to section 127 includes a reference to that provision as applied by any enactment relating to corporation tax.

***Circumstances in which exemptions do not apply***

- 5 (1) Where in pursuance of arrangements to which this paragraph applies—
- (a) an untaxed gain accrues to a company (“company A”) on a disposal of shares, or an interest in shares or an asset related to shares, in another company (“company B”), and
  - (b) before the accrual of that gain—
    - (i) company A acquired control of company B, or the same person or persons acquired control of both companies, or
    - (ii) there was a significant change of trading activities affecting company B at a time when it was controlled by company A, or when both companies were controlled by the same person or persons,
 none of the exemptions in this Schedule applies to the disposal.
- (2) This paragraph applies to arrangements from which the sole or main benefit that (but for this paragraph) could be expected to arise is that the gain on the disposal would, by virtue of this Schedule, not be a chargeable gain.
- (3) For the purposes of sub-paragraph (1)(a) a gain is “untaxed” if the gain, or all of it but a part that is not substantial, represents profits that have not been brought into account (in the United Kingdom or elsewhere) for the purposes of tax on profits for a period ending on or before the date of the disposal.
- (4) The reference in sub-paragraph (3) to profits being brought into account for the purposes of tax on profits includes a reference to the case where—
- (a) an amount in respect of those profits is apportioned to a company resident in the United Kingdom by virtue of subsection (3) of section 747 of the Taxes Act 1988 (imputation of chargeable profits etc of controlled foreign companies), and
  - (b) a sum is chargeable on that company in respect of that amount by virtue of subsection (4) of that section for an accounting period of that company ending on or before the date of the disposal.
- (5) For the purposes of sub-paragraph (1)(b)(ii) there is a “significant change of trading activities affecting company B” if—
- (a) there is a major change in the nature or conduct of a trade carried on by company B or a 51% subsidiary of company B, or

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- (b) there is a major change in the scale of the activities of a trade carried on by company B or a 51% subsidiary of company B, or
- (c) company B or a 51% subsidiary of company B begins to carry on a trade.

(6) In this paragraph—

“arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable;

“major change in the nature or conduct of a trade” has the same meaning as in section 768 of the Taxes Act (change of ownership of company: disallowance of trading losses);

“profits” means income or gains (including unrealised income or gains).

### ***Other cases excluded from exemptions***

6 (1) The exemptions conferred by this Schedule do not apply—

- (a) to a disposal that by virtue of any enactment relating to chargeable gains is deemed to be for a consideration such that no gain or loss accrues to the person making the disposal,
- (b) to a disposal a gain on which would, by virtue of any enactment not contained in this Schedule, not be a chargeable gain, or
- (c) to a deemed disposal under section 440(1) or (2) of the Taxes Act (deemed disposal on transfer of asset of insurance company from one category to another).

(2) The hypothetical disposal referred to in paragraph 2(2)(b) or (3)(b) or paragraph 3(2)(d) shall be assumed not to be a disposal within subparagraph (1)(a), (b) or (c) above.

## **PART 2 THE SUBSTANTIAL SHAREHOLDING REQUIREMENT**

### ***The requirement***

7 The investing company must have held a substantial shareholding in the company invested in throughout a twelve-month period beginning not more than two years before the day on which the disposal takes place.

### ***Meaning of “substantial shareholding”***

8 (1) For the purposes of this Schedule a company holds a “substantial shareholding” in another company if it holds shares or interests in shares in that company by virtue of which—

- (a) it holds not less than 10% of the company’s ordinary share capital,
- (b) it is beneficially entitled to not less than 10% of the profits available for distribution to equity holders of the company, and
- (c) it would be beneficially entitled on a winding up to not less than 10% of the assets of the company available for distribution to equity holders.

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This is without prejudice to what is meant by “substantial” where the word appears in other contexts.

- (2) Schedule 18 to the Taxes Act 1988 (meaning of equity holder and determination of profits or assets available for distribution) applies for the purposes of sub-paragraph (1).
- (3) In that Schedule as it applies for those purposes—
  - (a) for any reference to sections 403C and 413(7) of that Act, or either of those provisions, substitute a reference to sub-paragraph (1) above;
  - (b) omit the words in paragraph 1(4) from “but” to the end;
  - (c) omit paragraph 5(3) and paragraphs 5B to 5F; and
  - (d) omit paragraph 7(1)(b).

***Aggregation of holdings of group companies***

- 9 (1) For the purposes of paragraph 7 (the substantial shareholding requirement) a company that is a member of a group is treated—
  - (a) as holding any shares or interest in shares held by any other company in the group, and
  - (b) as having the same entitlement as any such company to any rights enjoyed by virtue of holding shares or an interest in shares.
- (2) Sub-paragraph (1) is subject to paragraph 17(4) (exclusion of aggregation in case of assets of long-term insurance fund of insurance company).

***Effect of earlier no-gain/no-loss transfer***

- 10 (1) For the purposes of this Part the period for which a company has held shares is treated as extended by any earlier period during which the shares concerned, or shares from which they are derived, were held—
  - (a) by a company from which the shares concerned were transferred to the first-mentioned company on a no-gain/ no-loss transfer, or
  - (b) by a company from which the shares concerned, or shares from which they are derived, were transferred on a previous no-gain/no-loss transfer—
    - (i) to a company within paragraph (a), or
    - (ii) to another company within this paragraph.
- (2) For the purposes of sub-paragraph (1)—
  - (a) a “no-gain/no-loss transfer” means a disposal and corresponding acquisition that by virtue of any enactment relating to chargeable gains are deemed to be for a consideration such that no gain or loss accrues to the person making the disposal;
  - (b) a transfer shall be treated as if it had been a no-gain/no-loss transfer if it is a transfer to which subsection (1) of section 171 (transfers within a group) would apply but for subsection (3) of that section.
- (3) Where sub-paragraph (1) applies to extend the period for which a company (“company A”) is treated as having held any shares, that company shall be treated for the purposes of this Part as having had at any time the same entitlement—

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- (a) to shares, and
  - (b) to any rights enjoyed by virtue of holding shares,
- as the company (“company B”) that at that time held the shares concerned or, as the case may be, the shares from which they are derived.
- (4) The shares and rights to be so attributed to company A include any holding or entitlement attributed at that time to company B under paragraph 9 (aggregation of holdings of group companies).
- (5) In this paragraph, except in paragraphs (a) to (c) of sub-paragraph (6), “shares” includes an interest in shares.
- (6) For the purposes of this paragraph shares are “derived” from other shares only where—
- (a) a company becomes a co-owner of shares previously owned by it alone, or vice versa,
  - (b) a company’s interest in shares as co-owner changes (without the company ceasing to be a co-owner),
  - (c) one holding of shares is treated by virtue of section 127 as the same asset as another, or
  - (d) there is a sequence of two or more of the occurrences mentioned in paragraphs (a) to (c).

The reference in paragraph (c) to section 127 includes a reference to that provision as applied by any enactment relating to corporation tax.

### ***Effect of deemed disposal and reacquisition***

- 11 (1) For the purposes of this Part a company is not regarded as having held shares throughout a period if, at any time during that period, there is a deemed disposal and reacquisition of—
- (a) the shares concerned, or
  - (b) shares, or an interest in shares, from which those shares are derived.
- (2) For the purposes of this Part a company is not regarded as having held an interest in shares throughout a period if, at any time during that period, there is a deemed disposal and reacquisition of—
- (a) the interest concerned, or
  - (b) shares, or an interest in shares, from which that interest is derived.
- (3) In this paragraph—
- “deemed disposal and reacquisition” means a disposal and immediate reacquisition treated as taking place under any enactment relating to corporation tax;
- “derived” has the same meaning as in paragraph 10.

### ***Effect of repurchase agreement***

- 12 (1) This paragraph applies where—
- (a) a company that holds shares in another company transfers the shares under a repurchase agreement, and

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- (b) by virtue of section 263A(1) (agreements for sale and repurchase of securities) the disposal is disregarded for the purposes of the enactments relating to chargeable gains.
- (2) During the period of the repurchase agreement—
- (a) the original owner shall be treated for the purposes of this Part as continuing to hold the shares transferred and accordingly as retaining his entitlement to any rights attached to them, and
  - (b) the interim holder shall be treated for those purposes as not holding the shares transferred and as not becoming entitled to any such rights.

This is subject to the following qualification.

- (3) If at any time before the end of the period of the repurchase agreement the original owner, or another member of the same group as the original owner, becomes the holder—
- (a) of any of the shares transferred, or
  - (b) of any shares directly or indirectly representing any of the shares transferred,
- sub-paragraph (2) does not apply after that time in relation to those shares or, as the case may be, in relation to the shares represented by those shares.
- (4) In this paragraph a “repurchase agreement” means an agreement under which—
- (a) a person (“the original owner”) transfers shares to another person (“the interim holder”) under an agreement to sell them, and
  - (b) the original owner or a person connected with him is required to buy them back either—
    - (i) in pursuance of an obligation to do so imposed by that agreement or by any related agreement, or
    - (ii) in consequence of the exercise of an option acquired under that agreement or any related agreement.

For the purposes of paragraph (b) agreements are related if they are entered into in pursuance of the same arrangements (regardless of the date on which either agreement is entered into).

- (5) Any reference in this paragraph to the period of a repurchase agreement is to the period beginning with the transfer of the shares by the original owner to the interim holder and ending with the repurchase of the shares in pursuance of the agreement.

### ***Effect of stock lending arrangements***

- 13 (1) This paragraph applies where—
- (a) a company that holds shares in another company transfers the shares under a stock lending arrangement, and
  - (b) by virtue of section 263B(2) (stock lending arrangements) the disposal is disregarded for the purposes of the enactments relating to chargeable gains.



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- (2) During the period of the stock lending arrangement—
- (a) the lender shall be treated for the purposes of this Part as continuing to hold the shares transferred and accordingly as retaining his entitlement to any rights attached to them, and
  - (b) the borrower shall be treated for those purposes as not holding the shares transferred and as not becoming entitled to any such rights.

This is subject to the following qualification.

- (3) If at any time before the end of the period of the stock lending arrangement the lender, or another member of the same group as the lender, becomes the holder—
- (a) of any of the shares transferred, or
  - (b) of any shares directly or indirectly representing any of the shares transferred,
- sub-paragraph (2) does not apply after that time in relation to those shares or, as the case may be, in relation to the shares represented by those shares.
- (4) In this paragraph a “stock lending arrangement” means arrangements between two persons (“the borrower” and “the lender”) under which—
- (a) the lender transfers shares to the borrower otherwise than by way of sale, and
  - (b) a requirement is imposed on the borrower to transfer those shares back to the lender otherwise than by way of sale.
- (5) Any reference in this paragraph to the period of a stock lending arrangement is to the period beginning with the transfer of the shares by the lender to the borrower and ending—
- (a) with the transfer of the shares back to the lender in pursuance of the arrangement, or
  - (b) when it becomes apparent that the requirement for the borrower to make a transfer back to the lender will not be complied with.
- (6) The following provisions apply for the purposes of this paragraph as they apply for the purposes of section 263B—
- (a) subsections (5) and (6) of that section (references to transfer back of securities to include transfer of other securities of the same description);
  - (b) section 263C (references to transfer back of securities to include payment in respect of redemption).

***Effect in relation to company invested in of earlier company reconstruction etc***

- 14 (1) This paragraph applies where shares in one company (“company X”)—
- (a) are exchanged (or deemed to be exchanged) for shares in another company (“company Y”), or
  - (b) are deemed to be exchanged by virtue of section 136 for shares in company X and shares in another company (“company Y”),
- in circumstances such that, under section 127 as that section applies by virtue of section 135 or 136, the original shares and the new holding are treated as the same asset.

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- (2) Where company Y—
- (a) is the company invested in, and is accordingly the company by reference to which the requirement of paragraph 7 (the substantial shareholding requirement) falls to be met, or
  - (b) is a company by reference to which, by virtue of this paragraph, that requirement may be met, or
  - (c) is a company by reference to which, by virtue of paragraph 15 (effect of earlier demerger) that requirement may be met,
- that requirement may instead be met, in relation to times before the exchange (or deemed exchange), by reference to company X.
- (3) If in any case that requirement can be met by virtue of this paragraph (or by virtue of this paragraph together with paragraph 15), it shall be treated as met.
- (4) In sub-paragraph (1) “original shares” and “new holding” shall be construed in accordance with sections 126, 127, 135 and 136.

***Effect in relation to company invested in of earlier demerger***

- 15 (1) This paragraph applies where shares in one company (“the subsidiary”) are transferred by another company (“the parent company”) on a demerger.
- (2) Where the subsidiary—
- (a) is the company invested in, and is accordingly the company by reference to which the requirement of paragraph 7 (the substantial shareholding requirement) falls to be met, or
  - (b) is a company by reference to which, by virtue of this paragraph, that requirement may be met, or
  - (c) is a company by reference to which, by virtue of paragraph 14 (effect of earlier company reconstruction etc), that requirement may be met,
- that requirement may instead be met, in relation to times before the transfer, by reference to the parent company.
- (3) If in any case that requirement can be met by virtue of this paragraph (or by virtue of this paragraph together with paragraph 14), it shall be treated as met.
- (4) In this paragraph a “transfer of shares on a demerger” means a transfer such that, by virtue of section 192(2)(b), sections 126 to 130 apply as if the parent company and the subsidiary were the same company and the transfer were a reorganisation of that company’s share capital not involving a disposal or acquisition.

***Effect of investing company’s liquidation***

- 16 Where assets of the investing company, or of a company that is a member of the same group as the investing company, are vested in a liquidator under section 145 of the Insolvency Act 1986 or Article 123 of the Insolvency (Northern Ireland) Order 1989 or otherwise, this Part applies as if the assets were vested in, and the acts of the liquidator in relation to the assets were the

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acts of, the company (acquisitions from or disposals to him by the company being disregarded accordingly).

***Special rules for assets of insurance company’s long-term insurance fund***

17 (1) In the following two cases paragraph 8(1) (meaning of substantial shareholding) has effect as if, in paragraphs (a), (b) and (c), “30%” were substituted for “10%”.

(2) The first case is where the investing company is an insurance company and the disposal is of an asset of its long-term insurance fund.

(3) The second case is where—

(a) the investing company is a 51% subsidiary of an insurance company, and

(b) the insurance company holds as an asset of its long-term insurance fund shares or an interest in shares—

(i) in the investing company, or

(ii) in another company through which it owns shares in the investing company.

The reference in paragraph (b)(ii) to owning shares through another company has the same meaning as in section 838 of the Taxes Act (subsidiaries).

(4) Where the investing company is a member of a group that includes an insurance company, paragraph 9 (aggregation of holdings of group companies) does not apply in relation to shares or an interest in shares held by the insurance company as assets of its long-term insurance fund.

(5) In this paragraph “insurance company” and “long-term insurance fund” have the meanings given by section 431(2) of the Taxes Act.

**PART 3 REQUIREMENTS TO BE MET IN RELATION TO INVESTING COMPANY AND COMPANY INVESTED IN**

***Requirements relating to the investing company***

18 (1) The investing company must—

(a) have been a sole trading company or a member of a qualifying group throughout the period (“the qualifying period”)—

(i) beginning with the start of the latest twelve-month period by reference to which the requirement of paragraph 7 (the substantial shareholding requirement) is met, and

(ii) ending with the time of the disposal, and

(b) be a sole trading company or a member of a qualifying group immediately after the time of the disposal.

(2) For this purpose a “qualifying group” means—

(a) a trading group, or

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- (b) a group that would be a trading group if the activities of any group member that is not established for profit were disregarded to the extent that they are carried on otherwise than for profit.

In determining whether a company is established for profit, no account shall be taken of any object or power of the company that is only incidental to its main objects.

- (3) The requirement in sub-paragraph (1)(a) is met if the investing company was a sole trading company for some of the qualifying period and a member of a qualifying group for the remainder of that period.
- (4) The requirement in sub-paragraph (1)(a) is treated as met if at the time of the disposal—
- (a) the investing company is a member of a group, and
  - (b) there is another member of the group in relation to which that requirement would have been met if—
    - (i) the subject matter of the disposal had been transferred to it immediately before the disposal in circumstances in which section 171(1) (transfers within a group) applied, and
    - (ii) it had made the disposal.
- (5) If the disposal is by virtue of section 28(1) or (2) (asset disposed of under contract) treated as made at a time before the asset is conveyed or transferred, the requirements in sub-paragraph (1)(a) and (b) must also be complied with as they would have effect if the references in those provisions and sub-paragraph (4) to the time of the disposal were to the time of the conveyance or transfer.
- (6) In this paragraph a “sole trading company” means a trading company that is not a member of a group.

***Requirements relating to the company invested in***

- 19 (1) The company invested in must—
- (a) have been a qualifying company throughout the period—
    - (i) beginning with the start of the latest twelve-month period by reference to which the requirement of paragraph 7 (the substantial shareholding requirement) is met, and
    - (ii) ending with the time of the disposal, and
  - (b) be a qualifying company immediately after the time of the disposal.
- (2) For this purpose a “qualifying company” means a trading company or the holding company of a trading group or a trading subgroup.
- (3) If the disposal is by virtue of section 28(1) or (2) (asset disposed of under contract) treated as made at a time before the asset is conveyed or transferred, the requirements in sub-paragraph (1)(a) and (b) must also be complied with as they would have effect if the references there to the time of the disposal were to the time of the conveyance or transfer.

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### **Meaning of “trading compan”y**

- 20 (1) In this Schedule “trading company” means a company carrying on trading activities whose activities do not include to a substantial extent activities other than trading activities.
- (2) For the purposes of sub-paragraph (1) “trading activities” means activities carried on by the company—
- (a) in the course of, or for the purposes of, a trade being carried on by it,
  - (b) for the purposes of a trade that it is preparing to carry on,
  - (c) with a view to its acquiring or starting to carry on a trade, or
  - (d) with a view to its acquiring a significant interest in the share capital of another company that—
    - (i) is a trading company or the holding company of a trading group or trading subgroup, and
    - (ii) if the acquiring company is a member of a group, is not a member of that group.
- (3) Activities do not qualify as trading activities under sub-paragraph (2)(c) or (d) unless the acquisition is made, or (as the case may be) the company starts to carry on the trade, as soon as is reasonably practicable in the circumstances.
- (4) The reference in sub-paragraph (2)(d) to the acquisition of a significant interest in the share capital of another company is to an acquisition of ordinary share capital in the other company—
- (a) such as would make that company a 51% subsidiary of the acquiring company, or
  - (b) such as would give the acquiring company a qualifying shareholding in a joint venture company without making the two companies members of the same group.

### **Meaning of “trading grou”p**

- 21 (1) In this Schedule “trading group” means a group—
- (a) one or more of whose members carry on trading activities, and
  - (b) the activities of whose members, taken together, do not include to a substantial extent activities other than trading activities.
- (2) For the purposes of sub-paragraph (1) “trading activities” means activities carried on by a member of the group—
- (a) in the course of, or for the purposes of, a trade being carried on by any member of the group,
  - (b) for the purposes of a trade that any member of the group is preparing to carry on,
  - (c) with a view to any member of the group acquiring or starting to carry on a trade, or
  - (d) with a view to any member of the group acquiring a significant interest in the share capital of another company that—
    - (i) is a trading company or the holding company of a trading group or trading subgroup, and

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- (ii) is not a member of the same group as the acquiring company.
- (3) Activities do not qualify as trading activities under sub-paragraph (2)(c) or (d) unless the acquisition is made, or (as the case may be) the group member in question starts to carry on the trade, as soon as is reasonably practicable in the circumstances.
- (4) The reference in sub-paragraph (2)(d) to the acquisition of a significant interest in the share capital of another company is to an acquisition of ordinary share capital in the other company—
  - (a) such as would make that company a member of the same group as the acquiring company, or
  - (b) such as would give the acquiring company a qualifying shareholding in a joint venture company without making the joint venture company a member of the same group as the acquiring company.
- (5) For the purposes of this paragraph the activities of the members of the group shall be treated as one business (with the result that activities are disregarded to the extent that they are intra-group activities).

***Meaning of “trading subgroup”***

- 22 (1) In this Schedule “trading subgroup” means a subgroup—
- (a) one or more of whose members carry on trading activities, and
  - (b) the activities of whose members, taken together, do not include to a substantial extent activities other than trading activities.
- (2) For the purposes of sub-paragraph (1) “trading activities” means activities carried on by a member of the subgroup—
- (a) in the course of, or for the purposes of, a trade being carried on by any member of the subgroup,
  - (b) for the purposes of a trade that any member of the subgroup is preparing to carry on,
  - (c) with a view to any member of the subgroup acquiring or starting to carry on a trade, or
  - (d) with a view to any member of the subgroup acquiring a significant interest in the share capital of another company that—
    - (i) is a trading company or the holding company of a trading group or trading subgroup, and
    - (ii) is not a member of the same group as the acquiring company.
- (3) Activities do not qualify as trading activities under sub-paragraph (2)(c) or (d) unless the acquisition is made, or (as the case may be) the subgroup member in question starts to carry on the trade, as soon as is reasonably practicable in the circumstances.
- (4) The reference in sub-paragraph (2)(d) to the acquisition of a significant interest in the share capital of another company is to an acquisition of ordinary share capital in the other company—
- (a) such as would make that company a member of the same subgroup as the acquiring company, or

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- (b) such as would give the acquiring company a qualifying shareholding in a joint venture company without making the two companies members of the same group.
- (5) For the purposes of this paragraph the activities of the members of the subgroup shall be treated as one business (with the result that activities are disregarded to the extent that they are intra-subgroup activities).

### ***Treatment of holdings in joint venture companies***

23 (1) This paragraph applies where a company (“the company”) has a qualifying shareholding in a joint venture company.

- (2) In determining whether the company is a trading company—
- (a) its holding 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 a holding company, of the activities of that company and its 51% subsidiaries.

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

- (3) In determining whether the company is a member of a trading group or the holding company of 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 a qualifying shareholding in the joint venture company 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 a holding company, of the activities of that company and its 51% subsidiaries.

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

- (4) In determining whether the company is the holding company of a trading subgroup—
- (a) every holding of shares in the joint venture company by the company and any of its 51% subsidiaries having a qualifying shareholding in the joint venture company shall be disregarded, and
  - (b) the company and each of its 51% subsidiaries having a qualifying shareholding in the joint venture company 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 a holding company, of the activities of that company and its 51% subsidiaries.

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

- (5) In sub-paragraphs (2)(b), (3)(b) and (4)(b) “an appropriate proportion” means a proportion corresponding to the percentage of the ordinary share capital of the joint venture company held by the company concerned.
- (6) In this paragraph “shares”, in relation to a joint venture company, includes securities of that company or an interest in shares in or securities of that company.
- (7) For the purposes of this paragraph the activities of a joint venture company that is a holding company and its 51% subsidiaries shall be treated as a single business (so that activities are disregarded to the extent that they are intra-group activities or, as the case may be, intra-subgroup activities).

***Meaning of “joint venture company” and “qualifying shareholding”***

- 24 (1) For the purposes of this Schedule 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 or trading subgroup, and
  - (b) there are five or fewer persons who between them hold 75% or more of its ordinary share capital.

In determining whether there are five or fewer such persons as are mentioned in paragraph (b), the members of a group are treated as if they were a single company.

- (2) For the purposes of this Schedule—
- (a) a company that is not a member of a group has a “qualifying shareholding” in a joint venture company if, and only if, it holds shares or an interest in shares in the joint venture company by virtue of which it holds 10% or more of that company’s ordinary share capital;
  - (b) a company that is a member of a group has a “qualifying shareholding” in a joint venture company if, and only if—
    - (i) it holds ordinary share capital of the joint venture company, and
    - (ii) the members of the group between them hold 10% or more of the ordinary share capital of that company.

***Effect in relation to company invested in of earlier company reconstruction, demerger etc***

- 25 The provisions of—
- (a) paragraph 14 (effect of earlier company reconstruction etc), and
  - (b) paragraph 15 (effect of earlier demerger),
- have effect in relation to the requirements of paragraph 19 (requirements in relation to company invested in) as they have effect in relation to the requirement of paragraph 7 (the substantial shareholding requirement).



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## PART 4 INTERPRETATION

### ***Meaning of “company”, “group” and related expressions***

26 (1) In this Schedule—

- (a) “company” has the meaning given by section 170(9); and
  - (b) references to a group, or to membership of a group, shall be construed in accordance with the provisions of section 170 read as if “51 per cent” were substituted for “75 per cent”.
- (2) References in this Schedule to a “subgroup” are to companies that would form a group but for the fact that one of them is a 51% subsidiary of another company.
- (3) In this Schedule “holding company”—
- (a) in relation to a group, means the company described in section 170 as the principal company of the group;
  - (b) in relation to a subgroup, means a company that would be the holding company of a group but for being a 51% subsidiary of another company.
- (4) In this Schedule “51% subsidiary” has the meaning given by section 838 of the Taxes Act.

In applying that section for the purposes of this Schedule, any share capital of a registered industrial and provident society shall be treated as ordinary share capital.

- (5) References in this Schedule to a “group” or “subsidiary” shall be construed with any necessary modifications where applied to a company incorporated under the law of a country or territory outside the United Kingdom.

### ***Meaning of “trade”***

27 In this Schedule “trade” means anything that—

- (a) is a trade, profession or vocation, within the meaning of the Income Tax Acts, and
- (b) is conducted on a commercial basis with a view to the realisation of profits.

### ***Meaning of “twelve-month period”***

28 For the purposes of this Schedule a “twelve-month period” means a period ending with the day before the first anniversary of the day with which, or in the course of which, the period began.

### ***Meaning of “interest in shares”***

29 (1) References in this Schedule to an interest in shares are to an interest as a co-owner of shares.

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- (2) It does not matter whether the shares are owned jointly or in common, or whether the interests of the co-owners are equal.

***Meaning of “asset related to share”s***

- 30 (1) This paragraph explains what is meant by an asset related to shares in a company.
- (2) An asset is related to shares in a company if it is—
- (a) an option to acquire or dispose of shares or an interest in shares in that company, or
  - (b) a security to which are attached rights by virtue of which the holder is or may become entitled to acquire or dispose of (whether by conversion or exchange or otherwise)—
    - (i) shares or an interest in shares in that company, or
    - (ii) an option to acquire or dispose of shares or an interest in shares in that company, or
    - (iii) another security falling within this paragraph, or
  - (c) an option to acquire or dispose of any security within paragraph (b) or an interest in any such security, or
  - (d) an interest in, or option over, any such option or security as is mentioned in paragraph (a), (b) or (c), or
  - (e) any interest in, or option over, any such interest or option as is mentioned in paragraph (d) or this paragraph.
- (3) In determining whether a security is within sub-paragraph (2)(b), no account shall be taken—
- (a) of any rights attached to the security other than rights relating, directly or indirectly, to shares of the company in question, or
  - (b) of rights as regards which, at the time the security came into existence, there was no more than a negligible likelihood that they would in due course be exercised to a significant extent.
- (4) The references in this paragraph to an interest in a security or option have a meaning corresponding to that given by paragraph 29 in relation to an interest in shares.

***Index of defined expressions***

- 31 In this Schedule the expressions listed below are defined or otherwise explained by the provisions indicated:

PART 5 CONSEQUENTIAL PROVISIONS

***Meaning of “chargeable share”s or “chargeable asset”t***

- 32 Any exemption conferred by this Schedule shall be disregarded in determining whether shares are “chargeable shares”, or an asset is a “chargeable asset”, for the purposes of any enactment relating to corporation tax or capital gains tax.

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### ***Negligible value claims***

- 33 (1) This paragraph applies where—
- (a) a company makes a claim under section 24(2) (assets of negligible value) in relation to shares held by it, and
  - (b) by virtue of this Schedule any loss accruing to the company on a disposal of the shares at the time of the claim would not be an allowable loss.
- (2) Where this paragraph applies the company may not exercise the option under section 24(2) to specify a time earlier than the time of the claim as the time when the shares are treated as sold and reacquired by virtue of that subsection.
- (3) This paragraph applies to—
- (a) an interest in shares in a company, or
  - (b) an asset related to shares in a company,
- as it applies to shares in that company.

### ***Reorganisations etc: deemed accrual of chargeable gain or allowable loss held over on earlier transaction***

- 34 (1) The exemptions conferred by this Schedule do not apply to or affect a chargeable gain or allowable loss deemed to accrue on a disposal by virtue of section 116(10)(b) (reorganisations, conversions and reconstructions: deemed accrual of gain or loss held over on earlier transaction).
- (2) Sub-paragraph (1) does not apply where the relevant earlier transaction was a deemed disposal and reacquisition under section 92(7) of the Finance Act 1996 (convertible securities etc).

### ***Recovery of charge postponed on transfer of assets to non-resident company***

- 35 (1) This paragraph applies where—
- (a) a company disposes of an asset in circumstances falling within section 140(4) (recovery of charge postponed on transfer of assets to non-resident company), and
  - (b) by virtue of this Schedule any gain accruing to the company on the disposal would not be a chargeable gain.
- (2) Where this paragraph applies the amount by which the consideration received on the disposal would be treated as increased by virtue of section 140(4) shall instead be treated as accruing to the company, at the time of the disposal, as a chargeable gain to which this Schedule does not apply.
- (3) Any reference in section 140 to an amount being brought or taken into account under or in accordance with subsection (4) of that section includes a reference to an amount being treated, by virtue of sub-paragraph (2) above, as accruing as a chargeable gain.

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### ***Appropriation of asset to trading stock***

36 (1) Where—

- (a) an asset acquired by a company otherwise than as trading stock of a trade carried on by it is appropriated by the company for the purposes of the trade as trading stock (whether on the commencement of the trade or otherwise), and
- (b) if the company had then sold the asset for its market value, a chargeable gain or allowable loss would have accrued to the company but for an exemption conferred by this Schedule,

the company is treated for the purposes of the enactments relating to chargeable gains as if it had thereby disposed of the asset for its market value.

- (2) Section 173 (transfers within a group: trading stock) applies in relation to this paragraph as it applies in relation to section 161 (appropriations to and from stock).

### ***Recovery of held-over gain on claim for gifts relief***

37 (1) This paragraph applies where—

- (a) a company disposes of an asset,
- (b) the expenditure allowable in computing a gain or loss on that disposal falls to be reduced because of a claim for relief under section 165 (gifts relief) in relation to an earlier disposal, and
- (c) by virtue of this Schedule any gain accruing to the company on the disposal mentioned in paragraph (a) would not be a chargeable gain.

- (2) Where this paragraph applies the amount of the held-over gain, or an appropriate proportion of it, shall be treated as accruing to the company, at the time of the disposal mentioned in sub-paragraph (1)(a), as a chargeable gain to which this Schedule does not apply.

- (3) An “appropriate proportion” means a proportion determined on a just and reasonable basis having regard to the subject matter of the disposal mentioned in sub-paragraph (1)(a) and the subject matter of the earlier disposal that was the subject of the claim for relief under section 165.

- (4) In this paragraph “held-over gain” has the same meaning as in section 165.

### ***Degrouping: time when deemed sale and reacquisition treated as taking place***

38 (1) Where—

- (a) a company, as a result of ceasing at any time (“the time of degrouping”) to be a member of a group, is treated by section 179(3) as having sold and immediately reacquired an asset, and
- (b) if the company owning the asset at the time of degrouping had disposed of it immediately before that time, any gain accruing on the disposal would by virtue of this Schedule not have been a chargeable gain,

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section 179(3) shall have effect as if it provided for the deemed sale and reacquisition to be treated as taking place immediately before the time of degrouping.

(2) Where—

(a) a company, as a result of ceasing at any time (“the relevant time”) to satisfy the conditions in section 179(7), is treated by section 179(6) as having sold and immediately reacquired an asset, and

(b) if the company owning the asset at the relevant time had disposed of it immediately before that time, any gain accruing on the disposal would by virtue of this Schedule not have been a chargeable gain,

section 179(6) shall have effect as if it provided for the deemed sale and reacquisition to be treated as taking place immediately before the relevant time.

(3) Any reference in this paragraph to a disposal or other event taking place immediately before the time of degrouping or the relevant time is to its taking place immediately before that time but on the same day.

#### ***Effect of FOREX matching regulations***

39 (1) No gain or loss shall be treated as arising under the FOREX matching regulations on a disposal on which by virtue of this Schedule any gain would not be a chargeable gain.

(2) The “FOREX matching regulations” means any regulations made under Schedule 15 to the Finance Act 1993 (exchange gains and losses: alternative method of calculation).”.

## **PART 2**

### **CONSEQUENTIAL AMENDMENTS**

#### ***Degrouping: time of accrual of chargeable gain or allowable loss***

2 In section 179(4) of the Taxation of Chargeable Gains Act 1992 (c. 12) (deemed sale and reacquisition on company ceasing to be member of group: time when chargeable gain or allowable loss treated as accruing), for “which, apart from this subsection, would accrue” substitute “accruing”.

#### ***Treatment of furnished holiday lettings***

3 (1) Section 241 of the Taxation of Chargeable Gains Act 1992 (furnished holiday lettings) is amended as follows.

(2) In subsection (3) (commercial letting of furnished holiday accommodation to be treated as trade for certain purposes), for the opening words substitute—

“Subject to subsections (4) to (8) below, for the purposes of the provisions mentioned in subsection (3A) below—”.

(3) After that subsection insert—

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“(3A) The provisions referred to in subsection (3) above are—  
 sections 152 to 157 (roll-over relief on replacement of business asset),  
 section 165 (gifts relief),  
 Section 253 (relief for loans to traders),  
 Schedule A1 (taper relief),  
 Schedule 6 (retirement relief etc), and  
 Schedule 7AC (exemptions for disposals by companies with  
 substantial shareholding).”.

(4) In subsection (4) for “sections mentioned in subsection (3)” substitute “ provisions mentioned in subsection (3A) ”.

*Overseas life insurance companies*

- 4 In Schedule 7B of the Taxation of Chargeable Gains Act 1992 (c. 12) (modification of Act in relation to overseas life insurance companies), after paragraph 15 add—
- “16 In Schedule 7AC, in paragraph 3(2)(c)(ii), the words “section 11(2)(b), (c) or (d) of the Taxes Act” shall be treated as substituted for the words “section 10(3)”.”.

*Corporate venturing scheme*

- 5 In Schedule 15 to the Finance Act 2000 (c. 17) (the corporate venturing scheme), in paragraphs 84(1) and 85(1) after “(see paragraph 83” insert “ and paragraph 4 of Schedule 7AC to the Taxation of Chargeable Gains Act 1992 ”.

SCHEDULE 9

Section 45

CHARGEABLE GAINS: SHARE EXCHANGES AND COMPANY RECONSTRUCTIONS

**PART 1**

PROVISIONS REPLACING SECTIONS 135 AND 136 OF  
 THE TAXATION OF CHARGEABLE GAINS ACT 1992

*Share exchanges*

- 1 For section 135 of the Taxation of Chargeable Gains Act 1992 (exchange of securities for those in another company) substitute—

**“135 Exchange of securities for those in another company**

(1) This section applies in the following circumstances where a company (“company B”) issues shares or debentures to a person in exchange for shares in or debentures of another company (“company A”).

(2) The circumstances are:

*Case 1*

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Where company B holds, or in consequence of the exchange will hold, more than 25% of the ordinary share capital of company A.

*Case 2*

Where company B issues the shares or debentures in exchange for shares as the result of a general offer—

- (a) made to members of company A or any class of them (with or without exceptions for persons connected with company B), and
- (b) made in the first instance on a condition such that if it were satisfied company B would have control of company A.

*Case 3*

Where company B holds, or in consequence of the exchange will hold, the greater part of the voting power in company A.

- (3) Where this section applies, sections 127 to 131 (share reorganisations etc) apply with the necessary adaptations as if company A and company B were the same company and the exchange were a reorganisation of its share capital.
- (4) In this section “ordinary share capital” has the meaning given by section 832(1) of the Taxes Act and also includes—
  - (a) in relation to a unit trust scheme, any rights that are treated by section 99(1)(b) of this Act (application of Act to unit trust schemes) as shares in a company, and
  - (b) in relation to a company that has no share capital, any interests in the company possessed by members of the company.
- (5) This section applies in relation to a company that has no share capital as if references to shares in or debentures of the company included any interests in the company possessed by members of the company.
- (6) This section has effect subject to section 137(1) (exchange must be for bona fide commercial reasons and not part of tax avoidance scheme).”.

*Scheme of reconstruction involving issue of securities*

- 2 For section 136 of the Taxation of Chargeable Gains Act 1992 (c. 12) (reconstruction or amalgamation involving issue of securities) substitute—

**“136 Scheme of reconstruction involving issue of securities**

- (1) This section applies where—
  - (a) an arrangement between a company (“company A”) and—
    - (i) the persons holding shares in or debentures of the company, or
    - (ii) where there are different classes of shares in or debentures of the company, the persons holding any class of those shares or debentures,

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is entered into for the purposes of, or in connection with, a scheme of reconstruction, and

- (b) under the arrangement—
  - (i) another company (“company B”) issues shares or debentures to those persons in respect of and in proportion to (or as nearly as may be in proportion to) their relevant holdings in company A, and
  - (ii) the shares in or debentures of company A comprised in relevant holdings are retained by those persons or are cancelled or otherwise extinguished.

(2) Where this section applies—

- (a) those persons are treated as exchanging their relevant holdings in company A for the shares or debentures held by them in consequence of the arrangement, and
- (b) sections 127 to 131 (share reorganisations etc) apply with the necessary adaptations as if company A and company B were the same company and the exchange were a reorganisation of its share capital.

For this purpose shares in or debentures of company A comprised in relevant holdings that are retained are treated as if they had been cancelled and replaced by a new issue.

(3) Where a reorganisation of the share capital of company A is carried out for the purposes of the scheme of reconstruction, the provisions of subsections (1) and (2) apply in relation to the position after the reorganisation.

(4) In this section—

- (a) “scheme of reconstruction” has the meaning given by Schedule 5AA to this Act;
- (b) references to “relevant holdings” of shares in or debentures of company A are—
  - (i) where there is only one class of shares in or debentures of the company, to holdings of shares in or debentures of the company, and
  - (ii) where there are different classes of shares in or debentures of the company, to holdings of a class of shares or debentures that is involved in the scheme of reconstruction (within the meaning of paragraph 2 of Schedule 5AA);
- (c) references to shares or debentures being retained include their being retained with altered rights or in an altered form, whether as the result of reduction, consolidation, division or otherwise; and
- (d) any reference to a reorganisation of a company’s share capital is to a reorganisation within the meaning of section 126.

(5) This section applies in relation to a company that has no share capital as if references to shares in or debentures of the company included any interests in the company possessed by members of the company.

(6) This section has effect subject to section 137(1) (scheme of reconstruction must be for bona fide commercial reasons and not part of tax avoidance scheme).”.



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### Meaning of “scheme of reconstruction”

3 After Schedule 5A to the Taxation of Chargeable Gains Act 1992 insert—

#### “SCHEDULE 5AA

##### MEANING OF “SCHEME OF RECONSTRUCTION”

###### **Introductory**

1 In section 136 “scheme of reconstruction” means a scheme of merger, division or other restructuring that meets the first and second, and either the third or the fourth, of the following conditions.

###### **First condition: issue of ordinary share capital**

2 The first condition is that the scheme involves the issue of ordinary share capital of a company (“the successor company”) or of more than one company (“the successor companies”)—

- (a) to holders of ordinary share capital of another company (“the original company”) or, where there are different classes of ordinary share capital of that company, to holders of one or more classes of ordinary share capital of that company (the classes “involved in the scheme of reconstruction”), or
- (b) to holders of ordinary share capital of more than one other company (“the original companies”) or, where there are different classes of ordinary share capital of one or more of the original company or companies, to holders of ordinary share capital of any of those companies or of one or more classes of ordinary share capital of any of those companies (the classes “involved in the scheme of reconstruction”),

and does not involve the issue of ordinary share capital of the successor company, or (as the case may be) any of the successor companies, to anyone else.

###### **Second condition: equal entitlement to new shares**

3 (1) The second condition is that under the scheme the entitlement of any person to acquire ordinary share capital of the successor company or companies by virtue of holding relevant shares, or relevant shares of any class, is the same as that of any other person holding such shares or shares of that class.

(2) For this purpose “relevant shares” means shares comprised—

- (a) where there is one original company, in the ordinary share capital of that company or, as the case may be, in the ordinary share capital of that company of a class involved in the scheme of reconstruction;
- (b) where there is more than one original company, in the ordinary share capital of any of those companies or, as the case may be, in the ordinary share capital of any of those companies of a class involved in the scheme of reconstruction.

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***Third condition: continuity of business***

- 4 (1) The third condition is that the effect of the restructuring is—
- (a) where there is one original company, that the business or substantially the whole of the business carried on by the company is carried on—
    - (i) by a successor company which is not the original company, or
    - (ii) by two or more successor companies (which may include the original company);
  - (b) where there is more than one original company, that all or part of the business or businesses carried on by one or more of the original companies is carried on by a different company, and the whole or substantially the whole of the businesses carried on by the original companies are carried on—
    - (i) where there is one successor company, by that company (which may be one of the original companies), or
    - (ii) where there are two or more successor companies, by those companies (which may be the same as the original companies or include any of those companies).

(2) The reference in sub-paragraph (1)(a)(ii) or (b)(ii) to the whole or substantially the whole of a business, or businesses, being carried on by two or more companies includes the case where the activities of those companies taken together embrace the whole or substantially the whole of the business, or businesses, in question.

(3) For the purposes of this paragraph a business carried on by a company that is under the control of another company is treated as carried on by the controlling company as well as by the controlled company.

Section 840 of the Taxes Act (meaning of “control”) applies for the purposes of this sub-paragraph.

(4) For the purposes of this paragraph the holding and management of assets that are retained by the original company, or any of the original companies, for the purpose of making a capital distribution in respect of shares in the company shall be disregarded.

In this sub-paragraph “capital distribution” has the same meaning as in section 122.

***Fourth condition: compromise or arrangement with members***

- 5 The fourth condition is that—
- (a) the scheme is carried out in pursuance of a compromise or arrangement—
    - (i) under section 425 of the Companies Act 1985 or Article 418 of the Companies (Northern Ireland) Order 1986, or
    - (ii) under any corresponding provision of the law of a country or territory outside the United Kingdom, and

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- (b) no part of the business of the original company, or of any of the original companies, is transferred under the scheme to any other person.

***Preliminary reorganisation of share capital to be disregarded***

- 6 Where a reorganisation of the share capital of the original company, or of any of the original companies, is carried out for the purposes of the scheme of reconstruction, the provisions of the first and second conditions apply in relation to the position after the reorganisation.

***Subsequent issue of shares or debentures to be disregarded***

- 7 An issue of shares in or debentures of the successor company, or any of the successor companies, after the latest date on which any ordinary share capital of the successor company, or any of them, is issued—
- (a) in consideration of the transfer of any business, or part of a business, under the scheme, or
- (b) in pursuance of the compromise or arrangement mentioned in paragraph 5(a),
- shall be disregarded for the purposes of the first and second conditions.

***Interpretation***

- 8 (1) In this Schedule “ordinary share capital” has the meaning given by section 832(1) of the Taxes Act and also includes—
- (a) in relation to a unit trust scheme, any rights that are treated by section 99(1)(b) of this Act (application of Act to unit trust schemes) as shares in a company, and
- (b) in relation to a company that has no share capital, any interests in the company possessed by members of the company.
- (2) Any reference in this Schedule to a reorganisation of a company’s share capital is to a reorganisation within the meaning of section 126.”

**PART 2**

CONSEQUENTIAL AMENDMENTS

*Taxes Act 1988*

- 4 (1) The Taxes Act 1988 is amended as follows.
- (2) In section 299 (disposal of shares)—
- <sup>F104</sup>(a) . . . . .
- (b) in subsection (4C), as that section applies to shares issued before 1st January 1994 (business expansion scheme),
- for “(whether or not by virtue of section 135(3) of that Act)” substitute “ (including a case where that section applies by virtue of any enactment relating to chargeable gains) ”, and for the words from “shall be construed” to the end substitute “ have the

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same meaning as in section 127 of the 1992 Act (or, as the case may be, that section as applied by virtue of the enactment concerned) ”.

F105(3) .....

F106(4) .....

(5) In section 757 (disposal of material interests in non-qualifying offshore funds), for subsections (5) and (6) substitute—

“(5) Section 135 of the 1992 Act (exchange of securities for those in another company treated as not involving a disposal) does not apply for the purposes of this Chapter if the company that is company A for the purposes of that section is or was at a material time a non-qualifying offshore fund and the company that is company B for those purposes is not such a fund.

In a case where that section would apply apart from this subsection, the exchange in question (of shares, debentures or other interests in or of an entity that is or was at a material time a non-qualifying offshore fund) shall for the purposes of this Chapter constitute a disposal of interests in the offshore fund for a consideration equal to their market value at the time of the exchange.

(6) Section 136 of the 1992 Act (scheme of reconstruction involving issue of securities treated as exchange not involving disposal) does not apply for the purposes of this Chapter so as to require persons to be treated as exchanging shares, debentures or other interests in or of an entity that is or was at a material time a non-qualifying offshore fund for assets that do not constitute interests in such a fund.

In a case where that section would apply apart from this subsection, the deemed exchange in question (of shares, debentures or other interests in or of an entity that is or was at a material time a non-qualifying offshore fund) shall for the purposes of this Chapter constitute a disposal of interests in the offshore fund for a consideration equal to their market value at the time of the deemed exchange.”.

(6) In section 758(6) (offshore funds operating equalisation arrangements: events treated as disposal), for the words from “section 135” to the end substitute “ any provision of Chapter 2 of Part 4 of that Act ”.

(7) In section 842 (investment trusts), at the end of subsection (4) add “and “scheme of reconstruction” has the same meaning as in section 136 of that Act”.

#### **Textual Amendments**

**F104** Sch. 9 para. 4(2)(a) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

**F105** Sch. 9 para. 4(3) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

**F106** [Sch. 9 para. 4\(4\)](#) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

#### *Taxation of Chargeable Gains Act 1992*

5 (1) The Taxation of Chargeable Gains Act 1992 (c. 12) is amended as follows.

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- (2) In section 31 (distributions within a group followed by a disposal of shares), for subsection (6)(b) substitute—
- “(b) an exchange, or deemed exchange, of shares in or debentures of a company held by company A for shares in or debentures of another company, being a company associated with company A immediately after the transaction, that is treated by virtue of section 135 or 136 as a reorganisation of share capital within the meaning of section 126 to which sections 127 to 131 apply with the necessary adaptations, or”.
- (3) In section 34 (transactions treated as a reorganisation of capital)—
- (a) in subsections (1)(a), (1A), (1B) and (1C)(a) for “sections 127 and 135(3)” substitute “ section 135 or 136 ”;
- (b) in the closing words of subsection (1) for “section 135(3)” substitute “ section 135 or 136 ”; and
- (c) in subsection (2) for the words from the beginning to “and in those subsections” substitute “ In subsections (1) to (1C) ” (the words omitted being unnecessary).
- (4) In section 102 (collective investment schemes with property divided into separate parts), in subsection (3)(b) after “135” insert “ or 136 ”.
- (5) In section 137 (restriction on application of sections 135 and 136)—
- (a) in subsection (1), for “, reconstruction or amalgamation” substitute “ or scheme of reconstruction ”; and
- (b) in subsection (6), for “section 136(3)” substitute “ section 135(5), 136(5) ”.
- (6) In section 138(1) (procedure for clearance in advance), for “, reconstruction or amalgamation” substitute “ or scheme of reconstruction ”.
- (7) In section 139 (reconstruction involving transfer of business), for subsection (9) substitute—
- “(9) In this section “scheme of reconstruction” has the same meaning as in section 136.”.
- (8) In section 147 (quoted options treated as part of new holdings)—
- (a) in subsection (1) for “or amalgamation” substitute “, exchange or scheme of reconstruction ”; and
- (b) in subsection (2) at the end insert “ and “scheme of reconstruction” has the same meaning as in section 136 ”.
- (9) In section 151B (venture capital trusts: supplementary), in subsection (8) for paragraph (c) substitute—
- “(c) a reference to the exchanged holding is, in relation to section 135 or 136, to the shares in the company referred to in that section as company A.”.
- (10) In section 171(3) (transfers within a group) for “by virtue of sections 127 and 135” substitute “ by section 127 as it applies by virtue of section 135 ”.
- <sup>F107</sup>(11) .....
- (12) In section 251 (debts: general provisions)—
- (a) in subsection (2) for “132 and 135” substitute “ 132, 135 and 136 ”;

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- (b) in subsection (3)—
  - (i) for “132 and 135” substitute “ 132, 135 and 136 ”, and
  - (ii) for “either section 132 or 135” substitute “ section 132, 135 or 136 ”;
- (c) in subsection (6)(b) for the words from “unaffected” to the end substitute “ to which section 135 applies and which is unaffected by section 137(1) ”.

<sup>F108</sup>(13) .....

- (14) In Schedule 6 (retirement relief: supplementary provisions), in paragraph 2(2) for “section 135(3)” substitute “ section 135 or 136 ”.

#### **Textual Amendments**

**F107** Sch. 9 para. 5(11) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(9\)](#)

**F108** [Sch. 9 para. 5\(13\)](#) omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 55\(e\)\(ii\)](#)

#### *Finance Act 2000*

- 6 (1) Schedule 15 to the Finance Act 2000 (c. 17) (corporate venturing scheme) is amended as follows.
  - (2) In paragraph 71 (tax avoidance), in sub-paragraph (1)(b)(i) for “reconstructions and amalgamations” substitute “ schemes of reconstruction ”.
  - (3) In paragraph 82(1) (company reconstructions and amalgamations), in the closing words for “company reconstructions and amalgamations” substitute “ share exchanges and company reconstructions ”.
  - (4) In paragraph 93(7) (identification of shares on a disposal: cases to which section 127 applies)—
    - (a) for “(whether or not by virtue of section 135(3) of that Act)” substitute “ (including a case where that section applies by virtue of any enactment relating to chargeable gains) ”; and
    - (b) for the words from “shall be construed” to the end substitute “ have the same meaning as in section 127 of the 1992 Act (or, as the case may be, that section as applied by virtue of the enactment concerned) ”.
  - (5) In paragraph 96 (meaning of “disposal”)—
    - (a) in sub-paragraph (2)(a) for “section 136(1)” substitute “ section 136 ”;
    - (b) in sub-paragraph (2)(b) for “sections 135 and 136 of that Act to bona fide reconstructions and amalgamations” substitute “ section 136 of that Act to bona fide schemes of reconstruction ”.

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### PART 3

#### COMMENCEMENT

##### *General commencement date*

- 7 (1) Subject to paragraph 8, the provisions of this Schedule have effect in relation to shares or debentures issued on or after 17th April 2002 (“the commencement date”).
- (2) The reference in sub-paragraph (1) to shares or debentures includes any interests falling to be treated as shares or debentures for the purposes of section 135 or 136 of the Taxation of Chargeable Gains Act 1992 (c. 12) as substituted by this Schedule.

##### *Commencement provision for certain consequential amendments*

- 8 (1) Paragraph 4(2), (3) and (5) and paragraph 6(2), (4) and (5) have effect in relation to disposals on or after the commencement date.
- <sup>F109</sup>(2) . . . . .
- (3) Paragraph 4(6) has effect in relation to events occurring on or after the commencement date.
- (4) Paragraph 4(7) has effect in relation to shares and securities (within the meaning of section 842 of the Taxes Act 1988) issued on or after the commencement date.

##### **Textual Amendments**

**F109** Sch. 9 para. 8(2) repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 3 Pt. 1 (with Sch. 2 Pts. 1, 2)

#### <sup>F110</sup>SCHEDULE 10

Section 47

##### **Textual Amendments**

**F110** Sch. 10 omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of Finance Act 2008 (c. 9), Sch. 2 para. 55(e)(iii)

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SCHEDULE 11

Section 51

CHARGEABLE GAINS: DEDUCTION OF PERSONAL LOSSES  
FROM GAINS TREATED AS ACCRUING TO SETTLORS

*Introduction*

1 The Taxation of Chargeable Gains Act 1992 (c. 12) is amended in accordance with paragraphs 2 to 6.

*Section 2*

2 (1) Section 2 (persons and gains chargeable to capital gains tax, and allowable losses) is amended as follows.

<sup>F111</sup>(2) .....

(3) In paragraph (b) of that subsection, omit “77, 86,”.

(4) After that subsection insert—

“(6) Allowable losses must (notwithstanding section 2A(6)) be deducted under paragraph (a)(i) of subsection (5) above before any may be deducted under paragraph (aa)(i) of that subsection.

(7) Where in any year of assessment—

- (a) there are amounts treated as accruing to a person by virtue of section 77 or 86,
- (b) two or more of those amounts, or elements of them—
  - (i) relate to different settlements, and
  - (ii) attract taper relief (by virtue of subsection (5)(aa)(ii) above) at the same rate, or are not eligible for taper relief, and
- (c) losses are deductible from the amounts or elements mentioned in paragraph (b) above (“the equal-tapered amounts”) but are not enough to exhaust them all,

the deduction applicable to each of the equal-tapered amounts shall be the appropriate proportion of the aggregate of those losses.

The “appropriate proportion” is that given by dividing the equal-tapered amount in question by the total of the equal-tapered amounts.

(8) The references to section 86 in subsection (5)(aa) above (in the opening words) and subsection (7)(a) above include references to that section read with section 10A.”.

**Textual Amendments**

**F111** Sch. 11 para. 2(2) omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of Finance Act 2008 (c. 9), Sch. 2 para. 55(e)(iv)

*Section 77*

<sup>F1123</sup> .....



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**Textual Amendments**

**F112** Sch. 11 para. 3 omitted (with effect in accordance with Sch. 2 para. 22 of the amending Act) by virtue of Finance Act 2008 (c. 9), Sch. 2 para. 21(f)

*Section 86*

**F113**<sup>4</sup> .....

**Textual Amendments**

**F113** Sch. 11 paras. 4-6 omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of Finance Act 2008 (c. 9), Sch. 2 para. 55(e)(iv)

*Section 86A*

**F113**<sup>5</sup> .....

**Textual Amendments**

**F113** Sch. 11 paras. 4-6 omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of Finance Act 2008 (c. 9), Sch. 2 para. 55(e)(iv)

*Section 87*

**F113**<sup>6</sup> .....

**Textual Amendments**

**F113** Sch. 11 paras. 4-6 omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of Finance Act 2008 (c. 9), Sch. 2 para. 55(e)(iv)

*Commencement*

7 This Schedule applies in relation to chargeable gains treated as accruing to a person by virtue of section 77 or 86 (read, where appropriate, with section 10A) of the Taxation of Chargeable Gains Act 1992 (c. 12) in the year 2003-04 and subsequent years of assessment.

*Election for Schedule to apply for years earlier than 2003-04*

8 (1) This Schedule also applies, if the person so elects, in relation to chargeable gains so accruing to a person in any of the years of assessment 2000-01, 2001-02 and 2002-03.

(2) An election under this paragraph—

(a) must be made by a notice given to an officer of the Board no later than 31st January 2005;

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- (b) where chargeable gains are treated as accruing in respect of two or more settlements, may be restricted to those treated as accruing in respect of the settlement or settlements specified in the election.
- (3) All such adjustments shall be made, whether by way of discharge or repayment of tax, the making of assessments or otherwise, as are required to give effect to an election under this paragraph.
- (4) Where—
- (a) a person makes an election under this paragraph for any one or more of the years of assessment 2000-01, 2001-02 and 2002-03, and
  - (b) the effect of the election, or (as the case may be) both or all of them taken together, is to increase the total amount of tax that the person is entitled to recover from the trustees of a particular settlement for those three years under section 78(1)(a) of the Taxation of Chargeable Gains Act 1992 or paragraph 6 of Schedule 5 to that Act,
- the trustees of that settlement must join in the election, or (as the case may be) each of them that has that effect or contributes to it.

F114 SCHEDULE 12

Section 53

**Textual Amendments**

**F114** Sch. 12 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 536, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

F115 SCHEDULE 13

Section 54

**Textual Amendments**

**F115** Sch. 13 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 537, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

F116 SCHEDULE 14

Section 54

**Status:** Point in time view as at 21/07/2009. This version of this Act contains provisions that are prospective.  
**Changes to legislation:** Finance Act 2002 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### Textual Amendments

**F116** Sch. 14 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

## <sup>F117</sup>SCHEDULE 15

Section 56

### Textual Amendments

**F117** Sch. 15 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

## SCHEDULE 16

Section 57

### COMMUNITY INVESTMENT TAX RELIEF

### Modifications etc. (not altering text)

**C11** Sch. 16 modified by 2005 c. 7, s. 54A (as inserted (10.7.2008) by [The Alternative Finance Arrangements \(Community Investment Tax Relief\) Order 2008 \(S.I. 2008/1821\)](#), arts. 1, 2)

## PART 1

### INTRODUCTION

#### *Eligibility for tax relief*

- 1 (1) [<sup>F118</sup>A company] (“the investor”) that makes an investment (“the investment”) in a body is eligible for relief in respect of the investment if—
  - (a) that body is accredited as a community development finance institution under this Schedule at the time the investment is made (see Part 2);
  - (b) the investment is a qualifying investment (see Part 3); and
  - (c) the general conditions of Part 4 are satisfied.
- (2) In this Schedule references to “the CDFI” are to the body in which the investment is made.

### Textual Amendments

**F118** Words in Sch. 16 para. 1(1) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 419(2)** (with Sch. 2)

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#### Commencement Information

**I32** Sch. 16 para. 1 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### Meaning of “investment”

- 2 (1) For the purposes of this Schedule, a [<sup>F119</sup>company] makes an investment in a body at any time when—
- (a) [<sup>F119</sup>it] makes a loan (whether secured or unsecured) to the body, or
  - (b) an issue of securities of or shares in the body, for which [<sup>F119</sup>it] has subscribed, is made to [<sup>F119</sup>it].
- (2) For the purposes of sub-paragraph (1)(a)—
- (a) a [<sup>F120</sup>company] does not make a loan to a body where—
    - (i) the body uses overdraft facilities provided by that [<sup>F120</sup>company], or
    - (ii) that [<sup>F120</sup>company] subscribes for or otherwise acquires securities of the body;
  - (b) where the loan agreement authorises the body to draw down amounts of the loan over a period of time, the loan is treated as made at the time when the first amount is drawn down.

#### Textual Amendments

**F119** Words in Sch. 16 para. 2(1) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(3\)\(a\)](#) (with [Sch. 2](#))

**F120** Word in Sch. 16 para. 2(2) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(3\)\(b\)](#) (with [Sch. 2](#))

#### Commencement Information

**I33** Sch. 16 para. 2 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### Meaning of “the five year period”

- 3 In this Schedule “the five year period” means the period of five years beginning with the day the investment is made (“the investment date”).

#### Commencement Information

**I34** Sch. 16 para. 3 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*Status: Point in time view as at 21/07/2009. This version of this Act contains provisions that are prospective.*

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## PART 2

### ACCREDITED COMMUNITY DEVELOPMENT FINANCE INSTITUTIONS

#### *[<sup>F121</sup>Application of Chapter 2 of Part 7 of ITA 2007*

##### **Textual Amendments**

**F121** Sch. 16 para. 4 and cross-heading substituted for Sch. 16 paras. 4-7 (6.4.2007) by [Income Tax Act 2007](#) (c. 3), s. 1034(1), [Sch. 1 para. 419\(4\)](#) (with [Sch. 2](#))

- 4 (1) Chapter 2 of Part 7 of ITA 2007 applies for the purposes of this Schedule as it applies for the purposes of that Part.
- (2) Chapter 2 of Part 7 of that Act makes provision with respect to—
- (a) applications and criteria for accreditation as community development finance institutions (see section 340),
  - (b) the terms and conditions of accreditation (see section 341),
  - (c) the period of accreditation (see section 342), and
  - (d) the delegation of the Secretary of State’s functions under that Chapter (see section 343).
- (3) In this Schedule “accreditation period” has the meaning given by section 342(1) of ITA 2007.]

## PART 3

### QUALIFYING INVESTMENTS

#### *Introduction*

- 8 For the purposes of this Schedule the investment is a “qualifying investment” in the CDFI if—
- (a) the investment consists of—
    - (i) a loan in relation to which the conditions of paragraph 9 are satisfied,
    - (ii) securities in relation to which the conditions of paragraph 10 are satisfied, or
    - (iii) shares in relation to which the conditions of paragraph 11 are satisfied;
  - (b) the investor receives from the CDFI a valid tax relief certificate in relation to the investment (see paragraph 12); and
  - (c) the requirements of paragraph 13 are met in relation to pre-arranged protection against risks.

##### **Commencement Information**

**I35** Sch. 16 para. 8 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*Status: Point in time view as at 21/07/2009. This version of this Act contains provisions that are prospective.*

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*Conditions to be satisfied in relation to loans*

- 9 (1) The first condition of this paragraph is that either—
- (a) the CDFI receives from the investor, on the investment date, the full amount of the loan, or
  - (b) if the loan agreement authorises the CDFI to draw down amounts of the loan over a period of time, the end of that period is not later than 18 months after the investment date.
- (2) The second condition is that the loan must not carry any present or future right to be converted into or exchanged for a loan which is, or securities, shares, or other rights which are, redeemable within the five year period.
- (3) The third condition is that the loan must not have been made on terms that allow any person to require—
- (a) the repayment during the first two years of the five year period of any of the loan capital advanced in those two years,
  - (b) the repayment during the third year of that period of more than 25% of the loan capital outstanding at the end of those two years,
  - (c) the repayment before the end of the fourth year of that period of more than 50% of that loan capital, or
  - (d) the repayment before the end of that period of more than 75% of that loan capital.
- (4) For the purposes of sub-paragraph (3), any requirement arising as a consequence of a failure of the CDFI to fulfil any obligation of the loan agreement shall be disregarded if that obligation—
- (a) is imposed by reason only of the commercial risks to which the investor is exposed as lender under that agreement, and
  - (b) is no more likely to be breached than any obligation that might reasonably have been agreed in respect of the loan in the absence of this Schedule.
- (5) The Treasury may by order substitute for any percentage for the time being specified in sub-paragraph (3) such other percentage as they think fit; and any such substitution shall have effect in relation to loans made by a [<sup>F122</sup>company] on or after such date as may be specified in the order.

**Textual Amendments**

**F122** Word in Sch. 16 para. 9(5) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(5\)](#) (with [Sch. 2](#))

**Commencement Information**

**I36** Sch. 16 para. 9 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*Conditions to be satisfied in relation to securities*

- 10 (1) The first condition of this paragraph is that the securities must be—
- (a) subscribed for wholly in cash, and
  - (b) fully paid for on the investment date.
- (2) The second condition is that the securities must not carry—

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- (a) any present or future right to be redeemed within the five year period, or
- (b) any present or future right to be converted into or exchanged for a loan which is, or securities, shares or other rights which are, redeemable within that period.

**Commencement Information**

**I37** Sch. 16 para. 10 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*Conditions to be satisfied in relation to shares*

- 11 (1) The first condition of this paragraph is that the shares must be—
- (a) subscribed for wholly in cash, and
  - (b) fully paid up on the investment date.

Shares are not fully paid up for the purposes of paragraph (b) if there is any undertaking to pay cash to the CDFI at a future date in connection with the acquisition of the shares.

- (2) The second condition is that the shares must not carry—
- (a) any present or future right to be redeemed during the five year period, or
  - (b) any present or future right to be converted into or exchanged for a loan which is, or securities, shares or other rights which are, redeemable within that period.

**Commencement Information**

**I38** Sch. 16 para. 11 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*Tax relief certificates*

- 12 (1) For the purposes of this Schedule a “tax relief certificate” means a certificate issued by the CDFI in respect of the investment, which is in such form as the Board may specify.

- [<sup>F123</sup>(2) The CDFI must not issue tax relief certificates in respect of investments made in the CDFI in an accreditation period if the aggregate value of—
- (a) those investments, and
  - (b) any investments to which sub-paragraph (2A) applies,
- will exceed the limit for that period.

- (2A) This sub-paragraph applies to investments which—
- (a) have been made in the CDFI in the accreditation period, and
  - (b) in respect of which the CDFI has issued tax relief certificates under section 348 of ITA 2007 (which makes in relation to income tax provision corresponding to that made by this paragraph).

- (2B) The limit for an accreditation period is—
- (a) £10 million if the CDFI is accredited for the period as a retail community development finance institution (see section 340(8) of ITA 2007 as applied by paragraph 4), and

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- (b) £20 million in any other case.]
- (3) For the purposes of sub-paragraph (2) the value of an investment made in the CDFI is—
- (a) if the investment consists of a loan—
- (i) the amount of the loan, or
- (ii) where the loan agreement authorises the CDFI to draw down amounts of the loan over a period of time, the amount committed under the loan agreement; and
- (b) if the investment consists of securities or shares, the amount subscribed for them.
- (4) The Treasury may, by order, substitute for any amount for the time being specified in sub-paragraph [<sup>F124</sup>(2B)] such other amount as they think fit.
- (5) Any such substitution shall have effect in relation to such accreditation periods as may be specified in the order; and those periods may, if the substitution increases the amount for the time being specified in sub-paragraph [<sup>F125</sup>(2B)], include periods beginning before the order takes effect.
- (6) Any tax relief certificate issued wholly or partly in contravention of sub-paragraph (2) is invalid.
- (7) A body is liable to a penalty not exceeding £3000 if it issues a tax relief certificate which is made fraudulently or negligently.

#### Textual Amendments

**F123** Sch. 16 para. 12(2)-(2B) substituted for Sch. 16 para. 12(2) (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 419\(6\)](#) (with Sch. 2)

**F124** Word in Sch. 16 para. 12(4) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Income Tax Act 2007 \(Amendment\) \(No. 2\) Order 2007 \(S.I. 2007/1820\), arts. 1\(1\), 3](#)

**F125** Word in Sch. 16 para. 12(5) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Income Tax Act 2007 \(Amendment\) \(No. 2\) Order 2007 \(S.I. 2007/1820\), arts. 1\(1\), 3](#)

#### Commencement Information

**I39** Sch. 16 para. 12 in force at 23.1.2003 by [S.I. 2003/88, arts. 2, 3](#)

#### *Pre-arranged protection against risks*

- 13 (1) Any arrangements—
- (a) under which the investment is made, or
- (b) made, before the investor makes the investment, in relation to or in connection with the making of the investment,
- must not include arrangements (“excluded arrangements”) the main purpose of which, or one of the main purposes of which, is (by means of any insurance, indemnity or guarantee or otherwise) to provide partial or complete protection for the investor against what would otherwise be the risks attached to making the investment.
- (2) For the purposes of sub-paragraph (1), excluded arrangements do not include any arrangements which are confined to the provision for the investor of any such protection against those risks as might reasonably be expected to be provided for



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commercial reasons if the investment were made in the course of a business of banking.

- (3) For the purposes of this paragraph “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable.

#### Commencement Information

**I40** Sch. 16 para. 13 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

## PART 4

### GENERAL CONDITIONS

#### *No control of CDFI by investor*

- 14 (1) The investor must not control the CDFI at any time during the five year period.
- (2) In this paragraph references to the investor include any person connected with the investor.
- (3) Where the CDFI is a body corporate, the question whether the investor controls the CDFI shall, for the purposes of this paragraph, be determined in accordance with section 840 of the Taxes Act 1988.
- This is subject to sub-paragraph (6).
- (4) In any other case, the investor shall be treated, for those purposes, as having control of the CDFI if <sup>F126</sup>it] has power to secure—
- (a) by means of the possession of voting power in the CDFI, or
  - (b) by virtue of any powers conferred by the constitution of, or any other document regulating, the CDFI,
- that the affairs of the body are conducted in accordance with <sup>F126</sup>its] wishes.
- This is subject to sub-paragraphs (5) and (6).
- (5) Where the CDFI is a partnership and the investor is a member of that partnership, for the purposes of determining in accordance with this paragraph whether the investor controls the CDFI the other members of that partnership shall not, by virtue of their membership of the CDFI, be treated as partners of the investor.
- (6) In determining whether the investor controls the CDFI there shall be attributed to the investor (to the extent that it would not otherwise be the case)—
- (a) any rights or powers that the investor is entitled to acquire at a future date or will, at a future date, become entitled to acquire, and
  - (b) any rights or powers which another person holds on behalf of the investor or may be required to exercise, by direction, on <sup>F127</sup>its] behalf.

#### Textual Amendments

**F126** Words in Sch. 16 para. 14(4) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(7\)\(a\)](#) (with [Sch. 2](#))

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**F127** Word in Sch. 16 para. 14(6) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(7\)\(b\)](#) (with [Sch. 2](#))

**Commencement Information**

**I41** Sch. 16 para. 14 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*Beneficial ownership*

- 15 (1) The investor must be the sole beneficial owner of the investment when it is made.
- (2) Where the investment consists of a loan, the person beneficially entitled to repayment of the loan shall be treated as the beneficial owner of the loan for the purposes of this Schedule.

**Commencement Information**

**I42** Sch. 16 para. 15 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*Investor must not be accredited*

- 16 The investor must not be accredited as a community development finance institution under this Schedule (see Part 2) on the investment date.

**Commencement Information**

**I43** Sch. 16 para. 16 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*No acquisition of share in partnership*

- 17 (1) Where the CDFI is a partnership, the investment must not consist of or include any amount of capital contributed by the investor on becoming a member of the partnership.
- (2) For this purpose, the amount of capital contributed by the investor on becoming a member of the partnership includes any amount which—
- (a) purports to be provided by the investor by way of loan capital, and
  - (b) is accounted for as partners' capital in the accounts of the partnership.

**Commencement Information**

**I44** Sch. 16 para. 17 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*No tax avoidance purpose*

- 18 The investment must not be made as part of a scheme or arrangement the main purpose of which, or one of the main purposes of which, is the avoidance of tax.

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**Commencement Information**

**I45** Sch. 16 para. 18 in force at 23.1.2003 by S.I. 2003/88, arts. 2, 3

**PART 5**

FORM OF RELIEF

*Individual investors*

<sup>F128</sup>19 .....

**Textual Amendments**

**F128** Sch. 16 para. 19 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(8), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

*Company investors*

- 20 (1) This paragraph applies where the investor is—
- <sup>F129</sup>(a) .....
  - (b) eligible for relief in respect of the investment (see paragraph 1(1)).
- (2) Where the investor makes a claim for a relevant accounting period in respect of a loan, securities or shares in accordance with this Part, the amount of its liability for corporation tax for that period shall be reduced by the smaller of—
- (a) 5% of the invested amount in respect of that loan or those securities or shares for the period, and
  - (b) the amount which reduces the investor’s liability to zero.
- (3) For this purpose the “relevant” accounting periods are—
- (a) the accounting period in which the investment date falls, and
  - (b) each of the accounting periods in which the subsequent four anniversaries of that date fall.
- (4) The investor is entitled to make a claim for relief for a relevant accounting period if—
- (a) it appears to the investor that the conditions for the relief are for the time being satisfied, and
  - (b) it has received a tax relief certificate (see paragraph 12) relating to the investment from the CDFI,
- but no claim may be made before the end of the accounting period to which it relates.
- (5) Sub-paragraph (4) is subject to the following provisions—
- (a) paragraph 22 (loans: no claim after disposal or excessive repayments or receipts of value);
  - (b) paragraph 23 (securities or shares: no claim after disposal or excessive receipts of value);
  - (c) paragraph 24 (loss of accreditation by CDFI);
  - (d) paragraph 25 (accreditation of the investor).

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#### Textual Amendments

**F129** Sch. 16 para. 20(1)(a) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(9), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

#### Commencement Information

**I46** Sch. 16 para. 20 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### *Determination of “the invested amount”*

- 21 (1) This paragraph applies for the purpose of determining “the invested amount” in respect of any loan, securities or shares comprised in the investment.

This is subject to paragraphs 31(2) and 38 (which adjust “the invested amount” in certain cases where value is received).

- (2) In the case of a loan, the invested amount is—
- (a) for the <sup>F130</sup>... accounting period in which the investment date falls, the average capital balance for the first year of the five year period;
  - (b) for the <sup>F130</sup>... accounting period in which the first anniversary of the investment date falls, the average capital balance for the second year of the five year period;
  - (c) for any subsequent <sup>F130</sup>... accounting period—
    - (i) the average capital balance for the period of one year beginning with the anniversary of the investment date falling in the <sup>F130</sup>... accounting period concerned, or
    - (ii) if less, the average capital balance for the period of six months beginning eighteen months after the investment date.
- (3) In the case of securities or shares, the invested amount for [<sup>F131</sup>an] accounting period is the amount subscribed by the investor for the securities or shares.
- (4) For the purposes of this paragraph, the average capital balance of the loan for a period is the mean of the daily balances of capital outstanding during the period.

#### Textual Amendments

**F130** Words in Sch. 16 para. 21(2) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(10)(a), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

**F131** Word in Sch. 16 para. 21(3) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(10\)\(b\)](#) (with [Sch. 2](#))

#### Commencement Information

**I47** Sch. 16 para. 21 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### *Loans: no claim after disposal or excessive repayments or receipts of value*

- 22 (1) Where the investment consists of a loan, no claim may be made in respect of [<sup>F132</sup>an] accounting period if—

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- (a) the investor disposes of the whole or any part of the loan before the qualifying date relating to [<sup>F133</sup>that period],
- (b) at any time after the investment is made but before that qualifying date, the amount of the capital outstanding on the loan is reduced to nil, or
- (c) before that qualifying date, paragraphs (a) and (b) of paragraph 30(1) (repayments of loan in five year period exceeding permitted limits) apply in relation to the investment (whether by virtue of paragraph 31 (receipts of value treated as repayments) or otherwise).

For the purposes of paragraph (a) any repayment of the loan is to be disregarded.

- (2) For the purposes of this paragraph the qualifying date relating to [<sup>F134</sup>an] accounting period is the anniversary of the investment date next occurring after the end of [<sup>F135</sup>that period].

#### Textual Amendments

**F132** Word in Sch. 16 para. 22(1) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(11\)](#) (with [Sch. 2](#))

**F133** Words in Sch. 16 para. 22(1) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(11\)](#) (with [Sch. 2](#))

**F134** Word in Sch. 16 para. 22(2) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(11\)](#) (with [Sch. 2](#))

**F135** Words in Sch. 16 para. 22(2) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(11\)](#) (with [Sch. 2](#))

#### Commencement Information

**I48** Sch. 16 para. 22 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### *Securities or shares: no claim after disposal or excessive receipts of value*

- 23 (1) Where the investment consists of securities or shares, a claim made in respect of [<sup>F136</sup>an] accounting period must relate only to those securities or shares held by the investor, as sole beneficial owner, continuously throughout the period—
  - (a) beginning when the investment is made, and
  - (b) ending immediately before the qualifying date relating to the [<sup>F137</sup>... accounting period.
- (2) No claim for relief may be made in relation to [<sup>F138</sup>an] accounting period if before the qualifying date relating to [<sup>F139</sup>that period] paragraphs (a) to (d) of paragraph 32(1) (receipts of value in five year period exceeding permitted limits) apply in relation to the investment or any part of it.
- (3) For the purposes of this paragraph, the qualifying date relating to [<sup>F140</sup>an] accounting period is the anniversary of the investment date next occurring after the end of [<sup>F141</sup>that period].

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### Textual Amendments

- F136** Word in Sch. 16 para. 23(1) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(12\)\(a\)](#) (with [Sch. 2](#))
- F137** Words in Sch. 16 para. 23(1)(b) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(12\)\(a\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F138** Word in Sch. 16 para. 23(2) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(12\)\(b\)](#) (with [Sch. 2](#))
- F139** Words in Sch. 16 para. 23(2) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(12\)\(b\)](#) (with [Sch. 2](#))
- F140** Word in Sch. 16 para. 23(3) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(12\)\(c\)](#) (with [Sch. 2](#))
- F141** Words in Sch. 16 para. 23(3) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(12\)\(c\)](#) (with [Sch. 2](#))

### Commencement Information

- I49** Sch. 16 para. 23 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

### Loss of accreditation by the CDFI

- 24 (1) Where the CDFI ceases to be accredited under Part 2 with effect from a time (“the relevant time”) within the five year period, no claim for relief relating to the investment may be made by the investor—
- (a) for the relevant <sup>F142</sup>... accounting period, or
  - (b) for any later <sup>F142</sup>... accounting period.
- (2) For the purposes of sub-paragraph (1) the relevant <sup>F143</sup>... accounting period is—
- (a) where the relevant time falls within the first year of the five year period, the <sup>F143</sup>... accounting period in which the investment date fell, and
  - (b) in any other case, the <sup>F144</sup>... period in which fell the last anniversary of that date before the relevant time (or, if the relevant time itself falls on an anniversary of the investment date, the <sup>F144</sup>... period in which that anniversary falls).

### Textual Amendments

- F142** Words in Sch. 16 para. 24(1) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(13\)\(a\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F143** Words in Sch. 16 para. 24(2) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(13\)\(b\)\(i\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F144** Words in Sch. 16 para. 24(2)(b) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(13\)\(b\)\(ii\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

### Commencement Information

- I50** Sch. 16 para. 24 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*Status: Point in time view as at 21/07/2009. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Finance Act 2002 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Accreditation of the investor

- 25 (1) Where the investor <sup>F145</sup>... becomes accredited with effect from a time (“the relevant time”) within the five year period, no claim for relief relating to the investment may be made by the investor for the relevant accounting period or any later period.
- (2) For the purposes of sub-paragraph (1) the relevant accounting period is—
- (a) where the relevant time falls within the first year of the five year period, the accounting period in which the investment date fell, and
  - (b) in any other case, the period in which fell the last anniversary of that date before the relevant time (or, if the relevant time itself falls on an anniversary of the investment date, the period in which that anniversary falls).

#### Textual Amendments

**F145** Words in Sch. 16 para. 25(1) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(14), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

#### Commencement Information

**I51** Sch. 16 para. 25 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

### Attribution

- 26 (1) In this Schedule—
- <sup>F146</sup>(a) .....
  - (b) references to the relief attributable to any loan, securities or shares in respect of an accounting period shall be read as references to the reduction made in the investor’s liability to corporation tax for that period that is attributed to that loan, or those securities or shares, in accordance with this paragraph.
- This is subject to the provisions of Part 6 for the withdrawal or reduction of relief.
- (2) Where the investor’s liability to <sup>F147</sup>... corporation tax is reduced for [<sup>F148</sup>an] accounting period under this Part, then—
- (a) where the reduction is obtained by reason of one loan, or securities or shares comprised in one issue, the amount of the tax reduction shall be attributed to that loan or those securities or shares, and
  - (b) where the reduction is obtained by reason of a loan or loans, securities or shares comprised in two or more investments, the reduction—
    - (i) shall be apportioned between the loan or loans, securities or shares in each of those investments in the same proportions as the invested amounts in respect of the loan or loans, securities or shares for the <sup>F149</sup>... period, and
    - (ii) shall be attributed to that loan or those loans, securities or shares accordingly.
- (3) Where under this paragraph an amount of any reduction of <sup>F150</sup>... corporation tax is attributed to any securities in the same issue, a proportionate part of that amount shall be attributed to each security.



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- (4) Where under this paragraph an amount of any reduction of <sup>F151</sup>... corporation tax is attributed to any shares in the same issue, a proportionate part of that amount shall be attributed to each of those shares.
- (5) If corresponding bonus shares are issued to the investor in respect of any shares (“the original shares”) comprised in the investment that have been continuously held by the investor, as sole beneficial owner, from the time they were issued until the issue of the bonus shares—
- (a) a proportionate part of any amount attributed to the original shares, in respect of [<sup>F152</sup>an] accounting period, immediately before the bonus shares are issued shall be attributed to each of the shares in the holding comprising the original shares and the bonus shares, in respect of [<sup>F153</sup>that period], and
  - (b) after the issue of the bonus shares, this Schedule shall apply as if—
    - (i) the original issue had included the bonus shares, and
    - (ii) the bonus shares had been held by the investor, as sole beneficial owner, continuously from the time the original shares were issued until the bonus shares were issued.
- (6) In sub-paragraph (5)—
- “corresponding bonus shares” means bonus shares that are in the same company, of the same class, and carry the same rights as the original shares; and
- “original issue” means the issue of shares forming the investment.
- (7) If relief attributable to a loan or any securities or shares falls to be withdrawn under Part 6, the relief attributable to that loan or each of those securities or shares shall be reduced to nil.
- (8) If relief attributable to any securities or shares falls to be reduced under that Part by any amount, the relief attributable to each of those securities or shares shall be reduced by a proportionate part of that amount.

#### Textual Amendments

- F146** Sch. 16 para. 26(1)(a) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(15)(a), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F147** Words in Sch. 16 para. 26(2) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(15)(b), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F148** Word in Sch. 16 para. 26(2) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(15\)\(b\)](#) (with [Sch. 2](#))
- F149** Words in Sch. 16 para. 26(2)(b)(i) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(15)(b), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F150** Words in Sch. 16 para. 26(3) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(15)(c), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F151** Words in Sch. 16 para. 26(4) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(15)(c), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F152** Word in Sch. 16 para. 26(5) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(15\)\(d\)](#) (with [Sch. 2](#))
- F153** Words in Sch. 16 para. 26(5) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(15\)\(d\)](#) (with [Sch. 2](#))



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### Commencement Information

**I52** Sch. 16 para. 26 in force at 23.1.2003 by S.I. 2003/88, arts. 2, 3

## PART 6

### WITHDRAWAL OF RELIEF

#### *Manner of withdrawal of relief*

- 27 (1) This paragraph applies where any relief has been obtained which—
- (a) is subsequently found not to have been due, or
  - (b) falls to be withdrawn or reduced under this Part.
- <sup>F154</sup>(2) .....
- <sup>F154</sup>(3) .....
- (4) <sup>F155</sup>... the relief shall be withdrawn or reduced by making an assessment to corporation tax <sup>F156</sup>... for the accounting period for which the relief was obtained.

### Textual Amendments

- F154** Sch. 16 para. 27(2)(3) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(16) (a), [Sch. 3 Pt. 1](#) (with Sch. 2)
- F155** Words in Sch. 16 para. 27(4) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(16)(b), [Sch. 3 Pt. 1](#) (with Sch. 2)
- F156** Words in Sch. 16 para. 27(4) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 538, [Sch. 3 Pt. 1](#) (with Sch. 2 Pts. 1, 2)

### Commencement Information

**I53** Sch. 16 para. 27 in force at 23.1.2003 by S.I. 2003/88, arts. 2, 3

#### *Disposal of loan during five year period*

- 28 (1) Where the investment consists of a loan, if within the five year period—
- (a) the investor disposes of the whole of the investment, otherwise than by way of a permitted disposal, or
  - (b) the investor disposes of a part of the investment,
- any relief attributable to the investment in respect of any <sup>F157</sup>... accounting period must be withdrawn.
- (2) For the purposes of this paragraph—
- (a) a disposal is “permitted” if—
    - (i) it is by way of a distribution in the course of dissolving or winding up the CDFI,
    - (ii) it is a disposal within section 24(1) of the 1992 Act (entire loss, destruction, dissipation or extinction of asset),
    - (iii) it is a deemed disposal under section 24(2) of that Act (claim that value of asset has become negligible), or

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- (iv) it is made after the CDFI has ceased to be accredited under this Schedule, and
- (b) a full or partial repayment of the loan shall not be treated as giving rise to a disposal.

#### Textual Amendments

**F157** Words in Sch. 16 para. 28(1) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(17), [Sch. 3 Pt. 1](#) (with Sch. 2)

#### Commencement Information

**I54** Sch. 16 para. 28 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### *Disposal of shares or securities during five year period*

- 29 (1) This paragraph applies where the investment consists of securities or shares and—
- the investor disposes of the whole or any part of the investment (“the former investment”) within the five year period,
  - the CDFI has not ceased to be accredited before the disposal, and
  - the disposal does not arise by virtue of an event within paragraph 35(1)(a) (repayment, redemption or repurchase of securities or shares included in the investment).
- (2) If the disposal is not a qualifying disposal, any relief attributable to the former investment in respect of any <sup>F158</sup>... accounting period must be withdrawn.
- (3) If the disposal is a qualifying disposal, any relief attributable to the former investment for [<sup>F159</sup>an] accounting period must—
- if it is greater than an amount equal to 5% of the amount or value of the consideration (if any) which the investor receives for the former investment, be reduced by that amount, and
  - in any other case, be withdrawn.
- (4) For the purposes of this paragraph “qualifying disposal” means a disposal that is—
- by way of a bargain made at arm’s length for full consideration, or
  - a permitted disposal (within the meaning of paragraph 28).
- (5) Where for any <sup>F160</sup>... accounting period—
- the amount of relief attributable to the former investment (“A”) is less than
  - the amount (“B”) which is equal to 5% of the invested amount in respect of the former investment for [<sup>F161</sup>that period],
- sub-paragraph (3)(a) shall have effect in relation to [<sup>F161</sup>that period] as if the amount or value referred to in that sub-paragraph were reduced by multiplying it by the fraction—

$$\frac{A}{B}$$

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- (6) Where the amount of relief attributable to the former investment in respect of [<sup>F162</sup>an] accounting period has been reduced before the relief was obtained, the amount of relief attributable to that investment shall be deemed for the purposes of sub-paragraph (5) to be the amount of the relief that would have been attributable had no such reduction been made before the relief was obtained.
- (7) Sub-paragraph (6) does not apply to a reduction by virtue of paragraph 26(5) (attribution of relief where there is a corresponding issue of bonus shares).

#### Textual Amendments

- F158** Words in Sch. 16 para. 29(2) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(18)(a), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F159** Word in Sch. 16 para. 29(3) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(18\)\(b\)](#) (with [Sch. 2](#))
- F160** Words in Sch. 16 para. 29(5) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(18)(c), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F161** Words in Sch. 16 para. 29(5) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(18\)\(c\)](#) (with [Sch. 2](#))
- F162** Word in Sch. 16 para. 29(6) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(18\)\(d\)](#) (with [Sch. 2](#))

#### Commencement Information

- I55** Sch. 16 para. 29 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### Repayments of loan capital

- 30 (1) Where the investment consists of a loan, if—
- (a) the average capital balance of the loan for the third, fourth or final year of the five year period is less than the permitted balance for the year in question, and
  - (b) the difference between those balances is not an amount of insignificant value, any relief attributable to the investment in respect of any <sup>F163</sup>... accounting period must be withdrawn.
- (2) For the purposes of this paragraph—
- “the average capital balance” of the loan for a period is the mean of the daily balances of capital outstanding during that period, disregarding any non-standard repayments of the loan made in that period or at any earlier time;
  - “the permitted balance” of the loan is—
- (a) for the third year of the five year period, 75% of the average capital balance for the period of six months beginning 18 months after the investment date,
  - (b) for the fourth year of that period, 50% of that balance, and
  - (c) for the final year of that period, 25% of that balance.
- (3) For the purposes of sub-paragraph (2), a repayment of the loan is a non-standard repayment if it is made—

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- (a) at the choice or discretion of the CDFI and not as a direct or indirect consequence of any obligation provided for under the terms of the loan agreement, or
  - (b) as a consequence of the failure of the CDFI to fulfil any obligation of the loan agreement which—
    - (i) is imposed by reason only of the commercial risks to which the investor is exposed as lender under that agreement, and
    - (ii) is no more likely to be breached than any obligation that might reasonably have been agreed in respect of the loan in the absence of this Schedule.
- (4) For the purposes of this paragraph “an amount of insignificant value” means an amount which—
- (a) does not exceed £1,000, or
  - (b) if it exceeds that amount, is insignificant in relation to the average capital balance of the loan for the year of the five year period in question.

#### Textual Amendments

**F163** Words in Sch. 16 para. 30(1) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 419\(19\), Sch. 3 Pt. 1](#) (with [Sch. 2](#))

#### Commencement Information

**I56** Sch. 16 para. 30 in force at 23.1.2003 by [S.I. 2003/88, arts. 2, 3](#)

#### *Value received treated as repayment of loan*

- 31 (1) This paragraph applies where the investment consists of a loan and the investor receives any value (other than insignificant value) from the CDFI during the period of restriction.
- (2) The investor shall be treated for the purposes of—
- (a) paragraph 21 (determination of “invested amount”), and
  - (b) paragraph 30 (repayments of loan capital),
- as having received a repayment of the loan of an amount equal to the amount of the value received.
- (3) For those purposes the repayment shall be treated as made—
- (a) where the value was received in the first or second year of the period of restriction, at the beginning of that second year, and
  - (b) where the value was received in a later year of that period, at the beginning of the year in question.
- (4) For the purposes of paragraph 30 the repayment shall be treated as a repayment other than a non-standard repayment (within the meaning of that paragraph).
- (5) For the purposes of this paragraph the investor receives insignificant value where <sup>F164</sup>the investor] receives an amount of insignificant value; and for this purpose “an amount of insignificant value” means an amount which—
- (a) does not exceed £1,000, or

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- (b) if it exceeds that amount, is insignificant in relation to the average capital balance of the loan for the year of the period of restriction in which the value is received.
- (6) For the purposes of sub-paragraph (5)(b)—
  - (a) “the average capital balance” of the loan for a year is the mean of the daily balances of capital outstanding during the year (disregarding the receipt of value in question), and
  - (b) any value received in the first year of the period of restriction shall be treated as received at the beginning of the second year of that period.
- (7) This paragraph is subject to paragraph 37 (value received where there is more than one investment).
- (8) Value received shall be disregarded, for the purposes of this paragraph, to the extent to which relief attributable to any loan, securities or shares in respect of any one or more <sup>F165</sup>... accounting periods has already been reduced or withdrawn on its account.

#### Textual Amendments

**F164** Words in Sch. 16 para. 31(5) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(20\)](#) (with [Sch. 2](#))

**F165** Words in Sch. 16 para. 31(8) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(21\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

#### Commencement Information

**I57** Sch. 16 para. 31 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*Value received by investor where the investment consists of securities or shares*

- 32 (1) Where the investment consists of securities or shares and—
- (a) the investor receives any value (other than insignificant value) from the CDFI during the period of restriction,
  - (b) the investment or a part of it is held by the investor at the time the value is received and has been held by [<sup>F166</sup>the investor], as sole beneficial owner, continuously since the investment was made (“the continuing investment”),
  - (c) the receipt is wholly or partly in excess of the permitted level of receipts in respect of the continuing investment, and
  - (d) the amount of that excess (“the excess”) is not an amount of insignificant value,
- any relief attributable to the continuing investment in respect of any <sup>F167</sup>... accounting period must be withdrawn.
- (2) For the purposes of sub-paragraph (1) the permitted level of receipts is exceeded where—
- (a) any amount of value is received by the investor (disregarding any amounts of insignificant value) in the first three years of the period of restriction, or
  - (b) the aggregate amount of value received by the investor (disregarding any amounts of insignificant value)—
    - (i) before the beginning of the fifth year of that period, exceeds 25% of the invested capital;

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(ii) before the beginning of the final year of that period, exceeds 50% of the invested capital;

(iii) before the end of that period, exceeds 75% of the invested capital.

(3) In this paragraph—

“the invested capital”, in relation to the continuing investment, means the amount subscribed for the securities or shares concerned;

“an amount of insignificant value” means an amount of value which—

(a) does not exceed £1,000, or

(b) if it exceeds that amount, is insignificant in relation to the amount subscribed by the investor for the securities or shares comprising the continuing investment;

and for the purposes of sub-paragraph (1) the investor receives insignificant value where [<sup>F168</sup>the investor] receives an amount of insignificant value.

(4) This paragraph is subject to paragraph 37 (value received where there is more than one investment).

(5) Value received shall be disregarded, for the purposes of this paragraph, to the extent to which relief attributable to any loan, securities or shares in respect of any one or more <sup>F169</sup>... accounting periods has already been reduced or withdrawn on its account.

#### Textual Amendments

**F166** Words in Sch. 16 para. 32(1)(b) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 419\(20\)](#) (with [Sch. 2](#))

**F167** Words in Sch. 16 para. 32(1) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 419\(22\)\(a\), Sch. 3 Pt. 1](#) (with [Sch. 2](#))

**F168** Words in Sch. 16 para. 32(3) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 419\(20\)](#) (with [Sch. 2](#))

**F169** Words in Sch. 16 para. 32(5) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 419\(22\)\(b\), Sch. 3 Pt. 1](#) (with [Sch. 2](#))

#### Commencement Information

**I58** Sch. 16 para. 32 in force at 23.1.2003 by [S.I. 2003/88, arts. 2, 3](#)

#### Meaning of “period of restriction”

33 In this Part “the period of restriction” in relation to the investment is the period of six years beginning one year before the investment date.

#### Commencement Information

**I59** Sch. 16 para. 33 in force at 23.1.2003 by [S.I. 2003/88, arts. 2, 3](#)

#### Aggregation of receipts of insignificant value

34 (1) Where—

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- (a) value is received (“the relevant receipt”) by the investor from the CDFI at any time during the period of restriction relating to the investment,
- (b) the investor has received from the CDFI one or more receipts of insignificant value at a time or times during that period but not later than the time of the relevant receipt, and
- (c) the aggregate amount of the value of the receipts within paragraphs (a) and (b) is not an amount of insignificant value,

the investor shall be treated for the purposes of this Schedule as if the relevant receipt had been a receipt of an amount of value equal to that aggregate amount.

For this purpose a receipt does not fall within paragraph (b) if the whole or any part of it has previously been aggregated under this sub-paragraph.

- (2) For the purposes of this paragraph “an amount of insignificant value” means an amount of value which—
  - (a) does not exceed £1,000, or
  - (b) if it exceeds that amount, is insignificant in relation to the relevant amount.
- (3) Where the investment consists of a loan, the relevant amount for the purposes of sub-paragraph (2) is—
  - (a) if the relevant receipt is received in the first or second year of the period of restriction, the average capital balance of the loan for the second year of that period, and
  - (b) if the relevant receipt is received in a later year, the average capital balance of the loan for the year in question.
- (4) For the purposes of sub-paragraph (3)—
  - (a) the average capital balance of the loan for a year is the mean of the daily balances of capital outstanding during the year, and
  - (b) the relevant receipt and any receipts within sub-paragraph (1)(b) shall be disregarded when calculating the average capital balance for the year in question.
- (5) Where the investment consists of securities or shares, the relevant amount for the purposes of sub-paragraph (2) is—
  - (a) if the relevant receipt is received in the first year of the period of restriction, the amount subscribed for the securities or shares, and
  - (b) in any other case, the amount subscribed for such of the securities or shares as—
    - (i) are held by the investor at the time the relevant receipt is received, and
    - (ii) have been held by [<sup>F170</sup>the investor], as sole beneficial owner, continuously since the investment was made.

#### Textual Amendments

**F170** Words in Sch. 16 para. 34(5)(b)(ii) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 419\(20\)](#) (with [Sch. 2](#))

#### Commencement Information

**I60** Sch. 16 para. 34 in force at 23.1.2003 by [S.I. 2003/88, arts. 2, 3](#)



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*Status:* Point in time view as at 21/07/2009. This version of this Act contains provisions that are prospective.

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*When value is received*

- 35 (1) For the purposes of this Part the investor receives value from the CDFI at any time when the CDFI—
- (a) repays, redeems or repurchases any securities or shares included in the investment;
  - (b) releases or waives any liability of the investor to the CDFI or discharges, or undertakes to discharge, any liability of the investor to a third person;
  - (c) makes a loan or advance to the investor which has not been repaid in full before the investment is made;
  - (d) provides a benefit or facility for—
    - (i) the investor or any associates of the investor, or
    - (ii) <sup>F171</sup>..., directors or employees of the investor or any of their associates;
  - (e) disposes of an asset to the investor for no consideration or for a consideration which is or the value of which is less than the market value of the asset;
  - (f) acquires an asset from the investor for a consideration which is or the value of which is more than the market value of the asset; or
  - (g) makes a payment to the investor other than a qualifying payment.

[<sup>F172</sup>(1A) But if the investor is a bank, the investor does not receive value from the CDFI when the CDFI makes a deposit with the investor in the course of its ordinary banking arrangements.]

- (2) For the purposes of sub-paragraph (1)(b) the CDFI shall be treated as having released or waived a liability if the liability is not discharged within 12 months of the time when it ought to have been discharged.
- (3) For the purposes of sub-paragraph (1)(c) there shall be treated as if it were a loan made by the CDFI to the investor—
  - (a) the amount of any debt incurred by the investor to the CDFI (other than an ordinary trade debt), and
  - (b) the amount of any debt due from the investor to a third person which has been assigned to the CDFI.
- (4) For the purposes of this paragraph—
  - (a) references to a debt or liability do not, in relation to a person, include references to any debt or liability which would be discharged by the making by that person of a qualifying payment;
  - (b) references to a benefit or facility do not include references to any benefit or facility provided in circumstances such that, if a payment had been made of an amount equal to its value, that payment would have been a qualifying payment; and
  - (c) any reference to a payment or disposal to a person includes a reference to a payment or disposal made to that person indirectly or to his order or for his benefit.

In paragraphs (a) to (c) references to “a person” include references to any person who, at any time in the period of restriction in question, is connected with that person, whether or not he is so connected at the material time.

- (5) In this paragraph—



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[<sup>F173</sup>“bank” has the meaning given by section 840A of the Taxes Act 1988;]

“qualifying payment” means—

- (a) any payment by any person for any goods, services or facilities provided by the investor (in the course of [<sup>F174</sup>the investor's] trade or otherwise) which is reasonable in relation to the market value of those goods, services or facilities;
- (b) the payment by any person of any interest which represents no more than a reasonable commercial return on money lent to that person;
- (c) the payment by any company of any dividend or other distribution which does not exceed a normal return on any investment in shares in or securities of that company;
- (d) any payment for the acquisition of an asset which does not exceed its market value;
- (e) the payment by any person, as rent for any property occupied by the person, of an amount not exceeding a reasonable and commercial rent for the property; and
- (f) a payment in discharge of an ordinary trade debt; and

“ordinary trade debt” means any debt for goods or services supplied in the ordinary course of a trade or business where any credit given—

- (a) does not exceed six months, and
- (b) is not longer than that normally given to customers of the person carrying on the trade or business.

#### Textual Amendments

**F171** Words in Sch. 16 para. 35(1)(d)(ii) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(23), [Sch. 3 Pt. 1](#) (with Sch. 2)

**F172** Sch. 16 para. 35(1A) inserted (retrospectively) by [Finance Act 2008 \(c. 9\)](#), s. 54(2)(4)

**F173** Words in Sch. 16 para. 35(5) inserted (retrospectively) by [Finance Act 2008 \(c. 9\)](#), s. 54(3)(4)

**F174** Words in Sch. 16 para. 35(5) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(24\)](#) (with Sch. 2)

#### Commencement Information

**I61** Sch. 16 para. 35 in force at 23.1.2003 by [S.I. 2003/88](#), arts. 2, 3

#### *The amount of value received*

- 36 For the purposes of this Part the amount of the value received is—
- (a) in a case within paragraph 35(1)(a), the amount received by the investor;
  - (b) in a case within paragraph 35(1)(b), the amount of the liability;
  - (c) in a case within paragraph 35(1)(c)—
    - (i) the amount of the loan or advance, less
    - (ii) the amount of any repayment made before the investment is made;
  - (d) in a case within paragraph 35(1)(d)—
    - (i) the cost to the CDFI of providing the benefit or facility, less
    - (ii) any consideration given for it by the investor or any associate of [<sup>F175</sup>the investor];

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- (e) in a case within paragraph 35(1)(e) or (f), the difference between the market value of the asset and the consideration (if any) received for it; and
- (f) in a case within paragraph 35(1)(g), the amount of the payment.

#### Textual Amendments

**F175** Words in Sch. 16 para. 36(d)(ii) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 419\(25\)](#) (with [Sch. 2](#))

#### Commencement Information

**I62** Sch. 16 para. 36 in force at 23.1.2003 by [S.I. 2003/88, arts. 2, 3](#)

#### *Value received where there is more than one investment*

- 37 (1) This paragraph applies where—
- (a) the investor makes two or more investments in the CDFI (being investments in relation to which the investor is eligible for and claims relief), and
  - (b) the investor receives value (other than value within paragraph 35(1)(a)) which falls within the periods of restriction relating to two or more of those investments.
- (2) Where this paragraph applies, paragraphs 31, 32, 34 and 38 have effect in relation to each investment referred to in sub-paragraph (1)(b) as if the amount of the value received were reduced by multiplying it by the fraction—

$$\frac{A}{B}$$

- (3) For this purpose—
- (a) A is the appropriate amount in respect of the investment in question, and
  - (b) B is the aggregate of that amount and the appropriate amount or amounts in respect of the other investment or investments.
- (4) Where the investment consists of a loan, the appropriate amount for the purposes of sub-paragraph (3) is—
- (a) if the value is received in the first or second year of the period of restriction, the average capital balance of the loan for the second year of that period, and
  - (b) if the value is received in a later year, the average capital balance of the loan for the year in question.
- (5) For the purposes of sub-paragraph (4)—
- (a) the average capital balance of the loan for a year is the mean of the daily balances of capital outstanding during the year, and
  - (b) the receipt of value shall be disregarded when calculating the average capital balance for the year in question.
- (6) Where the investment consists of securities or shares, the appropriate amount for the purposes of sub-paragraph (3) is—
- (a) if the value is received in the first year of the period of restriction, the amount subscribed for the securities or shares, and

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- (b) in any other case, the amount subscribed for such of the securities or shares as—
- (i) are held by the investor at the time the value is received, and
  - (ii) have been held by [<sup>F176</sup>the investor], as sole beneficial owner, continuously since the investment was made.

#### Textual Amendments

**F176** Words in Sch. 16 para. 37(6) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 419\(26\)](#) (with [Sch. 2](#))

#### Commencement Information

**I63** Sch. 16 para. 37 in force at 23.1.2003 by [S.I. 2003/88, arts. 2, 3](#)

#### *Effect of receipt of value on future claims for relief*

- 38 (1) This paragraph applies where the investment consists of securities or shares and—
- (a) the investor receives any value (other than insignificant value) from the CDFI during the period of restriction, and
  - (b) the investment or a part of it is held by the investor at the time the value is received and has been held by [<sup>F177</sup>the investor], as sole beneficial owner, continuously since the investment was made (“the continuing investment”), but no relief attributable to the continuing investment is withdrawn under paragraph 32 as a result of the receipt.
- (2) For the purposes of calculating any relief in respect of any securities or shares included in the continuing investment for any relevant <sup>F178</sup>... accounting period, the amount subscribed for the securities or shares comprising the continuing investment shall be treated as reduced by the amount of the value received.
- (3) For this purpose the “relevant” <sup>F179</sup>... accounting periods are—
- (a) any <sup>F179</sup>... accounting period ending on or after the anniversary of the investment date immediately preceding the receipt of value, or
  - (b) if the value was received on an anniversary of the investment date, any <sup>F179</sup>... accounting period ending on or after that anniversary.
- (4) For the purposes of this paragraph the investor receives insignificant value where [<sup>F180</sup>the investor] receives an amount of insignificant value; and for these purposes “an amount of insignificant value” means an amount of value which—
- (a) does not exceed £1,000, or
  - (b) if it exceeds that amount, is insignificant in relation to the amount subscribed by the investor for the securities or shares comprising the continuing investment.

#### Textual Amendments

**F177** Words in Sch. 16 para. 38(1) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 419\(27\)\(a\)](#) (with [Sch. 2](#))

**F178** Words in Sch. 16 para. 38(2) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 419\(27\)\(b\), Sch. 3 Pt. 1](#) (with [Sch. 2](#))

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**F179** Words in Sch. 16 para. 38(3) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(27)(c), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

**F180** Words in Sch. 16 para. 38(4) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(27\)\(d\)](#) (with [Sch. 2](#))

**Commencement Information**

**I64** Sch. 16 para. 38 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*Receipts of value by and from connected persons*

39 In paragraphs 31 to 38 references to the investor or the CDFI include references to any person who at any time in the period of restriction relating to the investment is connected with the investor or, as the case may be, CDFI, whether or not he is connected at the material time.

**Commencement Information**

**I65** Sch. 16 para. 39 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

**PART 7**

**RESTRUCTURING OF CDFI**

*Rights issues etc*

<sup>F181</sup>40 .....

**Textual Amendments**

**F181** Sch. 16 para. 40 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(28), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

*Company reconstructions etc*

<sup>F182</sup>41 .....

**Textual Amendments**

**F182** Sch. 16 para. 41 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(28), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

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## PART 8

### SUPPLEMENTARY AND GENERAL

#### *Information to be provided by the investor*

- 42 (1) Where—
- (a) the investor has obtained relief in respect of the investment, and
  - (b) an event occurs by reason of which relief attributable to the investment for any <sup>F183</sup>... accounting period falls to be withdrawn or reduced by virtue of paragraph 28, 29, 30 or 32,
- the investor must give the Inland Revenue a notice containing particulars of the event.
- (2) Where sub-paragraph (1) requires the giving of a notice, then, subject to sub-paragraph (3) the investor must give the notice not later than—
- <sup>F184</sup>(a) .....
  - (b) <sup>F185</sup>... the end of the period of 12 months beginning with the end of the accounting period in which the event occurred.
- (3) Where—
- (a) the investor is required to give a notice by virtue of the receipt of value by a person connected with the investor (see paragraph 39), and
  - (b) the end of the period of 60 days beginning when the investor comes to know of that event is later than the final notice date under sub-paragraph (2),
- the notice must be given within that 60 day period.
- (4) In this paragraph “the Inland Revenue” means any officer of the Board.

#### **Textual Amendments**

**F183** Words in Sch. 16 para. 42(1) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(29)(a), [Sch. 3 Pt. 1](#) (with Sch. 2)

**F184** Sch. 16 para. 42(2)(a) and word repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(29)(b), [Sch. 3 Pt. 1](#) (with Sch. 2)

**F185** Words in Sch. 16 para. 42(2)(b) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(29)(b), [Sch. 3 Pt. 1](#) (with Sch. 2)

#### **Commencement Information**

**I66** Sch. 16 para. 42 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### *Disclosure*

- 43 (1) No obligation as to secrecy or other restriction on the disclosure of information imposed by statute or otherwise prevents the disclosure of information—
- (a) by the Secretary of State to the Inland Revenue for the purpose of assisting the Inland Revenue to discharge their functions under the [<sup>F186</sup>Corporation Tax Acts] so far as relating to matters arising under this Schedule, or
  - (b) by the Inland Revenue to the Secretary of State for the purpose of assisting the Secretary of State to discharge his functions under this Schedule.

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(2) Information obtained by such disclosure shall not be further disclosed except for the purposes of legal proceedings arising out of the functions referred to.

(3) In this paragraph “the Inland Revenue” means any officer of the Board.

#### Textual Amendments

**F186** Words in Sch. 16 para. 43(1) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(30\)](#) (with [Sch. 2](#))

#### Commencement Information

**I67** Sch. 16 para. 43 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### Nominees

- 44 (1) For the purposes of this Schedule—
- (a) loans made by or to, or disposed of by, a nominee for a person shall be treated as made by or to, or disposed of by, that person;
  - (b) securities or shares subscribed for by, issued to, acquired or held by or disposed of by a nominee for a person shall be treated as subscribed for by, issued to, acquired or held by or disposed of by that person.

(2) For the purposes of sub-paragraph (1) references to things done by or to a nominee for a person include things done by or to a bare trustee for a person.

#### Commencement Information

**I68** Sch. 16 para. 44 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### Application for postponement of tax pending appeal

- 45 No application shall be made under section 55(3) or (4) of the Taxes Management Act 1970 (c. 9) (application for postponement of payment of tax pending appeal) on the ground that a <sup>F187</sup>company] is eligible for relief unless a claim for the relief has been duly made by the <sup>F187</sup>company] under Part 5 of this Schedule.

#### Textual Amendments

**F187** Word in Sch. 16 para. 45 substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(31\)](#) (with [Sch. 2](#))

#### Commencement Information

**I69** Sch. 16 para. 45 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### Meaning of “issue of securities or share”s

- 46 (1) In this Schedule—

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- (a) references (however expressed) to an issue of securities of any body are to such securities of that body as carry the same rights and are issued under the same terms and on the same day, and
  - (b) references (however expressed) to an issue of shares in any body are to such shares in that body as are of the same class and issued on the same day.
- (2) In this Schedule references (however expressed) to an issue of securities of or shares in a body to a [<sup>F188</sup>company] are references to such of the securities or shares in an issue of securities of or shares in that body as are issued to that [<sup>F188</sup>company] in one capacity.

#### Textual Amendments

**F188** Word in Sch. 16 para. 46(2) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 419\(32\)](#) (with [Sch. 2](#))

#### Commencement Information

**I70** Sch. 16 para. 46 in force at 23.1.2003 by [S.I. 2003/88, arts. 2, 3](#)

#### Identification of securities or shares on a disposal

- 47 (1) In any case where—
- (a) the investor disposes of part of a holding of securities or shares (“the holding”), and
  - (b) the holding includes securities or shares to which relief is attributable in respect of one or more <sup>F189</sup>... accounting periods that have been held continuously by the investor from the time they were issued until the disposal,
- this paragraph applies for the purpose of identifying the securities or shares disposed of.
- (2) For the purposes of this paragraph “holding” means—
- (a) any number of securities of a company carrying the same rights and issued under the same terms held by the investor in the same capacity, growing or diminishing as securities carrying those rights and issued under those terms are acquired or disposed of, or
  - (b) any number of shares in a company of the same class held by the investor in the same capacity, growing or diminishing as shares of that class are acquired or disposed of.
- (3) Where securities or shares included in the holding have been acquired by the investor on different days, then, for the purposes <sup>F190</sup>... of this Schedule, any disposal by the investor of any of those securities or shares shall be treated as relating to those acquired on an earlier day rather than to those acquired on a later day.
- (4) Where securities or shares included in the holding have been acquired by the investor on the same day, then, for the purposes <sup>F191</sup>... of this Schedule, if there is a disposal by the investor of any of those securities or shares, any securities or shares—
- (a) to which relief is attributable, and
  - (b) which have been held by the investor continuously from the time they were issued until the time of disposal,



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shall be treated as disposed of after any other securities or shares included in the holding which were acquired by the investor on that day.

<sup>F192</sup>(5) .....

<sup>F192</sup>(6) .....

- (7) In a case to which section 127 of [<sup>F193</sup>the 1992 Act] (equation of original shares and new holding) applies, shares comprised in the new holding shall be treated for the purposes of sub-paragraphs (3) and (4) as acquired when the original shares were acquired.
- (8) In sub-paragraph (7)—
- (a) the reference to section 127 includes a reference to that section as it is applied by virtue of any enactment relating to chargeable gains, and
  - (b) “original shares” and “new holding” have the same meaning as in section 127 or (as the case may be) that section as applied by virtue of the enactment in question.

#### Textual Amendments

- F189** Words in Sch. 16 para. 47(1) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(33)(a), [Sch. 3 Pt. 1](#) (with Sch. 2)
- F190** Words in Sch. 16 para. 47(3) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(33)(b), [Sch. 3 Pt. 1](#) (with Sch. 2)
- F191** Words in Sch. 16 para. 47(4) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(33)(b), [Sch. 3 Pt. 1](#) (with Sch. 2)
- F192** Sch. 16 para. 47(5)(6) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(33)(c), [Sch. 3 Pt. 1](#) (with Sch. 2)
- F193** Words in Sch. 16 para. 47(7) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(33\)\(d\)](#) (with Sch. 2)

#### Commencement Information

- I71** Sch. 16 para. 47 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### Meaning of “disposal”

- 48 (1) Subject to sub-paragraph (2), in this Schedule “disposal” shall be construed in accordance with the 1992 Act, and cognate expressions shall be construed accordingly.
- (2) An investor shall be treated for the purposes of this Schedule<sup>F194</sup>... as disposing of any securities or shares which but for [<sup>F195</sup>section 151BC(1) of the 1992 Act the investor] —
- (a) would be treated as exchanging for other securities or shares by virtue of section 136 of the 1992 Act, or
  - (b) would be so treated but for section 137(1) of the 1992 Act (which restricts section 136 of that Act to bona fide reconstructions).



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#### Textual Amendments

**F194** Words in Sch. 16 para. 48(2) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(34)(a), [Sch. 3 Pt. 1](#) (with Sch. 2)

**F195** Words in Sch. 16 para. 48(2) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(34\)\(b\)](#) (with Sch. 2)

#### Commencement Information

**I72** Sch. 16 para. 48 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### Construction of references to investment being “held continuously”

- 49 (1) This paragraph applies where for the purposes of this Schedule it falls to be determined whether the investor has held the investment (or any part of it) continuously throughout any period.
- (2) The investor shall not be treated as having held the investment (or any part of it) continuously throughout a period if—
- <sup>F196</sup>the investor] is deemed, under any provision of the 1992 Act, to have disposed of and immediately reacquired the investment (or part) at any time during the period, or
  - <sup>F196</sup>the investor] is treated as having disposed of the investment (or part) at any such time, by virtue of paragraph 48(2).

#### Textual Amendments

**F196** Words in Sch. 16 para. 49(2) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(35\)](#) (with Sch. 2)

#### Commencement Information

**I73** Sch. 16 para. 49 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### Meaning of “associat”

- 50 (1) In this Schedule “associate”, in relation to a person, means—
- any relative or partner of that person,
  - the trustee or trustees of any settlement in relation to which that person, or any relative of his (living or dead), is or was a settlor, and
  - where that person is interested in any shares or obligations of a company which are subject to any trust or are part of the estate of a deceased person—
    - the trustee or trustees of the settlement concerned or, as the case may be, the personal representatives of the deceased, and
    - if that person is a company, any other company interested in those shares or obligations.
- (2) In sub-paragraph (1)(a) and (b) “relative” means <sup>F197</sup>spouse or civil partner], parent or remoter forebear or child or remoter issue.

*Status: Point in time view as at 21/07/2009. This version of this Act contains provisions that are prospective.*

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- (3) In sub-paragraph (1)(b) “settlor” and “settlement” have the same meaning as in <sup>F198</sup>Chapter 5 of Part 5 of the Income Tax (Trading and Other Income) Act 2005 (see section 620 of that Act)].

#### Textual Amendments

**F197** Words in Sch. 16 para. 50(2) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **135**

**F198** Words in Sch. 16 para. 50(3) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 577\(3\)](#) (with Sch. 2)

#### Commencement Information

**I74** Sch. 16 para. 50 in force at 23.1.2003 by [S.I. 2003/88](#), arts. 2, 3

#### Minor definitions etc

- 51 (1) In this Schedule—
- “the Board” means the Commissioners of Inland Revenue;
  - “body” includes an unincorporated association;
  - “relief” means relief under Part 5 of this Schedule;
  - <sup>F199</sup> . . . . .
  - “the 1992 Act” means the Taxation of Chargeable Gains Act 1992 (c. 12).
- (2) For the purposes of this Schedule shares in a company shall not be treated as being of the same class unless they would be so treated if dealt with on the Stock Exchange.
- (3) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of this Schedule.
- (4) For the purposes of this Schedule the market value at any time of any asset is the price which it might reasonably be expected to fetch on a sale at that time in the open market free from any interest or right which exists by way of security in or over it.
- (5) In this Schedule—
- (a) references to relief obtained by the investor in respect of any investment (or part of an investment) include references to relief obtained by the investor in respect of that investment (or part) at any time after the investor has disposed of it, and
  - (b) references to the withdrawal or reduction of relief obtained by the investor in respect of the investment (or any part of it) include references to the withdrawal or reduction of relief obtained in respect of that investment (or part) at any such time.
- (6) In the case of any condition that cannot be satisfied until a future date—
- (a) references in this Schedule to a condition being satisfied for the time being are to nothing having occurred to prevent its being satisfied, and
  - (b) references to its continuing to be satisfied are to nothing occurring to prevent its being satisfied.

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### Textual Amendments

**F199** Words in Sch. 16 para. 51(1) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 419(36), [Sch. 3 Pt. 1](#) (with Sch. 2)

### Commencement Information

**I75** Sch. 16 para. 51 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

### Index of defined expressions

52 In this Schedule the following expressions are defined or otherwise explained by the provisions indicated:

[ <sup>F200</sup> Accreditation period	paragraph 4(3)]
associate	paragraph 50
the Board	paragraph 51(1)
body	paragraph 51(1)
the CDFI	paragraph 1(2)
disposal	paragraph 48
the five year period	paragraph 3
held continuously (in relation to securities or shares)	paragraph 49
the invested amount	paragraph 21
the investment	paragraph 1
the investment date	paragraph 3
the investor	paragraph 1
issue of securities or shares	paragraph 46
owner (in relation to a loan)	paragraph 15(2)
the 1992 Act	paragraph 51(1)
period of restriction	paragraph 33
relief	paragraph 51(1)
tax relief certificate	paragraph 12

### Textual Amendments

**F200** Words in Sch. 16 para. 52 inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 419\(37\)](#) (with Sch. 2)

### Commencement Information

**I76** Sch. 16 para. 52 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

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Changes to legislation: Finance Act 2002 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULE 17

Section 57

COMMUNITY INVESTMENT TAX RELIEF: CONSEQUENTIAL AMENDMENTS

**Commencement Information**

**I77** Sch. 17 in force at 23.1.2003 by [S.I. 2003/88](#), art. 2

1 In section 98 of the Taxes Management Act 1970 (c. 9), in the second column of the Table, after the final entry insert—

“paragraph 42 of Schedule 16 to the Finance Act 2002

.”

F201<sub>2</sub> .....

**Textual Amendments**

**F201** Sch. 17 para. 2 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 2](#) (with [Sch. 2](#))

F202<sub>3</sub> .....

**Textual Amendments**

**F202** Sch. 17 para. 3 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

F203<sub>4</sub> .....

**Textual Amendments**

**F203** Sch. 17 para. 4 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

5 In Schedule 18 to the Finance Act 1998 (c. 36) (company tax returns, assessments and related matters), in paragraph 8 (calculation of tax payable), after paragraph 1A of the second step of the calculation in sub-paragraph (1) insert—

“1B Any relief under Part 5 of Schedule 16 to the Finance Act 2002 (community investment tax relief).”

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## SCHEDULE 18

Section 58

### RELIEF FOR COMMUNITY AMATEUR SPORTS CLUBS

#### PART 1

##### CLUBS ENTITLED TO BE REGISTERED

###### *The requirements*

- 1 A club is entitled to be registered as a community amateur sports club if it is, and is required by its constitution to be, a club that—
- (a) is open to the whole community,
  - (b) is organised on an amateur basis, and
  - (c) has as its main purpose the provision of facilities for, and promotion of participation in, one or more eligible sports.

In this Schedule “registered club” means a club that is so registered.

###### *Open to the whole community*

- 2 (1) A club is open to the whole community if—
- (a) membership of the club is open to all without discrimination,
  - (b) the facilities of the club are available to members without discrimination, and
  - (c) any fees are set at a level that does not pose a significant obstacle to membership or use of the club’s facilities.
- (2) For the purposes of sub-paragraph (1) “discrimination” includes indirect discrimination and includes, in particular—
- (a) discrimination on grounds of ethnicity, nationality, sexual orientation, religion or beliefs;
  - (b) discrimination on grounds of sex, age or disability, except as a necessary consequence of the requirements of a particular sport.
- (3) This paragraph does not prevent a club from having different classes of membership depending on—
- (a) the age of the member;
  - (b) whether the member is a student;
  - (c) whether the member is waged or unwaged;
  - (d) whether the member is a playing or a non-playing member;
  - (e) how far from the club the member lives;
  - (f) any restriction on the days or times when the member has access to the club’s facilities.

###### *Organised on an amateur basis*

- 3 (1) A club is organised on an amateur basis if—
- (a) it is non-profit making,
  - (b) it provides for members and their guests only the ordinary benefits of an amateur sports club, and

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- (c) its constitution provides for any net assets on the dissolution of the club to be applied for approved sporting or charitable purposes.
- (2) A club is “non-profit making” if its constitution requires any surplus income or gains to be reinvested in the club and does not permit any distribution of club assets, in cash or in kind, to members or third parties.

This does not prevent donations by the club to charities or to other clubs that are registered as community amateur sports clubs.

- (3) The ordinary benefits of an amateur sports club are—
- (a) provision of sporting facilities;
  - (b) reasonable provision and maintenance of club-owned sports equipment;
  - (c) provision of suitably qualified coaches;
  - (d) provision, or reimbursement of the costs, of coaching courses;
  - (e) provision of insurance cover;
  - (f) provision of medical treatment;
  - (g) reimbursement of reasonable travel expenses incurred by players and officials travelling to away matches;
  - (h) reasonable provision of post-match refreshments for players and match officials;
  - (i) sale or supply of food or drink as a social adjunct to the sporting purposes of the club.
- (4) Sub-paragraph (3) does not prevent a club from—
- (a) entering into an agreement with a member for the supply to the club of goods or services, or
  - (b) employing and paying remuneration to staff who are also members of the club,
- provided the terms are approved by the governing body of the club without the member concerned being present and are agreed with the member on an arm’s length basis.
- (5) In relation to the application of the net assets on the dissolution of the club, “approved sporting or charitable purposes” means such of the following as may be approved by the members of the club in general meeting or by the members of the governing body of the club—
- (a) the purposes of the governing body of an eligible sport for the purposes of which the club existed, for use in related community sport;
  - (b) the purposes of another club that is registered as a community amateur sports club;
  - (c) the purposes of a charity.

## PART 2

### EXEMPTIONS FOR REGISTERED CLUBS

#### *Exemption for trading income*

- 4 (1) Where—
- (a) a club is a registered club throughout an accounting period,

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- (b) its trading income for that period (before deduction of any expenses) does not exceed [<sup>F204</sup>£30,000],
  - (c) the whole of that income is applied for qualifying purposes, and
  - (d) the club makes a claim under this paragraph to the Inland Revenue, it shall be exempt from corporation tax on that income.
- (2) In relation to an accounting period that is shorter than 12 months, sub-paragraph (1) (b) has effect as if the amount specified there were proportionately reduced.
- (3) Where a club is a registered club for only part of an accounting period, sub-paragraph (1) has effect as if—
- (a) that part were a separate accounting period;
  - (b) the club’s trading income for that part were the proportionately reduced amount of its trading income for the actual accounting period.
- (4) In this paragraph “trading income” means [<sup>F205</sup>profits that (apart from this paragraph) are chargeable under Chapter 2 of Part 3 of CTA 2009 and are—
- (a) means profits of a trade carried on wholly or partly in the United Kingdom, or
  - (b) profits of an activity other than a trade.]

#### Textual Amendments

**F204** Word in Sch. 18 para. 4(1)(b) substituted (with effect in accordance with s. 56(4)(5) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 56\(2\)](#)

**F205** Words in Sch. 18 para. 4(4) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 539\(2\)](#) (with [Sch. 2 Pts. 1, 2](#))

#### Exemption for interest and gift aid income

- 5 (1) Where—
- (a) a club is a registered club throughout an accounting period,
  - (b) the whole of its interest income and gift aid income for that period is applied for qualifying purposes, and
  - (c) the club makes a claim under this paragraph to the Inland Revenue, it shall be exempt from corporation tax on that income.
- (2) Where a club is a registered club for only part of an accounting period, sub-paragraph (1) has effect as if—
- (a) that part were a separate accounting period;
  - (b) the club’s interest income for that part were the proportionately reduced amount of its interest income for the actual accounting period.
- (3) In this paragraph—
- (a) “interest income”, in relation to a club, means interest [<sup>F206</sup>which (apart from this paragraph) would be required to be brought into account under Part 5 of the Corporation Tax Act 2009 (loan relationships) as a non-trading credit of the club;]
  - (b) “gift aid income”, in relation to a club, means gifts to the club that are treated as annual payments by section 25(10) of the Finance Act 1990 (c. 29) (gift aid) <sup>F207</sup>....

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- [<sup>F208</sup>(4) For the purposes of this paragraph, section 25(10) of the Finance Act 1990 (gift aid) has effect as if a registered club were a charitable company.]

#### Textual Amendments

- F206** Words in Sch. 18 para. 5(3)(a) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 1 para. 539(3)** (with Sch. 2 Pts. 1, 2)
- F207** Words in Sch. 18 para. 5(3)(b) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 420\(2\)\(a\)](#), **Sch. 3 Pt. 1** (with Sch. 2)
- F208** Sch. 18 para. 5(4) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 420(2)(b)** (with Sch. 2)

#### Exemption for property income

- 6 (1) Where—
- (a) a club is a registered club throughout an accounting period,
  - (b) its property income for that period (before deduction of any expenses) does not exceed [<sup>F209</sup>£20,000],
  - (c) the whole of that income is applied for qualifying purposes, and
  - (d) the club makes a claim under this paragraph to the Inland Revenue,
- it shall be exempt from corporation tax on that income.
- (2) In relation to an accounting period that is shorter than 12 months, sub-paragraph (1) (b) has effect as if the amount specified there were proportionately reduced.
- (3) Where a club is a registered club for only part of an accounting period, sub-paragraph (1) has effect as if—
- (a) that part were a separate accounting period;
  - (b) the club's property income for that part were the proportionately reduced amount of its property income for the actual accounting period.
- (4) In this paragraph “property income” means income that (apart from this paragraph) is chargeable to tax under Schedule A.

#### Textual Amendments

- F209** Word in Sch. 18 para. 6(1)(b) substituted (with effect in accordance with s. 56(4)(5) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), s. 56(3)

#### Exemption for chargeable gains

- 7 A gain accruing to a registered club shall not be a chargeable gain if—
- (a) the whole of the gain is applied for qualifying purposes, and
  - (b) the club makes a claim under this paragraph to the Inland Revenue.

#### Exemption reduced where club incurs non-qualifying expenditure

- 8 (1) This paragraph applies where—
- (a) any of a club's income or gains for an accounting period are exempted from tax under this Part (or would be so exempted but for this paragraph), and



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(b) in that accounting period the club incurs expenditure for non-qualifying purposes.

(2) In this paragraph—

A is the total amount of income and gains mentioned in sub-paragraph (1)(a);

N is the amount of the expenditure mentioned in sub-paragraph (1)(b);

T is the aggregate of—

(a) the club's income (whether taxable or not, and before deduction of any expenses) for the accounting period, and

(b) the club's gains that are chargeable gains, together with those that would be chargeable but for paragraph 7, for that period.

(3) Where N is less than T, the total amount of income and gains for the accounting period exempted under this Part is reduced to—

$$A - \left( A \times \frac{N}{T} \right)$$

(4) Where N is equal to T, the total amount of income and gains for the accounting period exempted under this Part is reduced to nil.

(5) Where N is greater than T—

(a) the total amount of income and gains for the accounting period exempted under this Part is reduced to nil, and

(b) the surplus amount is carried back to previous accounting periods (taking later ones before earlier ones) and deducted from the amounts exempted under this Part for those periods, until it is exhausted.

In paragraph (b) “the surplus amount” means—

$$\left( A \times \frac{N}{T} \right) - A$$

(6) The reference in paragraph (b) of sub-paragraph (5) to previous accounting periods is to accounting periods ending not more than six years before the end of the accounting period mentioned in paragraph (a) of that sub-paragraph.

(7) To the extent that an amount exempted under this Part has been reduced under sub-paragraph (3), (4) or (5) in respect of expenditure incurred for non-qualifying purposes in a particular accounting period, it may not be reduced again under sub-paragraph (5) in respect of expenditure so incurred in a later accounting period.

(8) All such adjustments shall be made, whether by way of assessment or otherwise, as may be required in consequence of sub-paragraph (5).

(9) Where by virtue of this paragraph there is an amount of a registered club's income and gains for which relief under this Part is not available, the club may, by notice to the Inland Revenue, specify which items of the income and gains are, in whole or in part, to be attributed to that amount.

If, within 30 days of being required to do so by the Inland Revenue, a registered club does not give notice under this sub-paragraph, the items of its income and gains that are to be attributed to the amount in question shall be such as the Inland Revenue may determine.

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### PART 3

#### RELIEFS FOR DONORS

- 9 <sup>F210</sup>(1) Chapter 2 of Part 8 of ITA 2007 (gift aid) confers relief from income tax for donors to registered clubs (see section 430 of that Act).]
- (2) Section 23 of the Inheritance Tax Act 1984 (c. 51) (gifts to charities) has effect as if—
- (a) a registered club were a charity;
  - (b) in subsection (5) of that section (no exemption where property may become applicable for purposes that are not charitable etc), for the words from “other than charitable purposes” to the end there were substituted “other than—
    - (a) the purposes of the club in question;
    - (b) the purposes of another club that is registered as a community amateur sports club;
    - (c) the purposes of the governing body of an eligible sport (within the meaning of Schedule 18 to the Finance Act 2002) for the purposes of which the club in question exists; or
    - (d) the purposes of a charity.”.
- (3) The following enactments also have effect as if a registered club were a charity—
- <sup>F211</sup>(a) . . . . .
  - (b) section 257 of the Taxation of Chargeable Gains Act 1992 (c. 12) (gifts to charities etc);
  - (c) section 63(2) of the Capital Allowances Act (gifts of plant or machinery to charities etc).

#### Textual Amendments

**F210** Sch. 18 para. 9(1) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 420\(3\)](#) (with [Sch. 2](#))

**F211** [Sch. 18 para. 9\(3\)\(a\)](#) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 539\(4\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

### PART 4

#### CHARGEABLE GAINS: PROPERTY CEASING TO BE HELD FOR QUALIFYING PURPOSES

- 10 (1) This paragraph applies where a club holds property and, without disposing of it—
- (a) ceases to be a registered club, or
  - (b) ceases to hold the property for qualifying purposes.
- (2) Where this paragraph applies—
- (a) the club shall be treated for the purposes of the Taxation of Chargeable Gains Act 1992 as having disposed of, and immediately reacquired, the property at the time of the cessation for a consideration equal to its market value at that time;
  - (b) any gain accruing on the deemed disposal shall be treated for the purposes of paragraph 7 as not accruing to a registered club;

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- (c) if and so far as any of the property represents, directly or indirectly, the consideration for the disposal of assets by the club, any gain accruing on that disposal shall be treated for the purposes of paragraph 7 as not having accrued to a registered club.
- (3) An assessment in respect of a chargeable gain accruing by virtue of sub-paragraph (2) may be made at any time not more than three years after the end of the accounting period in which the club ceases to be a registered club or (as the case may be) to hold the property for qualifying purposes.

## PART 5

### REGISTRATION

#### *Registration and termination*

- 11 (1) A club that applies to the Inland Revenue to be registered as a community amateur sports club shall be so registered if the Inland Revenue are satisfied that it is entitled to be.
- (2) The Inland Revenue may register a club with effect from such date as they may specify (which may be before the date of the application).
- (3) If it appears to the Inland Revenue that a registered club is not, or is no longer, entitled to be registered, they may terminate the club's registration with effect from such date as they may specify (which may be before the date of the decision to terminate the registration).
- (4) Where the Inland Revenue—
- (a) register a club,
  - (b) refuse a club's application for registration, or
  - (c) terminate a club's registration,
- they shall notify the club accordingly.
- (5) The Inland Revenue may publish the names and addresses of registered clubs.

#### *Information etc*

- 12 A club that makes an application to be registered must—
- (a) provide the Inland Revenue with such information relating to the application as they may reasonably require;
  - (b) if required to do so by the Inland Revenue, produce for inspection by them any books, documents or other records in the club's possession, or under its control, that contain such information.

#### *Appeals*

- 13 (1) An appeal <sup>F212</sup>... may be brought against a decision of the Inland Revenue under paragraph 11.
- (2) Notice of an appeal under this paragraph must be given—
- (a) in writing,

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- (b) within 30 days of the date of the notification under paragraph 11(4),
  - (c) to the Inland Revenue.
- (3) The notice of appeal must specify the grounds of appeal.
- <sup>F213</sup>(4) .....
- (5) Where the appeal is against a refusal to register a club, or against a decision to register it with effect from a particular date, the [<sup>F214</sup>tribunal] ([<sup>F215</sup>if not dismissing] the appeal) may either—
- (a) direct that the club be registered with effect from a specified date, or
  - (b) remit the matter to the Inland Revenue for reconsideration.
- (6) Where the appeal is against a decision to terminate the registration of a club, or to do so with effect from a particular date, the [<sup>F214</sup>tribunal] ([<sup>F215</sup>if not dismissing] the appeal) may either—
- (a) rescind the termination,
  - (b) direct that the termination have effect from a specified date, or
  - (c) remit the matter to the Inland Revenue for reconsideration.
- (7) The provisions of the Taxes Management Act 1970 (c. 9) relating to appeals under the Taxes Acts shall apply to an appeal under this paragraph as they apply to those appeals.

#### Textual Amendments

- F212** Words in Sch. 18 para. 13(1) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 327(2)(a)**
- F213** Sch. 18 para. 13(4) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 327(2)(b)**
- F214** Word in Sch. 18 para. 13(5)(6) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 327(2)(c)(i)**
- F215** Words in Sch. 18 para. 13(5)(6) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 327(2)(c)(ii)**

## PART 6

### INTERPRETATION

#### “Eligible sport”

- 14 (1) For the purposes of this Schedule “eligible sport” means a sport that is designated for those purposes by Treasury order.
- A sport may be so designated by reference to its appearing in a list maintained by a body specified in the order.
- (2) An order 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.

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### *“Inland Revenue”*

- 15 (1) Subject to sub-paragraph (2), references in this Schedule to the Inland Revenue are to any officer of the Board.
- (2) References to the Inland Revenue in paragraphs 11 and 13(1), (5) and (6) are to the Board.

### *Other expressions*

- 16 In this Schedule—
- (a) “dispose”, “disposal”, “gain” and “chargeable gain” shall be construed in accordance with the Taxation of Chargeable Gains Act 1992 (c. 12);
- (b) “for qualifying purposes” means for the purposes of providing facilities for, and promoting participation in, one or more eligible sports, and “for non-qualifying purposes” shall be construed accordingly.

## SCHEDULE 19

Section 59

### CAPITAL ALLOWANCES: CARS WITH LOW CARBON DIOXIDE EMISSIONS

#### *Introductory*

- 1 The Capital Allowances Act 2001 (c. 2) is amended as follows.

#### *Types of expenditure for which first-year allowances available*

- 2 In section 39, after the entry relating to section 45A add,

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“section 45D	expenditure on cars with low CO <sub>2</sub> emissions,”.
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#### *First-year qualifying expenditure: car with low carbon dioxide emissions*

- 3 After section 45C insert—

#### **“45D Expenditure on cars with low carbon dioxide emissions**

- (1) Expenditure is first-year qualifying expenditure if—
- (a) it is incurred in the period beginning with 17th April 2002 and ending with 31st March 2008,
- (b) it is expenditure on a car which is first registered on or after 17th April 2002 and which is unused and not second-hand,
- (c) the car—
- (i) is an electrically-propelled car, or
- (ii) is a car with low CO<sub>2</sub> emissions, and
- (d) the expenditure is not excluded by section 46 (general exclusions).
- (2) For the purposes of this section a car with low CO<sub>2</sub> emissions is a car which satisfies the conditions in subsections (3) and (4).

*Status: Point in time view as at 21/07/2009. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Finance Act 2002 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) The first condition is that, when the car is first registered, it is so registered on the basis of an EC certificate of conformity, or a UK approval certificate, that specifies—
  - (a) in the case of a car other than a bi-fuel car, a CO<sub>2</sub> emissions figure in terms of grams per kilometre driven, or
  - (b) in the case of a bi-fuel car, separate CO<sub>2</sub> emissions figures in terms of grams per kilometre driven for different fuels.
- (4) The second condition is that the applicable CO<sub>2</sub> emissions figure in the case of the car does not exceed 120 grams per kilometre driven.
- (5) For the purposes of subsection (4) the applicable CO<sub>2</sub> emissions figure in the case of a car other than a bi-fuel car is—
  - (a) where the EC certificate of conformity or UK approval certificate specifies only one CO<sub>2</sub> emissions figure, that figure, and
  - (b) where the certificate specifies more than one CO<sub>2</sub> emissions figure, the figure specified as the CO<sub>2</sub> emissions (combined) figure.
- (6) For the purposes of subsection (4) the applicable CO<sub>2</sub> emissions figure in the case of a bi-fuel car is—
  - (a) where the EC certificate of conformity or UK approval certificate specifies more than one CO<sub>2</sub> emissions figure in relation to each fuel, the lowest CO<sub>2</sub> emissions (combined) figure specified, and
  - (b) in any other case, the lowest CO<sub>2</sub> figure specified by the certificate.
- (7) The Treasury may by order amend the amount from time to time specified in subsection (4).
- (8) In this section any reference to a car—
  - (a) includes a reference to a mechanically propelled road vehicle of a type commonly used as a hackney carriage, but
  - (b) does not include a reference to a motorcycle.
- (9) For the purposes of this section, a car is an electrically-propelled car only if—
  - (a) it is propelled solely by electrical power, and
  - (b) that power is derived from—
    - (i) a source external to the vehicle, or
    - (ii) an electrical storage battery which is not connected to any source of power when the vehicle is in motion.
- (10) In this section—

“bi-fuel car” means a car which is capable of being propelled by—

  - (a) petrol and road fuel gas, or
  - (b) diesel and road fuel gas;

“car” has the meaning given by section 81 (extended meaning of “car”);

“diesel” means any diesel fuel within the definition in Article 2 of Directive [98/70/EC](#) of the European Parliament and of the Council;

*Status:* Point in time view as at 21/07/2009. This version of this Act contains provisions that are prospective.

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“EC certificate of conformity” means 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;

“petrol” has the meaning given by Article 2 of Directive 98/70/EC of the European Parliament and of the Council;

“road fuel gas” has the same meaning as in section 168AB of ICTA;

“UK approval certificate” means a certificate issued under—

- (a) section 58(1) or (4) of the Road Traffic Act 1988, or
- (b) Article 31A(4) or (5) of the Road Traffic (Northern Ireland) Order 1981.”.

#### *General exclusions affecting first-year qualifying expenditure*

4 (1) Section 46 is amended as follows.

(2) In subsection (1) (expenditure which is subject to the general exclusions) after the entry relating to section 45A add “,

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section 45D	(expenditure on cars with low CO <sub>2</sub> emissions),”.
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(3) After subsection (2) (general exclusions listed for the purposes of subsection (1)) insert—

“(3) Subsection (1) is subject to the following provisions of this section.

(4) General exclusion 2 does not prevent expenditure being first-year qualifying expenditure under section 45D.”.

#### *Amount of first-year allowances*

5 In section 52(3), in the Table, after the entry relating to expenditure qualifying under section 45A add—

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“Expenditure qualifying under section 45D (expenditure on cars with low CO <sub>2</sub> emissions)	100%”.
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#### *Single asset pool in relation to cars above cost threshold*

F2166 .....

#### **Textual Amendments**

**F216** Sch. 19 para. 6 omitted (with effect in accordance with Sch. 11 paras. 26, 27, 28(1) of the amending Act) by virtue of Finance Act 2009 (c. 10), Sch. 11 para. 25 (with Sch. 11 paras. 30-32)

*Status: Point in time view as at 21/07/2009. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Finance Act 2002 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULE 20

Section 61

### CAPITAL ALLOWANCES: PLANT OR MACHINERY FOR GAS REFUELLING STATION

#### *Introductory*

1 The Capital Allowances Act 2001 (c. 2) is amended as follows.

#### *Types of expenditure for which first-year allowances available*

2 In section 39, after the entry relating to section 45D (which is inserted by Schedule 19 to this Act) add—

“section 45E	expenditure on plant or machinery for gas refuelling station”.
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#### *First-year qualifying expenditure: plant or machinery for gas refuelling station*

3 After section 45D (which is added by Schedule 19 to this Act) insert—

#### **“45E Expenditure on plant or machinery for gas refuelling station**

- (1) Expenditure is first-year qualifying expenditure if—
  - (a) it is incurred in the period beginning with 17th April 2002 and ending with 31st March 2008,
  - (b) it is expenditure on plant or machinery for a gas refuelling station where the plant or machinery is unused and not second-hand, and
  - (c) it is not excluded by section 46 (general exclusions).
- (2) For the purposes of this section expenditure on plant or machinery for a gas refuelling station is expenditure on plant or machinery installed at a gas refuelling station for use solely for or in connection with refuelling vehicles with natural gas or hydrogen fuel.
- (3) For the purposes of subsection (2) the plant or machinery which is for use for or in connection with refuelling vehicles with natural gas or hydrogen fuel includes—
  - (a) any storage tank for natural gas or hydrogen fuel,
  - (b) any compressor, pump, control or meter used for or in connection with refuelling vehicles with natural gas or hydrogen fuel, and
  - (c) any equipment for dispensing natural gas or hydrogen fuel to the fuel tank of a vehicle.
- (4) For the purposes of this section—
 

“gas refuelling station” means any premises, or that part of any premises, where vehicles are refuelled with natural gas or hydrogen fuel;

“hydrogen fuel” means a fuel consisting of gaseous or cryogenic liquid hydrogen which is used for propelling vehicles;

“vehicle” means a mechanically propelled road vehicle.”.



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*Status:* Point in time view as at 21/07/2009. This version of this Act contains provisions that are prospective.

*Changes to legislation:* Finance Act 2002 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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### *General exclusions affecting first-year qualifying expenditure*

- 4 In section 46, in subsection (1) (expenditure which is subject to the general exclusions) after the entry relating to section 45D (which is added by Schedule 19 to this Act) add—

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“section 45E	(expenditure on plant or machinery for gas refuelling station)”.
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### *Amount of first-year allowance*

- 5 In section 52(3), in the Table, after the entry relating to expenditure qualifying under section 45D (which is added by Schedule 19 to this Act) add—

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“Expenditure qualifying under section 45E (expenditure on plant or machinery for gas refuelling station)	100%”.
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## SCHEDULE 21

Section 63

### FIRST-YEAR ALLOWANCES FOR EXPENDITURE WHOLLY FOR A RING FENCE TRADE

#### PART 1

#### PLANT AND MACHINERY

#### *Introductory*

- 1 Part 2 of the Capital Allowances Act 2001 (c. 2) (plant and machinery allowances) is amended as follows.

#### *Types of expenditure for which first-year allowances available*

- 2 In section 39, after the entry relating to section 45E (which is added by Schedule 20 to this Act) add “, or

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section 45F	expenditure on plant and machinery for use wholly in a ring fence trade.”.
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#### *First-year qualifying expenditure: plant and machinery for use wholly in a ring fence trade*

- 3 After section 45E (which is inserted by Schedule 20 to this Act) insert—

**“45F Expenditure on plant and machinery for use wholly in a ring fence trade**

- (1) Expenditure is first-year qualifying expenditure if—  
(a) it is incurred on or after 17th April 2002,

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- (b) it is incurred by a company,
  - (c) it is incurred on the provision of plant or machinery for use wholly for the purposes of a ring fence trade, and
  - (d) it is not excluded by section 46 (general exclusions).
- (2) This section is subject to section 45G (plant or machinery used for less than five years in a ring fence trade).
- (3) In this section “ring fence trade” means a ring fence trade in respect of which tax is chargeable under section 501A of the Taxes Act 1988 (supplementary charge in respect of ring fence trades).”.

*Plant or machinery used for less than five years in a ring fence trade*

4 After section 45F insert—

**“45G Plant or machinery used for less than five years in a ring fence trade**

- (1) Expenditure incurred by a company on the provision of plant or machinery is to be treated as never having been first-year qualifying expenditure under section 45F if the plant or machinery—
- (a) is at no time in the relevant period used in a ring fence trade carried on by the company or a company connected with it, or
  - (b) is at any time in the relevant period used for a purpose other than that of a ring fence trade carried on by the company or a company connected with it.
- (2) For the purposes of this section “the relevant period” means whichever of the following periods, beginning with the incurring of the expenditure, first ends, namely—
- (a) the period ending with the fifth anniversary of the incurring of the expenditure, or
  - (b) the period ending with the day preceding the first occasion on which the plant or machinery, after becoming owned by the company which incurred the expenditure, is not owned by a company which is either that company or a company connected with it.
- (3) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (1).
- (4) If a person who has made a return becomes aware that, after making it, anything in it has become incorrect because of the operation of this section, he must give notice to the Inland Revenue specifying how the return needs to be amended.
- (5) The notice must be given within 3 months beginning with the day on which the person first became aware that anything in the return had become incorrect because of the operation of this section.
- (6) In this section “ring fence trade” has the same meaning as in section 45F.”.

*Status:* Point in time view as at 21/07/2009. This version of this Act contains provisions that are prospective.

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*General exclusions affecting first-year qualifying expenditure*

- 5 In section 46, in subsection (1) (expenditure which is subject to the general exclusions) after the entry relating to section 45E (which is added by Schedule 20 to this Act) add “, or

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section 45F	(expenditure on plant and machinery for use wholly in a ring fence trade).”.
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*Amount of first-year allowances*

- 6 In section 52(3), in the Table, after the entry relating to expenditure qualifying under section 45E (which is added by Schedule 20 to this Act) add—

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“Expenditure qualifying under section 45F (expenditure on plant and machinery for use wholly in a ring fence trade) which is long-life asset expenditure	24%
Expenditure qualifying under section 45F (expenditure on plant and machinery for use wholly in a ring fence trade) other than long-life asset expenditure	100%”.

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*Penalty for failure to provide information etc*

- 7 (1) The Taxes Management Act 1970 (c. 9) is amended as follows.
- (2) In the second column of the Table in section 98, in the entry relating to requirements imposed by provisions of the Capital Allowances Act, after “45B(5) and (6),” insert “45G(4) and (5),”.

**PART 2**

MINERAL EXTRACTION ALLOWANCES

*Introductory*

- 8 Part 5 of the Capital Allowances Act 2001 (c. 2) (mineral extraction allowances) is amended as follows.

*First-year qualifying expenditure*

- 9 After section 416, insert the following Chapter—

**“CHAPTER 5A**

FIRST-YEAR QUALIFYING EXPENDITURE

*Status:* Point in time view as at 21/07/2009. This version of this Act contains provisions that are prospective.

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### *General*

#### **416A First-year allowances available for certain types of qualifying expenditure**

A first-year allowance is not available unless the qualifying expenditure is first-year qualifying expenditure under section 416B (expenditure incurred wholly for purposes of a ring fence trade).

### *Types of expenditure which may qualify for first year allowances*

#### **416B Expenditure incurred by company for purposes of a ring fence trade**

- (1) Expenditure is first-year qualifying expenditure if—
  - (a) it is incurred on or after 17th April 2002,
  - (b) it is incurred by a company,
  - (c) it is incurred wholly for the purposes of a ring fence trade, and
  - (d) it is not excluded by—
    - (i) subsection (2) (acquisition of mineral asset), or
    - (ii) subsection (3) (acquisition of asset representing expenditure of connected company).
- (2) Expenditure is not first-year qualifying expenditure under this section if it is expenditure on acquiring a mineral asset.
- (3) Expenditure is not first-year qualifying expenditure under this section if it is expenditure incurred by a company on the acquisition of an asset representing expenditure incurred by a company connected with that company.
- (4) To the extent that references in this section to an asset representing expenditure incurred by a company include a reference to an asset representing expenditure on mineral exploration and access, they also include a reference to any results obtained from any search, exploration or inquiry on which any such expenditure was incurred.
- (5) In this section “ring fence trade” means a ring fence trade in respect of which tax is chargeable under section 501A of the Taxes Act 1988 (supplementary charge in respect of ring fence trades).

### *Supplementary*

#### **416C Time when expenditure is incurred**

- (1) In determining whether expenditure is first-year qualifying expenditure under this Chapter, any effect of the provisions specified in subsection (2) on the time at which the expenditure is to be treated as incurred is to be disregarded.

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- (2) The provisions are—
- (a) section 400(4) (which treats certain pre-trading expenditure as incurred on the first day of trading), and
  - (b) section 434 (which treats certain other expenditure incurred for the purposes of a trade about to be carried on as incurred on that day).”.

### *First-year allowances*

10 At the beginning of Chapter 6 (allowances and charges) insert—

#### *“First-year allowances*

#### **First-year allowances**

416D) A person is entitled to a first-year allowance in respect of first-year qualifying expenditure if the expenditure is incurred in a chargeable period to which this Act applies.

- (2) Any first-year allowance is made for the chargeable period in which the first-year qualifying expenditure is incurred.
- (3) The amount of the allowance is a percentage of the first-year qualifying expenditure in respect of which the allowance is made, as shown in the Table—

TABLE

#### AMOUNT OF FIRST-YEAR ALLOWANCES

<i>Type of first-year qualifying expenditure</i>	<i>Amount</i>
Expenditure qualifying under section 416B (expenditure incurred wholly for the purposes of a ring fence trade)	100%

- (4) A person who is entitled to a first-year allowance may claim the allowance in respect of the whole or a part of the first-year qualifying expenditure.
- (5) This section is subject to section 416E (artificially inflated claims for first-year allowances).”.

### *Artificially inflated claims for first-year allowances*

11 After section 416D insert—

#### **“416E Artificially inflated claims for first-year allowances**

- (1) To the extent that a transaction is attributable to arrangements entered into wholly or mainly for a disqualifying purpose, it shall be disregarded in determining for a chargeable period the amount of any first-year allowance to which a person is entitled.

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- (2) For the purposes of this section, arrangements are entered into wholly or mainly for a “disqualifying purpose” if their main object, or one of their main objects, is to enable a person to obtain—
- (a) a first-year allowance to which he would not otherwise be entitled, or
  - (b) a first-year allowance of a greater amount than that to which he would otherwise be entitled.
- (3) In this section “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable.”.

*Amount of allowances and charges: balancing charge for period in which expenditure incurred*

- 12 (1) Section 418 is amended as follows.
- (2) In subsection (4) (amount of balancing charge) after paragraph (b) insert the following as a second sentence—
- “Where a person is liable to a balancing charge in respect of first-year qualifying expenditure for the chargeable period in which he incurred the expenditure, any first-year allowance made in respect of the expenditure shall be treated for the purposes of paragraph (b) as if it were an allowance for an earlier chargeable period.”.

*Unrelieved qualifying expenditure: effect of first-year qualifying expenditure*

- 13 (1) Section 419 is amended as follows.
- (2) In subsection (1) (amount of qualifying expenditure which is unrelieved qualifying expenditure for the chargeable period in which the expenditure is incurred) for “the whole of it” substitute—
- “(a) the whole of it, unless the expenditure is first-year qualifying expenditure, or
  - (b) if the expenditure is first-year qualifying expenditure, none of it,
- but paragraph (b) is subject to subsections (3) to (5). ”.
- (3) After subsection (2) insert—
- “(3) If, in the case of expenditure which is first-year qualifying expenditure, a disposal receipt falls to be brought into account for the chargeable period in which the expenditure is incurred (“the initial period”), subsection (4) below applies.
- (4) Where this subsection applies, the unrelieved balance of the expenditure shall be taken to be unrelieved qualifying expenditure for the initial period, but only for the purpose specified in subsection (5).
- (5) The purpose is that of determining in accordance with sections 417 and 418—
- (a) any question whether the person who incurred the expenditure—
    - (i) is entitled to a balancing allowance for the initial period, or
    - (ii) is liable to a balancing charge for that period, and

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**Status:** Point in time view as at 21/07/2009. This version of this Act contains provisions that are prospective.  
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- (b) if so, the amount of that balancing allowance or balancing charge.
- (6) In this section “the unrelieved balance of the expenditure” means so much of the first-year qualifying expenditure in question as remains after deducting the amount of any first-year allowance given in respect of the whole or any part of that expenditure.”.

F217 SCHEDULE 22

Section 64

.....

**Textual Amendments**

**F217** Sch. 22 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 540, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

SCHEDULE 23

Section 79

EXCHANGE GAINS AND LOSSES FROM LOAN RELATIONSHIPS ETC

**PART 1**

AMENDMENTS OF THE FINANCE ACT 1996

*Introductory*

- 1 Chapter 2 of Part 4 of the Finance Act 1996 (c. 8) (loan relationships) is amended in accordance with the following provisions of this Part.

*Meaning of “related transaction”*

F218<sub>2</sub> .....

**Textual Amendments**

**F218** Sch. 23 para. 2 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Exchange gains and losses from loan relationships etc*

F219<sub>3</sub> .....

*Status: Point in time view as at 21/07/2009. This version of this Act contains provisions that are prospective.*  
*Changes to legislation: Finance Act 2002 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

**F219** Sch. 23 para. 3 repealed (with effect in accordance with Sch. 11 Pt. 2(6) Note 3 of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **Sch. 11 Pt. 2(6)**

#### *Authorised accounting methods*

**F220**<sup>4</sup> .....

#### Textual Amendments

**F220** Sch. 23 para. 4 repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 42 Pt. 2(6)**

#### *Convertible securities etc: exchange gains and losses*

**F221**<sup>5</sup> .....

#### Textual Amendments

**F221** Sch. 23 para. 5 repealed (with effect in accordance with s. 52(3), Sch. 10 para. 9(2)(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 42 Pt. 2(6)**

#### *Extension of section 100 to exchange gains and losses and to items other than money debts*

**F222**<sup>6</sup> .....

#### Textual Amendments

**F222** Sch. 23 para. 6 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

#### *Interpretation*

**F223**<sup>7</sup> .....

#### Textual Amendments

**F223** Sch. 23 para. 7 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

#### *Bad debt etc: cases where departure allowed from assumption of prompt payment in full*

**F224**<sup>8</sup> .....



**Status:** Point in time view as at 21/07/2009. This version of this Act contains provisions that are prospective.

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**Textual Amendments**

**F224** Sch. 23 para. 8 repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(6\)](#)

*Bad debts etc where parties have a connection*

**F225**<sup>9</sup> .....

**Textual Amendments**

**F225** Sch. 23 paras. 9-15 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

*Transactions not at arm's length*

**F225**<sup>10</sup> .....

**Textual Amendments**

**F225** Sch. 23 paras. 9-15 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

*Exchange gains and losses where loan not on arm's length terms*

**F225**<sup>11</sup> .....

**Textual Amendments**

**F225** Sch. 23 paras. 9-15 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

*Continuity of treatment: groups etc*

**F225**<sup>12</sup> .....

**Textual Amendments**

**F225** Sch. 23 paras. 9-15 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

*Loan relationships for unallowable purposes*

**F225**<sup>13</sup> .....

*Status: Point in time view as at 21/07/2009. This version of this Act contains provisions that are prospective.  
 Changes to legislation: Finance Act 2002 is up to date with all changes known to be in force on or before  
 30 June 2024. There are changes that may be brought into force at a future date. Changes that have  
 been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**

**F225** Sch. 23 paras. 9-15 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Life assurance business*

**F225** 14 .....

**Textual Amendments**

**F225** Sch. 23 paras. 9-15 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Special provisions for insurers: apportionments*

**F225** 15 .....

**Textual Amendments**

**F225** Sch. 23 paras. 9-15 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Savings and transitional provisions in the Finance Act 1996*

16 In Schedule 15 (savings and transitional provisions) omit paragraphs 22 to 24.

**PART 2**

AMENDMENTS OF OTHER LEGISLATION

*The Income and Corporation Taxes Act 1988*

*Charges on income*

- 17 (1) Section 494 of the Taxes Act 1988 is amended in accordance with the following provisions of this paragraph.
- (2) Subsection (2) (debts not to be brought into account in a manner which results in the reduction of what would otherwise be the company's ring fence profits, except as provided in the subsequent paragraphs) is amended as follows.
- (3) In paragraph (c) (debts in respect of a deemed loan relationship)—
- (a) for "a loan relationship deemed to exist for the purposes of section 100 of that Act," substitute "a relationship to which section 100 of that Act applies,";
  - (b) after "to the extent that" insert "(i)"; and
  - (c) after "above;" insert "or

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- (ii) the exchange loss arising from that relationship is in respect of a money debt on which the interest payable (if any) is, or would be, such expenditure;

as the case may be; ”.

- (4) In paragraph (d) (debts in respect of debtor relationship which is creditor relationship of associated company)—

- (a) for “in the case of debits” substitute “ in the case of a net debit for an accounting period ”; and
- (b) for “the debit”, in both places where occurring, substitute “ the net debit ”.

- (5) In the second sentence of that subsection (interpretation) for “any loan relationship deemed to exist for the purposes of section 100 of that Act” substitute “ any relationship to which section 100 of that Act applies ”.

- (6) After the second sentence insert the following as a third sentence—

“For the purposes of paragraph (d) above, the net debit for an accounting period in respect of a debtor relationship of a company is the amount if any by which—

- (i) the aggregate of the debits for the period in respect of the relationship, exceeds
- (ii) the credits in respect of exchange gains arising from the relationship for the period.”.

- (7) After subsection (2) insert—

“(2ZA) Credits in respect of exchange gains from a company’s loan relationships shall not be brought into account for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 in respect of any loan relationship of a company in any manner that results in an increase of what would otherwise be the company’s ring fence profits, except to the extent that, if the credit had been a debit in respect of an exchange loss from the relationship, it would have been brought into account by virtue of any of paragraphs (a) to (c) of subsection (2) above.”.

- (8) In subsection (2A) (debts prevented from reducing ring fence profits by subsection (2) to be brought into account for purposes of Chapter 2 of Part 4 of Finance Act 1996 (c. 8) as non-trading debits)—

- (a) after “Where any debit” insert “ or credit ”;
- (b) in paragraph (b)—
  - (i) after “in accordance with subsection (2)” insert “ or (2ZA) ”; and
  - (ii) after “reduction” insert “ or, as the case may be, increase ”; and
- (c) in the closing words—
  - (i) after “that debit” insert “ or credit ”; and
  - (ii) after “non-trading debit” insert “ or, as the case may be, non-trading credit ”.

- (9) After subsection (2A) insert—

“(2B) Where, in accordance with subsection (2) above, any proportion (including the whole) of a net debit, within the meaning of paragraph (d) of that subsection, cannot be brought into account in a manner that results in any

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reduction of what would otherwise be the company's ring fence profits, subsection (2A) above shall apply—

- (a) separately in relation to that proportion of each of the debits and each of the credits brought into account in determining the amount of the net debit, and
- (b) on the assumption that that proportion of each of those debits and credits falls within paragraph (b) of that subsection.”.

*Supplementary charge in respect of ring fence trades*

- 18 (1) In section 501A of the Taxes Act 1988, subsection (5) (computation of financing costs) is amended as follows.
- (2) In paragraph (a) (costs giving rise to debits in respect of debtor relationships) after “(loan relationships)” insert “, other than debits in respect of exchange losses from such relationships (see section 103(1A) and (1B) of that Act) ”.
- (3) For paragraph (b) (exchange gain or loss, within the meaning of Chapter 2 of Part 2 of the Finance Act 1993 (c. 34), in relation to debt finance) substitute—
- “(b) any exchange gain or loss from a debtor relationship, within the meaning of that Chapter (see section 103(1A) and (1B) of that Act), in relation to debt finance;”.

F226<sup>19</sup> .....

**Textual Amendments**

**F226** Sch. 23 para. 19 repealed (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 11 Pt. 2\(6\)](#)

*Double taxation relief*

- 20 (1) Section 798B of the Taxes Act 1988 (adjustments of interest and dividends for spared tax etc) is amended as follows.
- (2) In subsection (5) (meaning of “qualifying losses”) for paragraph (a) (exchange losses under Finance Act 1993) substitute—
- “(a) exchange losses falling to be brought into account as debits for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships); and”.

*Provision not at arm's length: foreign exchange gains and losses*

- 21 (1) In Schedule 28AA to the Taxes Act 1988 (provision not at arm's length) paragraph 8 (foreign exchange gains and losses etc) is amended as follows.
- (2) In sub-paragraph (1) (exceptions)—
- (a) for “Subject to sub-paragraph (2)” substitute “ Subject to sub-paragraph (3) ”; and
  - (b) for paragraph (a) (which relates to Chapter 2 of Part 2 of the Finance Act 1993) substitute—

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“(a) Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships) in respect of exchange gains or losses from loan relationships (as defined in section 103(1A) and (1B) of that Act), or”.

(3) For sub-paragraph (2) (saving for certain provisions of sections 136 and 136A of the Finance Act 1993 (application of arm’s length test)) substitute—

“(3) Sub-paragraph (1) above shall not affect so much of paragraph 11A of Schedule 9 to the Finance Act 1996 (loan relationships: exchange gains or losses where loan not on arm’s length terms) as has effect by reference to whether profits or losses fall to be computed by virtue of this Schedule as if the whole or any part of a loan had not been made.”.

#### *The Finance Act 1995*

##### *Miscellaneous amendments*

- 22 (1) The Finance Act 1995 (c. 4) is amended as follows.
- (2) Omit section 131(which made transitional provision in relation to exchange gains and losses and which is spent).
- (3) In Part 2 of Schedule 24 (amendments of certain enactments) in paragraph 7 (commencement on day appointed under section 165(7)(b) of Finance Act 1993) for the words following “come into force on” substitute “ 23rd March 1995 ”.

#### *The Finance Act 2000*

##### *Tonnage tax*

- 23 (1) Schedule 22 to the Finance Act 2000 (c. 17) is amended as follows.
- (2) In paragraph 50 (relevant shipping income: certain interests etc) in sub-paragraph (2) (income to which paragraph 50 applies) at the end of paragraph (a) insert “ and ”.
- (3) In paragraph 63 (meaning of “finance costs”) in sub-paragraph (2)(c) (exchange gain or loss) for “within the meaning of Chapter II of Part II of the Finance Act 1993” substitute “ within the meaning given by section 103(1A) of the Finance Act 1996 ”.

#### *The Finance Act 2002*

##### *Intangible fixed assets: assets entirely excluded: financial assets*

- 24 (1) Schedule 29 to the Finance Act 2002 (gains and losses of a company from intangible fixed assets) is amended as follows.
- (2) In paragraph 75 (assets entirely excluded: financial assets) in sub-paragraph (3) for paragraph (a) (money debts) substitute—
- “(a) loan relationships;”.

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### PART 3

#### TRANSITIONAL PROVISIONS ETC

##### *Anti-avoidance: change of accounting period*

F227 25 .....

##### **Textual Amendments**

**F227** Sch. 23 para. 25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 541\(2\)](#), **Sch. 3 Pt. 1** (with [Pts. 1, 2](#), [Sch. 2 para. 57](#))

##### *Deferred foreign exchange gains*

- 26 (1) The repeal of sections 139 to 143 of the Finance Act 1993 (c. 34) (foreign exchange gains and losses) does not prevent the making of a claim under section 139 of that Act (deferral of unrealised gains) by a company in respect of a gain accruing in an accrual period which begins with, or at any time in, the last accounting period of the company which begins before 1st October 2002; but any such claim shall have effect subject to the following provisions of this paragraph and (subject to regulations under section 81) regulations under Chapter 2 of Part 2 of that Act.
- (2) Amounts which, but for the repeal of subsections (4) to (10) of section 140 of the Finance Act 1993, would fall to be treated by virtue of those subsections as exchange gains for an accrual period which consists of, or falls in, an accounting period beginning on or after 1st October 2002—
- (a) shall be brought into account for that accounting period as if they were credits falling for the purposes of <sup>F228</sup>Part 5 of the Corporation Tax Act 2009] to be brought into account in respect of the company's loan relationships;
  - (b) shall be treated for the purposes of <sup>F229</sup>that Part] as non-trading credits, to the extent that they would, but for the repeal of subsections (5), (8) and (9) of section 140 of the Finance Act 1993, have fallen to be treated by virtue of those subsections as non-trading exchange gains; and
  - (c) except as provided by paragraph (b), shall be brought into account under <sup>F230</sup>section 297(2) of the Corporation Tax Act 2009] (trading credits).
- (3) Before the expiration of the period of 2 years following the end of its first accounting period beginning on or after 1st October 2002, a company may elect for any amounts that would otherwise fall to be brought into account for that accounting period in accordance with paragraph (a) of sub-paragraph (2) instead to be brought into account in accordance with that sub-paragraph, but—
- (a) over the first 6 accounting periods of the company which begin on or after 1st October 2002; and
  - (b) in instalments of an equal amount for each such accounting period.
- (4) If a company—
- (a) makes an election under sub-paragraph (3), but
  - (b) ceases to be within the charge to corporation tax before six accounting periods of the company which begin on or after 1st October 2002 have elapsed,

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any instalment under that sub-paragraph which does not fall to be brought into account for an earlier accounting period shall be brought into account for the accounting period in which the company ceases to be within the charge to corporation tax.

F231(5) .....

**Textual Amendments**

- F228** Words in Sch. 23 para. 26(2)(a) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 541(3)(a)(i)** (with Sch. 2 Pts. 1, 2)
- F229** Words in Sch. 23 para. 26(2)(b) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 541(3)(a)(ii)** (with Sch. 2 Pts. 1, 2)
- F230** Words in Sch. 23 para. 26(2)(c) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 541(3)(a)(iii)** (with Sch. 2 Pts. 1, 2)
- F231** Sch. 23 para. 26(5) repealed (with effect in accordance with Sch. 11 Pt. 2(6) Note 3 of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 11 Pt. 2(6)**

SCHEDULE 24

Section 80

CORPORATION TAX: CURRENCY

**Modifications etc. (not altering text)**

- C12** Sch. 24 extended (retrospective to 30.9.2002) by Finance Act 2003 (c. 14), s. 177(4)(8)(11)

*The Finance Act 1993*

*Introductory*

F232<sub>1</sub> .....

**Textual Amendments**

- F232** Sch. 24 paras. 1-6 repealed (with effect in accordance with s. 52(3) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 2(6)**

*The basic rule: sterling to be used*

F232<sub>2</sub> .....

**Textual Amendments**

- F232** Sch. 24 paras. 1-6 repealed (with effect in accordance with s. 52(3) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 2(6)**

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*Use of currency other than sterling: accounts as a whole etc in foreign currency*

F232<sub>3</sub> .....

**Textual Amendments**

**F232** Sch. 24 paras. 1-6 repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(6\)](#)

*Use of currency other than sterling: accounts etc partly from statements in foreign currency*

F232<sub>4</sub> .....

**Textual Amendments**

**F232** Sch. 24 paras. 1-6 repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(6\)](#)

*Rules for ascertaining currency equivalents: general*

F232<sub>5</sub> .....

**Textual Amendments**

**F232** Sch. 24 paras. 1-6 repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(6\)](#)

*Rules for ascertaining sterling equivalent for section 93(4) or (5)*

F232<sub>6</sub> .....

**Textual Amendments**

**F232** Sch. 24 paras. 1-6 repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(6\)](#)

*The Finance Act 1994*

*Lloyd's underwriters: corporations etc*

- 7 (1) Section 226 of the Finance Act 1994 (c. 9) (provisions which are not to apply to corporate members of Lloyd's) is amended as follows.
- (2) Subsection (1) (which prevents sections 92 to 95 of the Finance Act 1993 (c. 34) from applying) shall cease to have effect (and sections 92 to 94AB of that Act shall accordingly apply for the purposes of computing for the purposes of corporation tax the profits or losses of a corporate member's underwriting business).



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## SCHEDULE 25

Section 82

### LOAN RELATIONSHIPS

#### PART 1

#### AMENDMENTS OF THE FINANCE ACT 1996

##### *Introductory*

- 1 Chapter 2 of Part 4 of the Finance Act 1996 (c. 8) (loan relationships) is amended in accordance with the following provisions of this Part of this Schedule.

##### *Meaning of “loan relationship” etc: method of settlement*

F233<sub>2</sub> .....

###### **Textual Amendments**

**F233** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

##### *Non-trading deficit on loan relationships*

F233<sub>3</sub> .....

###### **Textual Amendments**

**F233** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

##### *Debits and credits brought into account*

F234<sub>4</sub> .....

###### **Textual Amendments**

**F234** Sch. 25 paras. 4-6 repealed (with effect in accordance with s. 52(3) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 2(6)**

##### *Authorised accounting methods*

F234<sub>5</sub> .....

###### **Textual Amendments**

**F234** Sch. 25 paras. 4-6 repealed (with effect in accordance with s. 52(3) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 2(6)**

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### *Application of accounting methods*

F234<sup>6</sup> .....

#### **Textual Amendments**

**F234** Sch. 25 paras. 4-6 repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(6\)](#)

### *Accounting method where parties have a connection*

F233<sup>7</sup> .....

#### **Textual Amendments**

**F233** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

### *Meaning of “control” in section 87*

F233<sup>8</sup> .....

#### **Textual Amendments**

**F233** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

### *Inconsistent application of accounting methods*

F233<sup>9</sup> .....

#### **Textual Amendments**

**F233** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

### *Changes of accounting method*

F235<sup>10</sup> .....

#### **Textual Amendments**

**F235** Sch. 25 para. 10 repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(6\)](#)

### *Payments subject to deduction of tax*

F233<sup>11</sup> .....

**Status:** Point in time view as at 21/07/2009. This version of this Act contains provisions that are prospective.  
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**Textual Amendments**

**F233** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Indexed gilt-edged securities*

**F233**12 .....

**Textual Amendments**

**F233** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Manufactured interest*

**F233**13 .....

**Textual Amendments**

**F233** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Interpretation: “shares” not to include building society shares*

**F233**14 .....

**Textual Amendments**

**F233** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Interpretation: miscellaneous*

**F233**15 .....

**Textual Amendments**

**F233** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Provision continuing to be made on accruals basis after company ceases to be party*

**F233**16 .....

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#### Textual Amendments

**F233** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

#### *Claims to treat deficit as eligible for group relief*

**F233**17 .....

#### Textual Amendments

**F233** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

#### *Claim to carry back deficit to previous accounting periods*

**F233**18 .....

#### Textual Amendments

**F233** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

#### *Deficit carried forward and set against non-trading profits of succeeding accounting periods*

**F233**19 .....

#### Textual Amendments

**F233** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

#### *Distributions*

**F233**20 .....

#### Textual Amendments

**F233** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

#### *Life assurance policies and capital redemption policies*

**F236**21 .....

*Status: Point in time view as at 21/07/2009. This version of this Act contains provisions that are prospective.*

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**Textual Amendments**

**F236** Sch. 25 para. 21 omitted (with effect in accordance with Sch. 14 para. 18 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 14 para. 17(k)**

*Late interest: further cases where paragraph 2 of Schedule 9 applies*

**F233**22 .....

**Textual Amendments**

**F233** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Bad debts and consortium relief*

**F233**23 .....

**Textual Amendments**

**F233** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Bad debt etc where parties have a connection*

**F233**24 .....

**Textual Amendments**

**F233** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Bad debt etc: parties having connection and creditor company in insolvent liquidation etc*

**F233**25 .....

**Textual Amendments**

**F233** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**F237**26 .....

**Textual Amendments**

**F237** Sch. 25 para. 26 repealed (7.4.2005) by Finance Act 2005 (c. 7), **Sch. 11 Pt. 2(5)**

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*Bad debt etc: departure not permitted by paragraph 6: subsequent cessation of connection*

F238<sup>27</sup> .....

**Textual Amendments**

**F238** Sch. 25 paras. 27-36 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Imported losses etc*

F238<sup>28</sup> .....

**Textual Amendments**

**F238** Sch. 25 paras. 27-36 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Continuity of treatment: groups etc*

F238<sup>29</sup> .....

**Textual Amendments**

**F238** Sch. 25 paras. 27-36 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Loan relationships for unallowable purposes*

F238<sup>30</sup> .....

**Textual Amendments**

**F238** Sch. 25 paras. 27-36 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Debits and credits treated as relating to capital expenditure*

F238<sup>31</sup> .....

**Textual Amendments**

**F238** Sch. 25 paras. 27-36 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Repo transactions and stock lending*

F239<sup>32</sup> .....

*Status: Point in time view as at 21/07/2009. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Finance Act 2002 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**

**F239** Sch. 25 para. 32 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), **Sch. 27 Pt. 2(14)**

*Discounted securities where companies have a connection*

<sup>F238</sup>33 .....

**Textual Amendments**

**F238** Sch. 25 paras. 27-36 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Discounted securities of close companies*

<sup>F238</sup>34 .....

**Textual Amendments**

**F238** Sch. 25 paras. 27-36 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Partnerships involving companies*

<sup>F238</sup>35 .....

**Textual Amendments**

**F238** Sch. 25 paras. 27-36 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Interpretation of Schedule 9: “major interest”*

<sup>F238</sup>36 .....

**Textual Amendments**

**F238** Sch. 25 paras. 27-36 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Investment trusts and venture capital trusts: treatment of capital reserves*

- 37 (1) Schedule 10 (collective investment schemes) is amended as follows.
- (2) For paragraph 1 substitute—

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**“Investment trusts and venture capital trusts: capital reserves**

- 1A (1) Where any profits, gains or losses arising to an investment trust from a creditor relationship for an accounting period are carried to or sustained by a capital reserve in accordance with the Statement of Recommended Practice used for that accounting period, those profits, gains or losses must not be brought into account as credits or debits for the purposes of this Chapter, notwithstanding section 84(2)(b) of this Act.
- (2) Where any profits, gains or losses arising to a venture capital trust from a creditor relationship for an accounting period—
- (a) are carried to or sustained by a capital reserve in accordance with the Statement of Recommended Practice used for the accounting period as if the venture capital trust were an investment trust, or
  - (b) would be carried to or sustained by a capital reserve if the venture capital trust were an investment trust and were using that Statement of Recommended Practice,
- those profits, gains or losses must not be brought into account as credits or debits for the purposes of this Chapter, notwithstanding section 84(2)(b) of this Act.
- (3) For the purposes of this paragraph, the “Statement of Recommended Practice” used for an accounting period is—
- (a) in relation to an accounting period for which it is permitted to be used, the Statement of Recommended Practice relating to Investment Trust Companies, issued by the Association of Investment Trust Companies in December 1995, as from time to time modified, amended or revised, or
  - (b) in relation to any accounting period for which it is permitted to be used, any subsequent Statement of Recommended Practice relating to investment trusts, as from time to time modified, amended or revised.”.

*Authorised unit trusts and open-ended investment companies*

- 38 (1) Schedule 10 (collective investment schemes) is amended as follows.
- (2) For paragraph 2 (which makes special provision in relation to authorised unit trusts and is applied to open-ended investment companies by regulations under section 152 of the Finance Act 1995 (c. 4)) and the heading immediately preceding it substitute—

**“Authorised unit trusts**

- 2A (1) Where any profits, gains or losses arising to an authorised unit trust from a creditor relationship in an accounting period are capital profits, gains or losses, those profits, gains or losses must not be brought into account as credits or debits for the purposes of this Chapter, notwithstanding section 84(2)(b) of this Act.
- (2) For the purposes of this paragraph, capital profits, gains or losses arising from a creditor relationship in an accounting period are such profits, gains or losses arising from a creditor relationship as fall to be dealt with under—



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- (a) the heading “net gains/losses on investments during the period”, or
  - (b) the heading “other gains/losses”,in the statement of total return for the accounting period.
- (3) For the purposes of sub-paragraph (2) above, the statement of total return for an accounting period is the statement of total return which, in accordance with the Statement of Recommended Practice used for the accounting period, must be included in the accounts contained in the annual report of the authorised unit trust which deals with the accounting period.
- (4) For the purposes of sub-paragraph (3) above, “Statement of Recommended Practice” means—
  - (a) in relation to any accounting period for which it is required or permitted to be used, the Statement of Recommended Practice relating to Authorised Unit Trust Schemes issued by the Investment Management Regulatory Organisation Limited in January 1997, as from time to time modified, amended or revised; or
  - (b) in relation to any accounting period for which it is required or permitted to be used, any subsequent Statement of Recommended Practice relating to authorised unit trust schemes, as from time to time modified, amended or revised.
- (5) The Treasury may by order amend this paragraph so as to alter the definition of capital profits, gains or losses in consequence of the modification, amendment, revision or replacement of a Statement of Recommended Practice.
- (6) The power to make an order under this paragraph includes power—
  - (a) to make different provision for different cases; and
  - (b) to make such consequential, supplementary, incidental or transitional provision, or savings, as appear to the Treasury to be necessary or expedient (including provision amending any enactment or any instrument made under any enactment).

### **Open-ended investment companies**

- 2B (1) Where any profits, gains or losses arising to an open-ended investment company from a creditor relationship in an accounting period are capital profits, gains or losses, those profits, gains or losses must not be brought into account as credits or debits for the purposes of this Chapter, notwithstanding section 84(2)(b) of this Act.
- (2) For the purposes of this paragraph, capital profits, gains or losses arising from a creditor relationship in an accounting period are such profits, gains or losses arising from a creditor relationship as fall to be dealt with under—
    - (a) the heading “net gains/losses on investments during the period”, or
    - (b) the heading “other gains/losses”,in the statement of total return for the accounting period.
  - (3) For the purposes of sub-paragraph (2) above, the statement of total return for an accounting period is the statement of total return which, in accordance with the Statement of Recommended Practice used for the accounting period,

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must be included in the accounts contained in the annual report of the open-ended investment company which deals with the accounting period.

- (4) For the purposes of sub-paragraph (3) above, “Statement of Recommended Practice” means—
- (a) in relation to any accounting period for which it is required or permitted to be used, the Statement of Recommended Practice relating to Open-Ended Investment Companies issued by the Financial Services Authority in November 2000, as from time to time modified, amended or revised; or
  - (b) in relation to any accounting period for which it is required or permitted to be used, any subsequent Statement of Recommended Practice relating to open-ended investment companies, as from time to time modified, amended or revised.
- (5) The Treasury may by order amend this paragraph so as to alter the definition of capital profits, gains or losses in consequence of the modification, amendment, revision or replacement of a Statement of Recommended Practice.
- (6) The power to make an order under this paragraph includes power—
- (a) to make different provision for different cases; and
  - (b) to make such consequential, supplementary, incidental or transitional provision, or savings, as appear to the Treasury to be necessary or expedient (including provision amending any enactment or any instrument made under any enactment).”.

### *Distributing offshore funds*

39 For paragraph 3 of that Schedule substitute—

- “3 (1) For the purposes of paragraph 5(1) of Schedule 27 to the Taxes Act 1988 (computation of UK equivalent profit), the assumptions to be made in determining what, for any period, would be the total profits of an offshore fund are to include the assumptions in sub-paragraphs (2) and (3) below.
- (2) The first assumption is that the provisions of this Chapter so far as they relate to the creditor relationships of a company do not apply for the purposes of corporation tax in computing the profits or loss of an offshore fund.
- (3) The second assumption is that for the purposes of corporation tax the profits and gains, and losses, that are to be taken to arise from the creditor relationships of an offshore fund are to be computed—
- (a) in accordance with the provisions applicable, in the case of unauthorised unit trusts, for the purposes of income tax; and
  - (b) as if the provisions so applicable had effect in relation to an accounting period of an offshore fund as they have effect, in the case of unauthorised unit trusts, in relation to a year of assessment.

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- (4) In this paragraph “unauthorised unit trust” means the trustees of any unit trust scheme which is not an authorised unit trust but is a unit trust scheme for the purposes of section 469 of the Taxes Act 1988.”.

### Life assurance business

F240 40 .....

#### Textual Amendments

**F240** Sch. 25 para. 40 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 3 Pt. 1 (with Sch. 2 Pts. 1, 2)

### Adjustments in the case of chargeable assets etc

- 41 (1) In Schedule 15 (loan relationships: savings and transitional provisions) paragraph 11 is amended as follows.

- (2) After sub-paragraph (2) insert—

“(2A) If, in a case where the continuing loan relationship is a creditor relationship,

- 
- (a) the company acquired its rights under the relationship on or before 31st March 1996 by virtue of an arm’s length transaction,
  - (b) for the accounting period in which it acquired those rights—
    - (i) there was no connection (as defined in sub-paragraph (2C) below) between the company and the person from whom the company acquired the asset, but
    - (ii) there was such a connection between the company and a company standing in the position of a debtor as respects the money debt, and
  - (c) there had been no such connection between the companies mentioned in paragraph (b)(ii) above at any time in the period which—
    - (i) begins 4 years before the date on which the company acquired those rights, and
    - (ii) ends twelve months before that date,

this paragraph shall have effect as if the amount mentioned in sub-paragraph (2)(b) above were an amount equal to the greater of the amounts mentioned in sub-paragraph (2B) below.

- (2B) Those amounts are—

- (a) the fair value of the rights at the time when the company ceases to be a party to the loan relationship; and
- (b) the fair value of the rights on 1st April 1996.

- (2C) For the purposes of sub-paragraph (2A) above there is a connection between a company and another person at any time if at that time—

- (a) the other person is a company and one of the companies has control of the other,

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- (b) the other person is a company and both companies are under the control of the same person, or
- (c) the company is a close company and the other person is a participator in that company or the associate of a person who is such a participator,

and there is a connection between a company and another person for an accounting period if there is a connection (within paragraphs (a) to (c) above) between the company and the person at any time in that accounting period.

(2D) For the purposes of sub-paragraph (2C) above—

- (a) subsections (2) to (6) of section 416 of the Taxes Act 1988 (meaning of control) shall apply as they apply for the purposes of Part 11 of that Act;
- (b) subject to paragraph (c) below, “participator” and “associate” have the meaning given for the purposes of that Part by section 417 of that Act;
- (c) a person shall not be regarded as a participator in relation to a company by reason only that he is a loan creditor of the company.”.

*Reduction of paragraph 11 credit where s.251(4) of 1992 Act prevents paragraph 8 loss*

42 In Schedule 15, after paragraph 11 (other adjustments in the case of chargeable assets etc) insert—

**“Reduction of paragraph 11 credit where s.251(4) of 1992 Act prevents paragraph 8 loss**

- 11A (1) This paragraph applies where, in the case of any asset representing in whole or in part a loan relationship of a company, an amount representing a deemed allowable loss would (apart from this paragraph) fall or have fallen to be brought into account in accordance with paragraph 8(3) above for an accounting period (whenever beginning or ending), but for section 251(4) of the 1992 Act (no allowable loss on disposal of debt acquired from connected person).
- (2) Where this paragraph applies, the amount of any credit falling within sub-paragraph (3) below shall be treated for the purposes of this Chapter as reduced (but not below nil) by the amount described in sub-paragraph (1) above.
- (3) A credit falls within this sub-paragraph if (apart from this paragraph)—
- (a) the credit falls to be given by virtue of paragraph 11(3)(a) above for an accounting period beginning on or after 1st October 2002; and
  - (b) the loan relationship mentioned in paragraph 11(1)(a) above in the case of the credit is the same loan relationship as the one mentioned in sub-paragraph (1) above.”.

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## PART 2

### AMENDMENTS OF OTHER ENACTMENTS

#### *The Taxes Act 1988*

##### *Introductory*

43 The Taxes Act 1988 is amended as follows.

##### *Incidental costs of obtaining loan finance*

44 In section 77(2)(a) (meaning of “qualifying loan” etc) omit sub-paragraph (ii) (interest deductible under section 338 against total profits).

##### *Group relief*

45 In section 403ZC (amounts eligible for group relief: non-trading deficit on loan relationships) omit subsection (2) (which refers to a claim under section 83(2) of the Finance Act 1996 (c. 8)).

F241 46 .....

##### **Textual Amendments**

**F241** Sch. 25 para. 46 repealed (with effect in accordance with Sch. 43 Pt. 3(12) Note 1 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), **Sch. 43 Pt. 3(12)**

##### *Building society shares: regulations for deduction of tax*

F242 47 .....

##### **Textual Amendments**

**F242** Sch. 25 para. 47 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

##### *Building society shares: incidental costs of issuing qualifying shares*

F243 48 .....

##### **Textual Amendments**

**F243** Sch. 25 para. 48 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

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### *European Economic Interest Groupings*

- 49 (1) Section 510A is amended as follows.
- (2) In paragraph (b) of subsection (3) (charging tax in respect of gains) for “gains” substitute “chargeable gains”.
- (3) After that paragraph add
- “;but paragraph (a) above is subject to subsection (6A) below.”.
- (4) After subsection (6) (trade or profession carried on by grouping treated for tax on income and gains as carried on by a partnership) insert—
- “(6A) Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships) shall have effect in relation to a grouping as it has effect in relation to a partnership (see in particular section 87A of, and paragraphs 19 and 20 of Schedule 9 to, that Act).”.

### *Funding bonds issued in respect of interest on certain debts*

F244<sup>50</sup> .....

#### **Textual Amendments**

**F244** Sch. 25 para. 50 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

### *Transfers of income arising from securities*

F245<sup>51</sup> .....

#### **Textual Amendments**

**F245** Sch. 25 para. 51 repealed (with effect in accordance with Sch. 11 Pt. 2(8) Note of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **Sch. 11 Pt. 2(8)**

### *Treatment of price differential on sale and repurchase of securities*

F246<sup>52</sup> .....

#### **Textual Amendments**

**F246** Sch. 25 para. 52 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), **Sch. 27 Pt. 2(14)**

### *Restriction of relief for payments of interest*

F247<sup>53</sup> .....

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### Textual Amendments

**F247** Sch. 25 para. 53 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 3 Pt. 1 (with Sch. 2 Pts. 1, 2)

### Limits on credit: corporation tax

54 In section 797, in subsection (3B) (amounts that must be allocated to trading profits) in paragraph (b) (claims under section 83(2)(d) of the Finance Act 1996) for “a claim under subsection (2)(d) of” substitute “ subsection (3A) of”.

### Foreign tax on items giving rise to a non-trading credit

- 55 (1) Section 797A is amended as follows.
- (2) In subsection (5) (which specifies certain amounts under section 83 of the Finance Act 1996 (c. 8) which are to be aggregated for the purposes of subsection (4))—
- (a) in paragraph (a)—
    - (i) for “(2)(b), (c) or (d)” substitute “ (2)(c) ”; and
    - (ii) for the words from “(group relief” to “deficits)” substitute “ (deficit carried back and set against profits) ”;
  - (b) after paragraph (a) insert—
    - “(aa) so much of any non-trading deficit for that period as is surrendered as group relief by virtue of section 403 of the Taxes Act 1988; and”;
- and
- (c) in paragraph (b), for “(3)” substitute “ (3A) ”.
- (3) In subsection (6), for “in pursuance of a claim under section 83(2)(d)” substitute “ under section 83(3A) ”.

### Investment trusts

- 56 (1) Section 842 is amended as follows.
- (2) In paragraph (a) of subsection (1) (income must be wholly or mainly eligible investment income)—
- (a) after “the company’s income” insert “ (as determined in accordance with subsection (1AB) below) ”; and
  - (b) after “eligible investment income” insert “ (as so determined) ”.
- (3) In paragraph (e) of subsection (1) (company must not retain more than 15% of eligible investment income)—
- (a) for “more than” substitute “ an amount which is greater than ”; and
  - (b) after “eligible investment income” insert “ (determined in accordance with subsection (1AB) below) ”.
- (4) After subsection (1AA) insert—
- “(1AB) In determining for the purposes of paragraph (a) or (e) of subsection (1) above (and accordingly of subsection (2A)(b) below)—

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- (a) the amount of a company's income, or
- (b) the amount of income which a company derives from shares or securities,

the amounts to be brought into account under Chapter 2 of Part 4 of the Finance Act 1996 in respect of the company's loan relationships shall be determined without reference to any debtor relationships of the company.”.

### *Venture capital trusts*

F248 57 .....

#### **Textual Amendments**

**F248** Sch. 25 para. 57 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 421, [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

### *Change in ownership of investment company*

- 58 (1) Schedule 28A is amended as follows.
- (2) In paragraph 6(dc) (amounts in issue for the purposes of section 768B: non-trading deficit carried forward under section 83(3) of the Finance Act 1996 (c. 8)) for “83(3)” substitute “ 83(3A) ”.
  - (3) In paragraph 7(1)(d) (apportionment for section 768B in case of debits falling to be brought into account otherwise than on the assumption that interest does not accrue until paid) omit “and” immediately preceding sub-paragraph (iii) and at the end of that sub-paragraph insert “, and
    - (iv) so falls to be brought into account without any adjustment under paragraph 17 or 18 of that Schedule (debit relating to amount of discount referable to the relevant accounting period to be brought into account instead for the accounting period in which the security is redeemed),”.
  - (4) In paragraph 7(1)(e) (apportionment for section 768B in case of debits falling to be brought into account on the assumption that interest does not accrue until paid) omit “and” immediately preceding sub-paragraph (iii) and at the end of that sub-paragraph insert “, and
    - (iv) so falls to be brought into account with such an adjustment as is mentioned in paragraph (d)(iv) above,”.
  - (5) Omit paragraph 7(2) (which relates to charges consisting of interest and which accordingly has no further application).
  - (6) In paragraph 11(1) (debts that fall within paragraph 11)—
    - F249 (a) .....
    - (b) in paragraph (c) (accounting period in which the debit would have been brought into account, apart from the sub-paragraph mentioned in paragraph (b)) for “apart from that sub-paragraph” substitute “ apart from paragraphs 2(2), 17 and 18 of that Schedule, ”.



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- (7) In paragraph 13(1)(ec) (amounts in issue for the purposes of section 768C: non-trading deficit carried forward under section 83(3) of the Finance Act 1996 (c. 8)) for “83(3)” substitute “ 83(3A) ”.
- (8) In paragraph 16(1)(d) (manner of apportionment in case of debits falling to be brought into account otherwise than on the assumption that interest does not accrue until paid) omit “and” immediately preceding sub-paragraph (iii) and at the end of that sub-paragraph insert “, and
- (iv) so falls to be brought into account without any adjustment under paragraph 17 or 18 of that Schedule (debit relating to amount of discount referable to the relevant accounting period to be brought into account instead for the accounting period in which the security is redeemed),”.

<sup>F250</sup>(9) .....

- (10) Omit paragraph 16(2) (which relates to charges consisting of interest and which accordingly has no further application).

#### Textual Amendments

**F249** Sch. 25 para. 58(6)(a) repealed (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 \(Consequential Amendment of Enactments\) Order 2004 \(S.I. 2004/2310\)](#), art. 1(2), **Sch. para. 66(2)**

**F250** Sch. 25 para. 58(9) repealed (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 \(Consequential Amendment of Enactments\) Order 2004 \(S.I. 2004/2310\)](#), art. 1(2), **Sch. para. 66(3)**

### *The Finance Act 1988*

#### *Commercial woodlands*

- 59 (1) Schedule 6 to the Finance Act 1988 (c. 39) is amended as follows.
- (2) In consequence of Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships) in paragraph 3 (abolition of Schedule D election etc) omit—
- (a) sub-paragraphs (3)(a), (4)(a) and (5)(a) and (b);
  - (b) in sub-paragraph (5), in the words following paragraph (c), the word “group”; and
  - (c) sub-paragraph (6).

### *The Taxation of Chargeable Gains Act 1992*

#### *Interest charged to capital*

- 60 (1) Section 40 of the Taxation of Chargeable Gains Act 1992 (c. 12) is amended as follows.
- (2) After subsection (3) add—

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“(4) In consequence of Chapter 2 of Part 4 of the Finance Act 1996 (c. 8) (loan relationships) this section does not have effect in relation to interest referable to an accounting period ending on or after 1st April 1996.”

### PART 3

#### TRANSITIONAL PROVISIONS

##### *Interpretation*

<sup>F251</sup>61 .....

##### **Textual Amendments**

**F251** Sch. 25 paras. 61-64 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 542, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

##### *Non-trading deficit carried forward from last old accounting period*

<sup>F251</sup>61A .....

##### **Textual Amendments**

**F251** Sch. 25 paras. 61-64 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 542, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

##### *Discounted securities where companies have a connection*

<sup>F251</sup>62 .....

##### **Textual Amendments**

**F251** Sch. 25 paras. 61-64 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 542, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

##### *Discounted securities of close companies*

<sup>F251</sup>63 .....

##### **Textual Amendments**

**F251** Sch. 25 paras. 61-64 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 542, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

##### *Authorised unit trusts and open-ended investment companies*

<sup>F251</sup>64 .....

*Status: Point in time view as at 21/07/2009. This version of this Act contains provisions that are prospective.  
Changes to legislation: Finance Act 2002 is up to date with all changes known to be in force on or before  
30 June 2024. There are changes that may be brought into force at a future date. Changes that have  
been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**

**F251** Sch. 25 paras. 61-64 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 542, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**F252** SCHEDULE 26

Section 83

**Textual Amendments**

**F252** Sch. 26 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 543, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

SCHEDULE 27

Section 83

DERIVATIVE CONTRACTS: MINOR AND CONSEQUENTIAL AMENDMENTS

**Modifications etc. (not altering text)**

**C13** Sch. 27 extended (retrospective to 30.9.2002) by Finance Act 2003 (c. 14), s. 177(4)(8)(11)

*The Taxes Act 1988*

- 1 The Taxes Act 1988 is amended as follows.
- 2 In section 15(1) (Schedule A) in paragraph 2(3) of Schedule A (profits of Schedule A business computed without regard to certain items) for the third indent (which relates to qualifying payments within Chapter 2 of Part 4 of the Finance Act 1994 (c. 9)) substitute—
  - “—credits or debits within Schedule 26 to the Finance Act 2002 (derivative contracts).”.

**F253**<sub>3</sub> .....

**Textual Amendments**

**F253** Sch. 27 para. 3 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

4 **F254**(1) .....

(2) After subsection (1A) of that section insert—

“(1B) If, apart from section 143(1) of the 1992 Act or section 128(2) above, gains arising in the course of dealing in financial futures or in qualifying options

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would constitute, for the purposes of the Corporation Tax Acts, profits and gains chargeable to tax under Case V or VI of Schedule D, then any loss arising in the course of that dealing shall not be allowable against profits and gains which are chargeable to tax under Case V or VI of Schedule D.”.

**Textual Amendments**

**F254** Sch. 27 para. 4(1) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

F255<sup>5</sup> .....

**Textual Amendments**

**F255** [Sch. 27 para. 5](#) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(10\)](#)

- 6 Omit section 468AA (authorised unit trusts: futures and options).
- 7 (1) Section 468L (interest distributions) is amended as follows.
- (2) In subsection (9) (meaning of “qualifying investments”) after paragraph (e) insert—
- “(f) derivative contracts whose underlying subject matter consists wholly of any one or more of the matters referred to in paragraphs (a) to (e) above;
- (g) contracts for differences whose underlying subject matter consists wholly of interest rates or creditworthiness or both of those matters.”.
- (3) In subsection (11) (assumption as to investments of other authorised unit trust which are to be regarded as qualifying investments) after “within paragraphs (a) to (c)” insert “, (f) and (g) ”.
- (4) After subsection (12G) insert—
- “(12H) For the purposes of this section—
- “contract for differences” has the same meaning as in paragraph 12 of Schedule 26 to the Finance Act 2002;
- “derivative contract” means—
- (a) a contract which is a derivative contract within the meaning of that Schedule, or
- (b) a contract which is, in the accounting period in question, treated as if it were a derivative contract by virtue of paragraph 36 of that Schedule (contracts relating to holdings in unit trust schemes, open-ended investment companies and offshore funds);
- “underlying subject matter” has the same meaning as in paragraph 11 of that Schedule.”.
- 8 In section 501A (supplementary charge in respect of ring fence trades) in subsection (5) (computation of financing costs) for paragraph (c) (any trading profit or loss, under Chapter 2 of Part 4 of the Finance Act 1994 (c. 9) (interest rate and currency contracts), in relation to debt finance) substitute—

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- “(c) any credit or debit falling to be brought into account under Schedule 26 to the Finance Act 2002 (derivative contracts) in relation to debt finance;”.
- 9 In section 768B (change in ownership of investment company: deductions generally)—
- (a) in subsection (10) (restriction of debits brought into account in respect of loan relationships) at the end insert “(including debits so brought into account by virtue of paragraph 14(3) of Schedule 26 to the Finance Act 2002)”, and
  - (b) in subsection (13) (modified application of section 768) after “its loan relationships” insert “ (or its derivative contracts by virtue of paragraph 14(3) of Schedule 26 to the Finance Act 2002) ”.
- 10 In section 768C (deductions: asset transferred within group) in subsection (9) (restriction of debits to be brought into account) at the end insert “(including debits so brought into account by virtue of paragraph 14(3) of Schedule 26 to the Finance Act 2002)”.
- 11 In section 798B (restriction of relief on certain interest and dividends: meaning of “financial expenditure”) in subsection (5) (meaning of “qualifying losses”) for paragraph (b) (losses brought into account for purposes of Chapter 2 of Part 4 of the Finance Act 1994) substitute—
- “(b) the amount (if any) by which debits brought into account in respect of a derivative contract for the purposes of Schedule 26 to the Finance Act 2002 (derivative contracts) exceed credits so brought into account;”.
- 12 (1) Section 807A (disposals and acquisitions of company loan relationships with or without interest) is amended as follows.
- (2) In subsection (2)(b)(ii) (foreign tax to be disregarded so far as attributable to qualifying payment within Chapter 2 of Part 4 of the Finance Act 1994 relating to a time when a company is not party to a contract)—
- (a) for “relevant qualifying payment” substitute “ relevant payment ”, and
  - (b) for “the interest rate or currency contract concerned” substitute “ the derivative contract concerned ”.
- (3) In subsection (7) (definitions) insert the following definition at the appropriate place—
- ““relevant payment” means a payment the amount of which falls to be determined (wholly or mainly) by applying to a notional principal amount specified in a derivative contract, for a period so specified, a rate the value of which at all times is the same as that of a rate of interest so specified;”.
- (4) In that subsection, omit the definition of “relevant qualifying payment”.
- 13 In section 834(1) (interpretation of the Corporation Tax Acts) insert the following definition at the appropriate place—
- ““derivative contract” has the same meaning as it has for the purposes of Schedule 26 to the Finance Act 2002;”.

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**Textual Amendments**

**F256** Sch. 27 para. 14 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

- 15 (1) Schedule 28AA (provision not at arm’s length) is amended as follows.
- (2) In paragraph 8 (foreign exchange gains and losses and financial instruments) in sub-paragraph (1) (exceptions)—
  - (a) after “sub-paragraph (3)” insert “ and sub-paragraph (4) ”, and
  - (b) for paragraph (b) (which relates to Chapter 2 of Part 4 of the Finance Act 1994 (c. 9)) substitute—
    - “(b) Schedule 26 to the Finance Act 2002 (derivative contracts) in respect of exchange gains and losses (as defined in paragraph 54 of that Schedule),”.
- (3) In that paragraph, after sub-paragraph (3) (which is inserted by Schedule 23 to this Act) insert—
  - “(4) Sub-paragraph (1) above shall not affect so much of paragraph 27 of Schedule 26 to the Finance Act 2002 (derivative contracts: exchange gains or losses where derivative contract not on arm’s length terms) as has effect by reference to whether profits or losses fall to be computed by virtue of this Schedule as if a company were not party to a derivative contract or as if the terms of the contract to which it is party were different.”.

*The Finance Act 1994*

- 16 In section 226 (provisions of the Finance Act 1993 (c. 34) and Finance Act 1994 which are not to apply in the case of Lloyd’s underwriters) for subsection (3) (contracts and options in premium trust fund of corporate member not to be qualifying contracts for purposes of Chapter 2 of Part 4 of the Finance Act 1994) substitute—
  - “(3) No relevant contract (within the meaning of Schedule 26 to the Finance Act 2002) forming part of a premium trust fund of a corporate member shall be a derivative contract.”.

*The Finance Act 1996*

17 The Finance Act 1996 (c. 8) is amended as follows.

**F257**18 .....

**Textual Amendments**

**F257** Sch. 27 para. 18 repealed (with effect in accordance with s. 52(3), Sch. 10 para. 11(2)(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(6\)](#)

**F258**19 .....

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**Textual Amendments**

**F258** Sch. 27 para. 19 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 3 Pt. 1 (with Sch. 2 Pts. 1, 2)

F259<sup>20</sup>

**Textual Amendments**

**F259** Sch. 27 para. 20 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 3 Pt. 1 (with Sch. 2 Pts. 1, 2)

21 Omit Schedule 12(meaning of debt contract or option).

*The Finance Act 2000*

22 The Finance Act 2000 (c. 17) is amended as follows.

23 (1) Schedule 22 (tonnage tax) is amended as follows.

(2) In paragraph 50 (income which, otherwise than under Schedule 22 to the Finance Act 2000, falls to be taken into account as trading income from trade consisting of tonnage tax activities) in sub-paragraph (2), for paragraph (c) substitute—

“(c) any credit falling to be brought into account under Schedule 26 to the Finance Act 2002 (derivative contracts).”.

(3) In paragraph 63 (ring-fencing of accounting periods where company is tonnage tax company: meaning of “finance costs”) in sub-paragraph (2), for paragraph (b) substitute—

“(b) any credit or debit falling to be brought into account under Schedule 26 to the Finance Act 2002 (derivative contracts) in relation to debt finance;”.

*The Finance Act 2002*

24 The Finance Act 2002 is amended as follows.

25 Section 78 (which amends the provision made by Schedule 5AA to the Taxes Act 1988 as regards corporation tax in relation to guaranteed returns on transactions involving futures and options, provision as regards which is made in Schedule 26 in relation to accounting periods beginning on or after 1st October 2002) shall cease to have effect.

26 In Schedule 29 (taxation of intangible fixed assets) in paragraph 75 (which provides for the Schedule not to apply to financial assets) for sub-paragraph (3)(b) (financial assets to include qualifying contracts within Chapter 2 of Part 4 of the Finance Act 1994) substitute—

“(b) derivative contracts (see Part 2 of Schedule 26 to this Act),”.

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SCHEDULE 28

Section 83

DERIVATIVE CONTRACTS: TRANSITIONAL PROVISIONS ETC

**Modifications etc. (not altering text)**

**C14** Sch. 28 extended (retrospective to 30.9.2002) by [Finance Act 2003 \(c. 14\), s. 177\(6\)-\(8\)\(11\)](#)

*Anti-avoidance: change of accounting period*

<sup>F260</sup><sub>1</sub> .....

**Textual Amendments**

**F260** Sch. 28 para. 1 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 544\(2\), Sch. 3 Pt. 1](#) (with Sch. 2 Pts. 1, 2)

*Qualifying contracts to which company ceases to be party before commencement day*

- 2 (1) This paragraph applies if the conditions in sub-paragraphs (2) and (3) are satisfied in relation to any contract of a company.
- (2) The first condition is that the company was a party to a qualifying contract (within the meaning of Chapter 2 of Part 4 of the Finance Act 1994) before its commencement day, but is not a party to it on that commencement day.
- (3) The second condition is that, if the company had been a party to the contract on its commencement day, the contract would have been a derivative contract.
- (4) To the extent that amounts have been brought into account in computing, in accordance with Chapter 2 of Part 4 of the Finance Act 1994, the profits or losses accruing to the company from the contract in an old period of the company, they shall not be brought into account again by the company as credits or debits given in respect of that contract for the first new period or any subsequent accounting period of the company by Schedule 26.

[<sup>F261</sup>(4A) In relation to a subsequent accounting period ending on or after 1 April 2009, the reference in sub-paragraph (4) to Schedule 26 is to be read as a reference to Part 7 of the Corporation Tax Act 2009.]

**Textual Amendments**

**F261** Sch. 28 para. 2(4A) inserted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 544\(3\)](#) (with Sch. 2 Pts. 1, 2)

*Qualifying contracts which become derivative contracts*

<sup>F262</sup><sub>3</sub> .....



*Status:* Point in time view as at 21/07/2009. This version of this Act contains provisions that are prospective.

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### Textual Amendments

**F262** Sch. 28 para. 3 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 544(4), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

### *Contracts which become derivative contracts: chargeable assets*

- 4 (1) This paragraph applies if the conditions in sub-paragraphs (2) to (4) are satisfied in relation to any contract of a company.
- (2) The first condition is that the company is a party to the contract immediately before and on its commencement day.
- (3) The second condition is that the contract—
- (a) was not a qualifying contract (within the meaning of Chapter 2 of Part 4 of the Finance Act 1994) immediately before the company's commencement day, but
  - (b) as from that day is a derivative contract.
- (4) The third condition is that the contract was, immediately before the company's commencement day, a chargeable asset.
- (5) Where this paragraph applies, the company shall, when it ceases to be a party to the contract, bring into account, for the accounting period in which it ceases to be a party to the contract, the amount of any chargeable gain or allowable loss which would have been treated as accruing to the company on the assumption—
- (a) that it had made a disposal of the asset immediately before its commencement day, and
  - (b) that the disposal had been for a consideration equal to the value (if any) given to the contract in the accounts of the company at the end of the company's accounting period immediately before its first new period.
- (6) Sub-paragraph (5) has effect subject to sub-paragraph (7).
- (7) The company may elect that a debit representing the amount of any allowable loss, which under sub-paragraph (5) is to be brought into account for the accounting period in which it ceases to be a party to the contract, shall be brought into account for that accounting period as if it were a non-trading debit falling to be brought into account for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 (c. 8) in respect of a loan relationship of the company.
- [<sup>F263</sup>(7A) In relation to an accounting period ending on or after 1 April 2009, the reference in sub-paragraph (7) to Chapter 2 of Part 4 of the Finance Act 1996 is to be read as a reference to Part 5 of the Corporation Tax Act 2009.]
- (8) An election under sub-paragraph (7) may only be made within the period of two years following the end of the accounting period in which the company ceases to be a party to the contract.
- (9) For the purposes of this paragraph an asset is a chargeable asset if any gain accruing on the disposal of the asset by the company would be a chargeable gain for the purposes of the Taxation of Chargeable Gains Act 1992 (c. 12) (and includes any obligations under futures contracts which, by virtue of section 143 of that Act, are regarded as assets to the disposal of which that Act applies).

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(10) This paragraph has effect subject to paragraph 5.

#### Textual Amendments

**F263** Sch. 28 para. 4(7A) inserted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 544(5) (with Sch. 2 Pts. 1, 2)

*Contracts: election to treat as two assets*

- 5 (1) This paragraph applies if the conditions in sub-paragraphs (2) to (4) are satisfied in relation to any contract of a company.
- (2) The first condition is that the company is a party to the contract immediately before and on its commencement day.
- (3) The second condition is that the contract—
- (a) was not a qualifying contract (within the meaning of Chapter 2 of Part 4 of the Finance Act 1994 (c. 9)) immediately before the company's commencement day, but
  - (b) as from that day would, but for an election under sub-paragraph (5) of this paragraph, be a derivative contract to which paragraph 7 of Schedule 26 (contracts designed to secure guaranteed amount) applies.
- (4) The third condition is that the contract was, immediately before the company's commencement day, a chargeable asset.
- (5) Where this paragraph applies the company may elect that its contract shall be treated for the purposes of the Corporation Tax Acts as if it were—
- (a) a creditor relationship of the company which is a zero coupon bond (within the meaning of paragraph 48 of Schedule 26), and
  - (b) an option of the company whose underlying subject matter is the same as the underlying subject matter of the contract to which this paragraph applies;
- and sub-paragraphs (4) to (6) of that paragraph shall apply to a creditor relationship and an option arising under this sub-paragraph as they apply to a creditor relationship and an option arising under paragraph 48(2) of Schedule 26.
- (6) An election under sub-paragraph (5) in relation to a contract—
- (a) may only be made within the period of two years following the end of the company's first new period;
  - (b) has effect for the company's first new period and all subsequent accounting periods of the company; and
  - (c) is irrevocable.
- (7) Where an election under sub-paragraph (5) has been made by a company in relation to a contract, the company shall, when it ceases to be a party to the contract, bring into account, for the accounting period in which it ceases to be a party to the contract, the amount of any chargeable gain or allowable loss which would have been treated as accruing to the company on the assumption—
- (a) that it had made a disposal of the asset immediately before its commencement day, and

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- (b) that the disposal had been for a consideration equal to the value (if any) given to the contract in the accounts of the company at the end of the company's accounting period immediately before its first new period.
- (8) Sub-paragraph (7) has effect subject to sub-paragraph (9).
- (9) The company may elect that a debit representing the amount of any allowable loss, which under sub-paragraph (7) is to be brought into account for the accounting period in which it ceases to be a party to the contract, shall be brought into account for that accounting period as if it were a non-trading debit falling to be brought into account for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 (c. 8) in respect of a loan relationship of the company.
- [<sup>F264</sup>(9A) In relation to an accounting period ending on or after 1 April 2009, the reference in sub-paragraph (9) to Chapter 2 of Part 4 of the Finance Act 1996 is to be read as a reference to Part 5 of the Corporation Tax Act 2009.]
- (10) An election under sub-paragraph (9) may only be made within the period of two years following the end of the accounting period in which the company ceases to be a party to the contract.
- (11) For the purposes of this paragraph references to an asset being a chargeable asset shall be construed in accordance with paragraph 4(9).
- (12) In this paragraph “option” and “underlying subject matter” have the same meaning as in Schedule 26.

#### Textual Amendments

**F264** Sch. 28 para. 5(9A) inserted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 544(6) (with Sch. 2 Pts. 1, 2)

#### *Contracts which become derivative contracts: contracts within Schedule 5AA to the Taxes Act 1988*

- 6 (1) This paragraph applies if the conditions in sub-paragraphs (2) to (5) are satisfied in relation to any contract of a company.
- (2) The first condition is that the company is a party to the contract immediately before and on its commencement day.
- (3) The second condition is that the contract—
- (a) was not a qualifying contract (within the meaning of Chapter 2 of Part 4 of the Finance Act 1994 (c. 9)) immediately before the company's commencement day, but
- (b) as from that day is a derivative contract.
- (4) The third condition is that the contract was, immediately before the company's commencement day, a transaction to which Schedule 5AA to the Taxes Act 1988 applied.
- (5) The fourth condition is that, on or after the company's commencement day, a relevant event occurs.

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- (6) For the purposes of this paragraph a relevant event is an event which would, if Schedule 5AA to the Taxes Act 1988 had continued to apply to the contract for the purposes of corporation tax, have given rise to an amount of profits falling to be charged under that Schedule.
- (7) A credit representing that amount of profits (“a relevant credit”) shall be brought into account by virtue of paragraph 14(3) of Schedule 26 for the accounting period in which the relevant event occurs as if it were a non-trading credit falling to be brought into account for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 in respect of a loan relationship of the company.
- (8) The amount of the relevant credit is the sum of—
- (a) the amount of profits which would have been chargeable under Schedule 5AA to the Taxes Act 1988 if it had continued to apply to the contract, and
  - (b) the amount of any debits given by Schedule 26 in respect of the contract for the first new period and any subsequent accounting period ending with the accounting period in which the relevant event occurred,
- less the amount of any credits given by Schedule 26 in respect of the contract for those accounting periods.
- [<sup>F265</sup>(8A) In relation to an accounting period ending on or after 1 April 2009—
- (a) the reference in sub-paragraph (7) to paragraph 14(3) of Schedule 26 is to be read as a reference to section 574 of the Corporation Tax Act 2009,
  - (b) the reference in that sub-paragraph to Chapter 2 of Part 4 of the Finance Act 1996 is to be read as a reference to Part 5 of the Corporation Tax Act 2009, and
  - (c) the references in sub-paragraph (8) to Schedule 26 are to be read as references to Part 7 of the Corporation Tax Act 2009.]

#### Textual Amendments

**F265** Sch. 28 para. 6(8A) inserted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 544(7) (with Sch. 2 Pts. 1, 2)

#### Interpretation

- 7 For the purposes of this Schedule—
- (a) a company’s commencement day is the first day of its first accounting period to begin on or after 1st October 2002,
  - (b) a company’s first new period is its first accounting period to begin on or after that date, and
  - (c) an old period of the company is any accounting period of the company ending before the first day of its first new period.

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### Textual Amendments

**F266** Sch. 29 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 545, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

## SCHEDULE 30

Section 84(2)

### GAINS AND LOSSES OF A COMPANY FROM INTANGIBLE FIXED ASSETS: CONSEQUENTIAL AMENDMENTS

#### *General provisions about deductions*

- 1 (1) For sections 337 and 337A of the Taxes Act 1988 (corporation tax: general provisions about taxation of income) substitute—

#### **“337 Company beginning or ceasing to carry on trade**

- (1) Where a company begins or ceases—
- (a) to carry on a trade, or
  - (b) to be within the charge to corporation tax in respect of a trade,
- the company’s income shall be computed as if that were the commencement or, as the case may be, the discontinuance of the trade, whether or not the trade is in fact commenced or discontinued.
- (2) Subsection (1) applies to a Schedule A business or overseas property business as it applies to a trade.

#### **337A Computation of company’s profits or income: exclusion of general deductions**

- (1) For the purposes of corporation tax, subject to any provision of the Corporation Tax Acts expressly authorising a deduction—
- (a) a company’s profits shall be computed without any deduction in respect of dividends or other distributions, and
  - (b) a company’s income from any source shall be computed without any deduction in respect of charges on income.
- (2) In computing a company’s income from any source for the purposes of corporation tax—
- (a) no deduction shall be made in respect of interest except in accordance with Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships); and
  - (b) no deduction shall be made in respect of losses from intangible fixed assets within Schedule 29 to the Finance Act 2002 except in accordance with that Schedule.”.
- (2) For section 338 of the Taxes Act 1988 (corporation tax: charges on income) substitute—

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### **“338 Charges on income deducted from total profits**

- (1) Charges on income are allowed as deductions from a company’s total profits in computing the corporation tax chargeable for an accounting period.
- (2) They are deducted from the company’s total profits for the period as reduced by any other relief from tax other than group relief.
- (3) The amount of the deduction is limited to the amount that reduces the company’s total profits for the period to nil.
- (4) Except as otherwise provided, a deduction is allowed only in respect of payments made by the company in the accounting period concerned.
- (5) The above provisions are subject to any express exceptions in the Corporation Tax Acts.

#### **338A Meaning of “charges on income”**

- (1) This section defines what payments or other amounts are “charges on income” for the purposes of corporation tax.

This section has effect subject to any express exceptions in the Corporation Tax Acts.

- (2) Subject to the following provisions of this section, the following (and only the following) are charges on income—
  - (a) annuities or other annual payments that meet the conditions specified in section 338B;
  - (b) qualifying donations within the meaning of section 339 (qualifying donations to charity);
  - (c) amounts allowed as charges on income under section 587B(2)(a)(ii) (gifts of shares etc to charity).
- (3) No payment that is deductible in computing profits or any description of profits for the purposes of corporation tax shall be treated as a charge on income.
- (4) No payment shall be treated as a charge on income if (without being so deductible) it is—
  - (a) an annuity payable by an insurance company, or
  - (b) an annuity or other annual payment payable by a company wholly or partly in satisfaction of any claim under an insurance policy in relation to which the company is the insurer.

In paragraph (a) “insurance company” has the same meaning as in Chapter 1 of Part 12.

#### **338B Charges on income: annuities or other annual payments**

- (1) An annuity or other annual payment is a charge on income if—
  - (a) the requirements specified in subsection (2) are met, and
  - (b) it is not excluded from being a charge on income for the purposes of corporation tax—

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- (i) by any of the following provisions of this section, or
- (ii) by any other provision of the Corporation Tax Acts.

- (2) The requirements are that the payment—
  - (a) is made under a liability incurred for a valuable and sufficient consideration,
  - (b) is not charged to capital,
  - (c) is ultimately borne by the company, and
  - (d) in the case of a company not resident in the United Kingdom, is incurred wholly and exclusively for the purposes of a trade which is or is to be carried on by it in the United Kingdom through a branch or agency.
- (3) An annuity or other annual payment made to a person not resident in the United Kingdom shall be treated as a charge on income only if the following conditions are met.
- (4) The conditions are that the company making the payment is resident in the United Kingdom and that either—
  - (a) the company deducts tax from the payment in accordance with section 349, and accounts under Schedule 16 for the tax so deducted, or
  - (b) the person beneficially entitled to the income in respect of which the payment is made is a company that is not resident in the United Kingdom but which carries on a trade in the United Kingdom through a branch or agency and the payment falls to be brought into account in computing the chargeable profits (within the meaning given by section 11(2) of that company, or
  - (c) the payment is one payable out of income brought into charge to tax under Case V of Schedule D.
- (5) An annuity or other annual payment is not a charge on income if—
  - (a) it is payable in respect of the company’s loan relationships, or
  - (b) it is a royalty to which Schedule 29 to the Finance Act 2002 applies (intangible fixed assets).
- (6) Nothing in this section prevents an annuity or other annual payment from being a charge on income if it is a qualifying donation (within the meaning of section 339).”.
- (3) In section 214(1) of the Taxes Act 1988 (chargeable payments connected with exempt distributions), in paragraph (c) (payments not to be treated as distributions for purposes of certain provisions) for “sections 337(2) and 338(2)(a)” substitute “ section 337A(1) ”.
- (4) In section 834(1) of the Taxes Act 1988 (interpretation of the Corporation Tax Acts), in the definition of “charges on income” for “338” substitute “ 338A ”.

<sup>F267</sup>(5) .....

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### Textual Amendments

**F267** Sch. 30 para. 1(5) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

### *Surrender of non-trading loss by way of group relief*

- 2 (1) In section 403 of the Taxes Act 1988 (amounts that may be surrendered by way of group relief)—
- (a) in subsection (1)(b) (amounts that may be surrendered if available for group relief) for “or management expenses which are” substitute “, management expenses or a non-trading loss on intangible fixed assets”;
  - (b) in subsection (3), in the first sentence (meaning of availability for group relief), for “and management expenses” substitute “ management expenses and a non-trading loss on intangible fixed assets”;
  - (c) in subsection (3), in the second sentence (order in which amounts treated as used), for “and finally management expenses” substitute “, management expenses and finally a non-trading loss on intangible fixed assets”.
- (2) In section 403ZD of the Taxes Act 1988 (further provisions as to amounts available for group relief), after subsection (5) insert—
- “(6) A non-trading loss on intangible fixed assets means a non-trading loss on intangible fixed assets, within the meaning of Schedule 29 to the Finance Act 2002, for the surrender period.
- It does not include so much of any such loss as is attributable to an amount being carried forward under paragraph 35(3) of that Schedule (amounts carried forward from earlier periods).”.

### *Extension of charitable exemption to non-trading gains*

- 3 In section 505(1) of the Taxes Act 1988 (charities: exemptions), in paragraph (c) (income charged under Schedule D) after sub-paragraph (iib) insert—
- “(iic) from tax under Case VI of Schedule D in respect of non-trading gains on intangible fixed assets under Schedule 29 to the Finance Act 2002, and”.

### *Change in ownership of company with unused non-trading loss*

- 4 (1) Chapter 6 of Part 17 of the Taxes Act 1988 (tax avoidance: miscellaneous) is amended as follows.
- (2) In section 768C, after subsection (12) add—
- “(13) This section applies in relation to an asset to which Schedule 29 to the Finance Act 2002 applies (intangible fixed assets), with the following adaptations—
- (a) for the reference to section 171(1) of the 1992 Act substitute a reference to paragraph 55 of that Schedule;
  - (b) for any reference to a chargeable gain under that Act substitute a reference to a chargeable realisation gain within the meaning of that



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Schedule that is a credit within paragraph 34(1)(a) of that Schedule (non-trading credits);

- (c) for any reference to a disposal of the asset substitute a reference to its realisation within the meaning of that Schedule;
- (d) for the reference to the relevant provisions of the 1992 Act substitute a reference to Part 6 of that Schedule.”.

(3) After section 768D insert—

**“768E Change in ownership of company with unused non-trading loss on intangible fixed assets**

(1) Where there is a change in the ownership of an investment company and either—

- (a) paragraph (a), (b) or (c) of section 768B(1) applies, or
- (b) section 768C applies,

the following provisions have effect to prevent relief being given under paragraph 35 of Schedule 29 to the Finance Act 2002 by setting a non-trading loss on intangible fixed assets incurred by the company before the change of ownership against profits arising after the change.

(2) The accounting period in which the change of ownership occurs is treated for that purpose as two separate accounting periods, the first ending with the change and the second consisting of the remainder of the period.

(3) The profits or losses of the period in which the change occurs are apportioned to those two periods—

- (a) where paragraph (a), (b) or (c) of section 768B(1) applies, in accordance with Parts 2 and 3 of Schedule 28A, or
- (b) where section 768C applies, in accordance with Parts 5 and 6 of that Schedule,

unless in any case the specified method of apportionment would work unjustly or unreasonably in which case such other method shall be used as appears just and reasonable.

(4) Relief under paragraph 35 of Schedule 29 to the Finance Act 2002 against total profits of the same accounting period is available only in relation to each of those periods considered separately.

(5) A loss made in any accounting period beginning before the change of ownership may not be set off under paragraph 35(3) of Schedule 29 to the Finance Act 2002 against—

- (a) in a case where paragraph (a), (b) or (c) of section 768B(1) applies, profits of an accounting period ending after the change of ownership;
- (b) in a case where section 768C applies, so much of those profits as represents the relevant gain within the meaning of that section.

(6) Subsections (8) and (9) of section 768 (time limits for assessment; information powers) apply for the purposes of this section as they apply for the purposes of that section.

(7) In this section “investment company” has the same meaning as in Part 4.”.

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- (4) In paragraph 6 of Schedule 28A to the Taxes Act 1988 (amounts in issue for purposes of section 768B), after paragraph (dd) insert—
- “(de) the amount of any non-trading credits or debits in respect of intangible fixed assets that fall to be brought into account for that period under paragraph 34 of Schedule 29 to the Finance Act 2002;
  - (df) the amount of any non-trading loss on intangible fixed assets carried forward to that accounting period under paragraph 35(3) of that Schedule;”.
- (5) In paragraph 7(1) of that Schedule (apportionment for purposes of section 768B), after paragraph (f) insert—
- “(g) in the case of any such credit or debit as is mentioned in paragraph 6(de), by apportioning to each accounting period the credits or debits that would fall to be brought into account in that period if it were a period of account for which accounts were drawn up in accordance with generally accepted accounting practice;
  - (h) in the case of any such loss as is mentioned in paragraph 6(df) above, by apportioning the whole amount of the loss to the first part of the accounting period being divided.”.
- (6) In paragraph 13(1) of that Schedule (amounts in issue for purposes of section 768C), after paragraph (ed) insert—
- “(ee) the amount of any non-trading credits or debits in respect of intangible fixed assets that fall to be brought into account for that period under paragraph 34 of Schedule 29 to the Finance Act 2002;
  - (ef) the amount of any non-trading loss on intangible fixed assets carried forward to that accounting period under paragraph 35(3) of that Schedule;”.
- (7) In paragraph 16(1) of that Schedule (apportionment for purposes of section 768C), after paragraph (f) insert—
- “(g) in the case of any such credit or debit as is mentioned in paragraph 13(ee), by apportioning to each accounting period the credits or debits that would fall to be brought into account in that period if it were a period of account for which accounts were drawn up in accordance with generally accepted accounting practice;
  - (h) in the case of any such loss as is mentioned in paragraph 13(ef), by apportioning the whole amount of the loss to the first part of the accounting period being divided.”.

### *Double taxation relief*

- 5 (1) Part 18 of the Taxes Act 1988 (double taxation relief) is amended as follows.
- (2) In section 795 (computation of income subject to foreign tax), in subsection (4) (application of that section notwithstanding certain other provisions) after “notwithstanding anything in” insert “—(a) ” and at the end insert—
- “, or
- (b) paragraph 1(3) of Schedule 29 to the Finance Act 2002 (matters to be brought into account in respect of intangible fixed assets only under that Schedule).”.

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(3) In the heading to section 797A (foreign tax on items giving rise to a non-trading credit), at the end add “: loan relationships”.

(4) After that section insert—

**“797B Foreign tax on items giving rise to a non-trading credit: intangible fixed assets**

(1) This section applies for the purposes of any arrangements where, in the case of a company—

- (a) a non-trading credit relating to an item is brought into account for the purposes of Schedule 29 to the Finance Act 2002 (intangible fixed assets) for an accounting period (“the applicable accounting period”), and
- (b) there is in respect of that item an amount of foreign tax for which, under the arrangements, credit is allowable against United Kingdom tax computed by reference to that item.

(2) It shall be assumed that tax chargeable under Case VI of Schedule D on the profits and gains arising for the applicable accounting period from the company’s intangible fixed assets falls to be computed on the actual amount of its non-trading credits for that period, and without any deduction in respect of non-trading debits.

(3) Section 797(3) shall have effect as if—

- (a) there were for the applicable accounting period an amount equal to the adjusted amount of the non-trading debits falling to be brought into account by being set against profits of the company for that period of any description, and
- (b) different parts of that amount might be set against different profits.

(4) For this purpose the adjusted amount of a company’s non-trading debits for an accounting period is given by:

**TotalDebits-AmountCarriedForward**

where—

Total Debits is the aggregate amount of the company’s non-trading debits for that accounting period under Schedule 29 to the Finance Act 2002 (intangible fixed assets), and

Amount Carried Forward is the amount (if any) carried forward to the next accounting period of the company under paragraph 35(3) of that Schedule (carry-forward of non-trading loss in respect of which no claim is made for it to be set against total profits of current period).”.

(5) In section 811 (deduction for foreign tax where no credit available), in subsection (3) (application of that section notwithstanding certain other provisions) after “notwithstanding anything in” insert “ —(a) ” and at the end insert—

“, or

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- (b) paragraph 1(3) of Schedule 29 to the Finance Act 2002 (matters to be brought into account in respect of intangible fixed assets only under that Schedule).”.

*Value-shifting provisions*

- 6 After section 33 of the Taxation of Chargeable Gains Act 1992 (provisions supplementary to sections 30 to 32) insert—

**“33A Modification of sections 30 to 33 in relation to chargeable intangible asset**

- (1) Sections 30 to 33 have effect in relation to a chargeable intangible asset subject to the following modifications.

In this section “chargeable intangible asset” has the same meaning as in Schedule 29 to the Finance Act 2002.

- (2) Any reference in those sections—
- (a) to a disposal or part disposal of the asset shall be read as a reference to its realisation or part realisation within the meaning of that Schedule (see paragraph 19 of that Schedule);
  - (b) to an disposal of the asset under section 171(1) shall be read as a reference to its transfer under paragraph 55 of that Schedule (transfers within a group);
  - (c) to a disposal of the asset under section 179 shall be read as a reference to its realisation under paragraph 58 or 60 of that Schedule (degrouing).
- (3) In section 31(6), paragraph (c) shall not apply to a revaluation where the profit on the revaluation is wholly taken into account as a credit under that Schedule (see paragraph 15 of that Schedule).
- (4) None of the conditions in section 31(9) shall be treated as satisfied if the asset with enhanced value is a chargeable intangible asset within the meaning of that Schedule.
- (5) The reference in section 32(2)(b) to the cost of the underlying asset shall be read, in the case of a chargeable intangible asset, as a reference to the capitalised value of the asset recognised for accounting purposes.”.

SCHEDULE 31

Section 85

GAINS OF INSURANCE COMPANY FROM VENTURE CAPITAL INVESTMENT PARTNERSHIP

The following Schedule is inserted after Schedule 7AC to the Taxation of Chargeable Gains Act 1992 (c. 12)—

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## “SCHEDULE 7AD

### GAINS OF INSURANCE COMPANY FROM VENTURE CAPITAL INVESTMENT PARTNERSHIP

#### **Introduction**

- 1 This Schedule applies where the assets of the long-term insurance fund of an insurance company (“the company”) include assets held by the company as a limited partner in a venture capital investment partnership (“the partnership”).

#### **Meaning of “venture capital investment partnership”**

- 2 (1) A “venture capital investment partnership” means a partnership in relation to which the following conditions are met.  
(2) The first condition is that the sole or main purpose of the partnership is to invest in unquoted shares or securities.

This condition shall not be regarded as met unless it appears from—

- (a) the agreement constituting the partnership, or
- (b) any prospectus issued to prospective partners,

that that is the sole or main purpose of the partnership.

- (3) The second condition is that the partnership does not carry on a trade.
- (4) The third condition is that not less than 90% of the book value of the partnership’s investments is attributable to investments that are either—
  - (a) shares or securities that were unquoted at the time of their acquisition by the partnership, or
  - (b) shares that were quoted at the time of their acquisition by the partnership but which it was reasonable to believe would cease to be quoted within the next twelve months.
- (5) For the purposes of the third condition—
  - (a) the following shall be disregarded—
    - (i) any holding of cash, including cash deposited in a bank account or similar account but not cash acquired wholly or partly for the purpose of realising a gain on its disposal;
    - (ii) any holding of quoted shares or securities acquired by the partnership in exchange for unquoted shares or securities;
  - (b) whether the 90% test is met shall be determined by reference to the values shown in the partnership’s accounts at the end of a period of account of the partnership.
- (6) Where a partnership ceases to meet the above conditions, the company shall be treated as if the partnership had continued to be a venture capital investment partnership until the end of the period of account of the partnership during which it ceased to meet the conditions.
- (7) A partnership that ceases to meet those conditions cannot qualify again as a venture capital investment partnership.

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For this purpose a partnership is treated as the same partnership notwithstanding a change in membership if any person who was a member before the change remains a member.

***Interest in relevant assets of partnership treated as single asset***

- 3 (1) Where this Schedule applies section 59 (partnerships) does not have effect to make the company chargeable on its share of gains accruing on each disposal of relevant assets of the partnership.
- (2) Instead—
- (a) the company’s interest in relevant assets of the partnership is treated as a single asset (“the single asset”) acquired by the company when it became a member of the partnership, and
  - (b) the following provisions of this Schedule have effect.
- (3) For the purposes of this Schedule the “relevant assets” of the partnership are the shares and securities held by the partnership, other than qualifying corporate bonds.
- (4) Nothing in this Schedule shall be read—
- (a) as affecting the operation of section 59 in relation to partners who are not insurance companies carrying on long-term business or are not limited partners, or
  - (b) as imposing any liability on the partnership as such.

***The cost of the single asset***

- 4 (1) The company is treated as having given, wholly and exclusively for the acquisition of the single asset, consideration equal to the amount of capital contributed by it on becoming a member of the partnership.
- (2) Any further amounts of capital contributed by it to the partnership are treated on a disposal of the single asset as expenditure incurred wholly and exclusively on the asset for the purpose of enhancing its value and reflected in its state or nature at the time of the disposal.
- (3) Where the investments of the partnership include qualifying corporate bonds, the amount to be taken into account under sub-paragraph (1) or (2) is proportionately reduced.
- (4) The reduction is made by applying to that amount the fraction:

$$\frac{A-B}{A}$$

where—

A is the book value of all shares and securities held by the partnership at the end of the period of account of the partnership in which the amount of capital in question is fully invested by the partnership, and

B is the book value of all qualifying corporate bonds held by the partnership at the end of that period of account.

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- (5) For the purposes of sub-paragraph (4) the “book value” means the value shown in the partnership’s accounts at the end of the period of account.

#### ***Deemed disposal of single asset in case of distribution***

- 5 (1) There is a disposal of the single asset on each occasion on which the company receives a distribution from the partnership that does not consist entirely of income or the proceeds of sale or redemption of assets that are not relevant assets.
- (2) The disposal is taken to be for a consideration equal to the amount of the distribution or of so much of it as does not consist of income or the proceeds of sale or redemption of assets that are not relevant assets.
- (3) Where—
- (a) the partnership disposes of relevant assets on which a chargeable gain or allowable loss would accrue if they were held by the company alone, and
  - (b) no distribution of the proceeds of the disposal is made within twelve months of the disposal,
- the company is treated as having received its share of the proceeds as a distribution at the end of the period of account of the partnership following that in which the disposal took place, or at the end of the period of six months after the date of the disposal, whichever is the later.
- (4) The operation of sub-paragraph (3) is not affected by the partnership having ceased to be a venture capital investment partnership before the time at which the distribution is treated as received by the company.
- (5) Where sub-paragraph (3) applies, any subsequent actual distribution of the proceeds is disregarded.

#### ***Apportionment in case of part disposal***

- 6 (1) For the purposes of section 42 (apportionment of cost etc in case of part disposal) the market value of the property remaining undisposed of on a part disposal of the single asset shall be determined as follows.
- (2) If there is no further disposal of that asset in the period of account in which the part disposal in question takes place, the market value of the property remaining undisposed of shall be taken to be equal to the company’s share of the book value of the relevant assets of the partnership as shown in the partnership’s accounts at the end of that period of account.
- (3) If there is a further disposal of that asset in the period of account in which the part disposal in question takes place, or more than one, the market value of the property remaining undisposed of shall be taken to be equal to the sum of—
- (a) the amount or value of the consideration on the further disposal or, as the case may be, the total amount or value of the consideration on the further disposals, and
  - (b) the amount (if any) of the company’s share of the book value of the relevant assets of the partnership as shown in the partnership’s accounts at the end of that period of account.

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### ***Disposal of partnership asset giving rise to offshore income gain***

- 7 (1) Nothing in this Schedule shall be read as affecting the operation of Chapter 5 of Part 17 of the Taxes Act (offshore funds).
- (2) Where an offshore income gain accrues to the company under that Chapter from the disposal of any relevant asset of the partnership, the amount of any distribution received or treated as received by the company from the partnership that represents the whole or part of the proceeds of disposal of that asset is treated for the purposes of this Schedule as reduced by the amount of the whole or a corresponding part of the offshore income gain.

### ***Exclusion of negligible value claim***

- 8 No claim may be made in respect of the single asset under section 24(2) (assets that have become of negligible value).

### ***Investment in other venture capital investment partnerships***

- 9 (1) For the purposes of paragraph 2 (meaning of “venture capital investment partnership”) an investment by way of capital contribution to another venture capital investment partnership shall be treated as an investment in unquoted shares or securities.
- (2) The Treasury may by regulations make provision, in place of but corresponding to that made by paragraphs 3 to 8, in relation to gains accruing on a disposal of relevant assets by such a partnership.
- (3) The regulations may make provision for any period of account to which, in accordance with paragraphs 11 to 13, this Schedule applies.

### ***Interpretation***

- 10 (1) In this Schedule—
- “insurance company”, “long-term business” and “long-term insurance fund” have the same meaning as in Chapter 1 of Part 12 of the Taxes Act (see section 431(2) of that Act);
- “limited partner” means—
- (a) a person carrying on a business as a limited partner in a partnership registered under the Limited Partnership Act 1907, or
- (b) a person carrying on a business jointly with others who, under the law of a country or territory outside the United Kingdom, is not entitled to take part in the management of the business and is not liable beyond a certain limit for debts or obligations incurred for the purposes of the business;
- “relevant assets” has the meaning given by paragraph 3(3);
- “securities” has the same meaning as in section 132 and also includes any debentures;
- “unquoted” and “quoted”, in relation to shares or securities, refer to listing on a recognised stock exchange.
- (2) References in this Schedule to the partnership’s accounts are to accounts drawn up in accordance with generally accepted accounting practice.



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If no such accounts are drawn up, the references to the treatment of any matter, or the amounts shown, in the accounts of the partnership are to what would have appeared if accounts had been drawn up in accordance with generally accepted accounting practice.

- (3) References in this Schedule to capital contributed to a limited partnership include amounts purporting to be provided by way of loan if—
- (a) the loan carries no interest,
  - (b) all the limited partners are required to make such loans, and
  - (c) the loans are accounted for as partners' capital, or partners' equity, in the accounts of the partnership.
- (4) For the purposes of this Schedule the assets of—
- (a) a Scottish partnership, or
  - (b) a partnership under the law of any other country or territory under which assets of a partnership are regarded as held by or on behalf of the partnership as such,
- shall be treated as held by the members of the partnership in the proportions in which they are entitled to share in the profits of the partnership.

References in this Schedule to the company's interest in, or share of, the partnership's assets shall be construed accordingly.

### ***General commencement and transitional provisions***

- 11 (1) Subject to paragraph 12 (election to remain outside Schedule), this Schedule applies—
- (a) to periods of account of the partnership beginning on or after 1st January 2002, and
  - (b) to a period of account of the partnership beginning before that date and ending on or after it, unless the company elects that it shall not do so.
- (2) Where the company became a member of the partnership before the beginning of the first period of account of the partnership to which this Schedule applies, the cost of the single asset at the beginning of that period of account shall be taken to be equal to the total of the relevant indexed base costs.
- (3) For the purposes of sub-paragraph (2)—
- (a) the “indexed base cost” means—
    - (i) in relation to a holding that by virtue of section 104 is to be treated as a single asset, what would be the indexed pool of expenditure within the meaning of section 110 if the holding were disposed of, and
    - (ii) in relation to any other asset, the amount of expenditure together with the indexation allowance that would be fall to be deducted if the asset were disposed of; and
  - (b) the “relevant indexed base costs” means the indexed base costs that would be taken into account in computing in accordance with section 59 the gain or loss of the company if all the shares and securities (other than qualifying corporate bonds) held by the partnership were disposed of on the last day of the company's accounting period immediately preceding its first accounting period beginning on or after 1st January 2002.
- (4) No account shall be taken under this Schedule of a distribution by the partnership in a period of account to which this Schedule applies to the extent that it represents a chargeable gain accruing in an earlier period to which this Schedule does not apply.

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### ***Election to remain outside Schedule***

- 12 If the company—
- (a) became a member of the partnership before the beginning of the first period of account of the partnership to which this Schedule would otherwise apply, or
  - (b) made its first contribution of capital to the partnership before 17th April 2002,
- it may elect that the provisions of this Schedule shall not apply to it in relation to that partnership.

### ***How and when election to be made***

- 13 Any election under paragraph 11 or 12 must be made—
- (a) by notice to an officer of the Board,
  - (b) not later than the end of the period of two years after the end of the company’s first accounting period beginning on or after 1st January 2002.”.

## SCHEDULE 32

Section 86

### LLOYD’S UNDERWRITERS

#### *Individuals*

- 1 Chapter 3 of Part 2 of the Finance Act 1993 (c. 34) (Lloyd’s underwriters, etc) is amended as follows.
- 2 In section 178(stop loss and quota share insurance), in subsection (1) (deductions), for paragraph (c) substitute—
- “(c) where an amount is payable by him under a quota share contract—
    - (i) so much of that amount as exceeds the amount of transferred losses that are declared on or before the date the contract takes effect (“the declared amount”), or
    - (ii) if the contract does not take effect, the amount so payable under the contract.”.
- 3 After subsection (3) of that section insert—
- “(3A) Where the amount payable by a member under a quota share contract is less than the declared amount, the difference between the two amounts shall be treated as a trading receipt in computing the profits arising from the member’s underwriting business in the year of assessment which corresponds to the underwriting year in which the contract takes effect.
- (3B) Where a member has entered a quota share contract, any amount paid by him to cover a cash call in respect of transferred losses that are not declared at the time the contract takes effect shall be treated—
- (a) for the purposes of subsection (1)(c)(i) and (3A) above, as an amount payable under the contract, and
  - (b) for the purposes of section 172, as a payment made at the time the contract takes effect.”.
- 4 For subsection (4) of that section substitute—

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“(4) For the purposes of this section—

“cash call” has the same meaning as in Part 1 of Schedule 20 to this Act;

“quota share contract” means any contract between a member and another person which—

- (a) is made in accordance with the rules or practice of Lloyd’s, and
- (b) provides for that other person to take over any rights and liabilities of the member under any of the syndicates of which he is a member;

and where the taking over of a member’s rights and liabilities is conditional upon the occurrence of any event, the contract does not take effect until that event occurs; and

“transferred loss”, in relation to such a contract, means a loss for which that other person takes over liability under the contract (disregarding, in the case of a loss that has been declared at the time it is taken over, any part of it in respect of which the member has paid a cash call before that time).”.

- 5 In section 184(1) (interpretation), in the definition of “stop-loss insurance”, after “business” insert “, except insurance taken out by entering a quota share contract (within the meaning of section 178 above) ”.

#### *Corporate bodies*

- 6 Chapter 5 of Part 4 of the Finance Act 1994 (c. 9) (Lloyd’s underwriters: corporations etc) is amended as follows.

- 7 In section 225 (stop loss and quota share insurance), in subsection (1) (deductions), for paragraph (b) substitute—

- “(b) where an amount is payable by it under a quota share contract—
  - (i) so much of that amount as exceeds the amount of transferred losses that are declared on or before the date the contract takes effect (“the declared amount”), or
  - (ii) if the contract does not take effect, the amount so payable under the contract.”.

- 8 After subsection (3) of that section insert—

“(3A) Where the amount payable by a corporate member under a quota share contract is less than the declared amount—

- (a) if the underwriting year in which the contract takes effect falls within a single accounting period, the difference between the two amounts (“the surplus”) shall be treated as a trading receipt in computing the profits arising from the member’s underwriting business for that period, and
- (b) if that underwriting year falls within two or more accounting periods, the apportioned part of the surplus shall be treated as a trading receipt in computing the profits arising from the member’s underwriting business for each of those periods.

(3B) Where a corporate member has entered a quota share contract, any amount paid by it to cover a cash call in respect of transferred losses that are not

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declared at the time the contract takes effect shall be treated, for the purposes of subsections (1)(b)(i) and (3A) above, as an amount payable under the contract at that time.”.

9 For subsection (4) of that section substitute—

“(4) In this section—

“apportioned part”, in relation to any insurance money or other amount, means a part apportioned under section 72 of the Taxes Act 1988;

“cash call” means a request for funds which, in pursuance of a contract made in accordance with the rules and practices of Lloyd’s, is made to a corporate member by the agent of a syndicate of which it is a member;

“quota share contract” means any contract between a corporate member and another person which—

- (a) is made in accordance with the rules or practice of Lloyd’s; and
- (b) provides for that other person to take over any rights and liabilities of the member under any of the syndicates of which it is a member;

and where the taking over of a member’s rights and liabilities is conditional upon the occurrence of any event, the contract does not take effect until that event occurs; and

“transferred loss”, in relation to such a contract, means a loss for which that other person takes over liability under the contract (disregarding, in the case of a loss that has been declared at the time it is taken over, any part of it in respect of which the member has paid a cash call before that time).”.

10 In section 230(1) (interpretation), in the definition of “stop-loss insurance”, after “business” insert “, except insurance taken out by entering a quota share contract (within the meaning of section 225 above) ”.

#### Textual Amendments

**F268** Sch. 33 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 423, [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

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## SCHEDULE 34

Section 111

### STAMP DUTY: WITHDRAWAL OF GROUP RELIEF: SUPPLEMENTARY PROVISIONS

#### *Introduction*

- 1 (1) The provisions of this Schedule supplement section 111 (withdrawal of group relief).
- (2) Expressions used in this Schedule that are defined for the purposes of that section have the same meaning in this Schedule.

#### *Relief not withdrawn if transferor company leaves group*

- 2 (1) Section 111 does not apply if the transferee company ceases to be a member of the same group as the transferor company by reason of the latter company leaving the group.
- (2) The transferor company is regarded as leaving the group if the companies cease to be members of the same group by reason of a transaction relating to shares in—
  - (a) the transferor company, or
  - (b) another company that as a result of the transaction ceases to be a member of the same group as the transferee company.

#### *Relief not withdrawn in case of winding-up*

- 3 (1) Section 111 does not apply if the transferee company ceases to be a member of the same group as the transferor company by reason of anything done for the purposes of, or in the course of, winding up the transferor company or another company that is above the transferor company in the group structure.
- (2) For the purposes of this paragraph a company is “above” the transferor company in the group structure if it is the parent (within the meaning of the relevant group relief provision)—
  - (a) of the transferor company, or
  - (b) of another company that is above the transferor company in the group structure.

#### *Relief not withdrawn in case of exempt acquisition*

- 4 (1) Section 111 does not apply if—
  - (a) the transferee company ceases to be a member of the same group as the transferor company as a result of an acquisition of shares by another company (“the parent company”) in relation to which acquisition relief applies, and
  - (b) the transferee company is immediately after that acquisition a member of the same group as the parent company (“the new group”).
- (2) For this purpose—
  - (a) “acquisition relief” means relief under section 75 of the Finance Act 1986 (c. 41); and
  - (b) references to an acquisition in relation to which such relief applies are to an acquisition such that an instrument effecting the transfer of the shares is exempt from stamp duty by virtue of that provision.

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- (3) But if before the end of the period of two years beginning with the date on which the relevant instrument was executed—
- (a) the transferee company ceases to be a member of the new group, and
  - (b) at the time when <sup>[F269]</sup>the transferee company ceases] to be a member of the new group <sup>[F270]</sup>it or a relevant associated company (as defined in sub-paragraph (4) below) holds] an estate or interest in land that—
    - (i) was transferred <sup>[F271]</sup>to the transferee company] by the relevant instrument, or
    - (ii) is derived from an estate or interest that was so transferred, <sup>[F272]</sup>and that has not subsequently been transferred at market value by a duly stamped instrument on which *ad valorem* duty was paid and in respect of which group relief was not claimed],
- section 111 and the provisions of this Schedule apply <sup>[F273]</sup>as if the transferee had then ceased to be a member of the same group as the transferor company and had then held the estate or interest referred to in paragraph (b).]

<sup>[F274]</sup>(4) In sub-paragraph (3)(b) “relevant associated company”, in relation to the transferee company, means a company that is in the same group as the transferee company immediately before the transferee company ceases to be a member of the new group and which ceases to be a member of the new group in consequence of the transferee company so ceasing.]

#### Textual Amendments

- F269** Words in Sch. 34 para. 4(3)(b) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\), s. 126\(6\)\(a\)\(i\)\(11\)](#) (with [s. 126\(9\)\(10\)](#))
- F270** Words in Sch. 34 para. 4(3)(b) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\), s. 126\(6\)\(a\)\(ii\)\(11\)](#) (with [s. 126\(9\)\(10\)](#))
- F271** Words in Sch. 34 para. 4(3)(b)(i) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\), s. 126\(6\)\(b\)\(11\)](#) (with [s. 126\(9\)\(10\)](#))
- F272** Words in Sch. 34 para. 4(3)(b) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\), s. 126\(6\)\(c\)\(11\)](#) (with [s. 126\(9\)\(10\)](#))
- F273** Words in Sch. 34 para. 4(3) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\), s. 126\(7\)\(11\)](#) (with [s. 126\(9\)\(10\)](#))
- F274** Sch. 34 para. 4(4) inserted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\), s. 126\(8\)\(11\)](#) (with [s. 126\(9\)\(10\)](#))

#### Interest

- 5 (1) If any duty payable under section 111 is not paid within the period of 30 days within which payment is to be made, interest is payable on the amount remaining unpaid.
- (2) The provisions of section 15A(3) to (5) of the Stamp Act 1891 (c. 39) (rate of interest on unpaid duty, etc) apply in relation to interest under sub-paragraph (1).

#### Duty of transferee company to notify particulars

- 6 (1) The transferee company shall, within the period of 30 days mentioned in section 111(2)(b) within which payment is to be made, notify the Commissioners of—

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- (a) the date on which it ceased to be a member of the same group as the transferor company,
  - (b) the relevant land held by it at that time,
  - (c) the nature of the relevant instrument, the date on which it was executed, the parties to the instrument and the date on which the instrument was stamped,
  - (d) the market value of the land transferred to it by the relevant instrument at the date on which that instrument was executed, and
  - (e) the amount of duty and interest payable by it under section 111 or this Schedule.
- (2) In sub-paragraph (1)(b) the “relevant land” held by the transferee company means every estate or interest to in relation to which section 111(1)(c) applies.
- (3) In section 98(5) of the Taxes Management Act 1970 (c. 9) (penalty for failure to provide information), in the second column of the Table, at the appropriate place insert “paragraph 6 of Schedule 34 to the Finance Act 2002”.

#### *Determination, collection and recovery of duty and interest*

- 7 The provisions of regulations under section 98 of the Finance Act 1986 (c. 41) (stamp duty reserve tax: administration etc), and the provisions of the Taxes Management Act 1970 (c. 9) applied by those regulations, have effect with the necessary modifications in relation to—
- (a) the determination by the Commissioners of the duty payable under section 111 or the interest payable thereon,
  - (b) appeals against any such determination, and
  - (c) the collection and recovery of any such duty or interest,
- as if it were an amount of stamp duty reserve tax.

#### *Recovery of group relief from from another group company or controlling director*

- 8 (1) This paragraph applies where—
- (a) an amount is payable under section 111 or this Schedule by the transferee company,
  - (b) a notice of determination of the amount payable has been issued by the Commissioners, and
  - (c) the whole or part of that amount is unpaid six months after the date on which it became payable.
- (2) The following persons may, by notice under paragraph 9, be required to pay the unpaid amount—
- (a) the transferor company;
  - (b) any company that, at any relevant time, was a member of the same group as the transferee company and was above it in the group structure;
  - (c) any person who at any relevant time was a controlling director of the transferee company or of a company having control of the transferee company.
- (3) For the purposes of this paragraph—

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- (a) a “relevant time” means any time between the execution of the relevant instrument and the transferee company ceasing to be a member of the same group as the transferor company;
- (b) a company is “above” another company in a group structure if it is the parent (within the meaning of the relevant group relief provision)—
  - (i) of that company, or
  - (ii) of another company that is above that company in the group structure.

(4) In this paragraph—

“director”, in relation to a company, has the meaning given by section 168(8) of the Taxes Act 1988 (read with subsection (9) of that section) and includes any person falling within section 417(5) of that Act (read with subsection (6) of that section); and  
 “controlling director”, in relation to a company, means a director of the company who has control of it (construing control in accordance with section 416 of the Taxes Act 1988).

*Recovery of group relief from another group company or controlling director: procedure and time limit*

- 9
- (1) The Commissioners may serve a notice on a person within paragraph 8(2) requiring him, within 30 days of the service of the notice, to pay the amount that remains unpaid.
  - (2) Any notice under this paragraph must be served before the end of the period of three years beginning with the date on which the notice of determination mentioned in paragraph 8(1)(b) is issued.
  - (3) The notice must state the amount required to be paid by the person on whom the notice is served.
  - (4) The notice has effect—
    - (a) for the purposes of the recovery from that person of the amount required to be paid and of interest on that amount, and
    - (b) for the purposes of appeals,
 as if it were a notice of determination and that amount were an amount of stamp duty reserve tax due from that person.
  - (5) A person who has paid an amount in pursuance of a notice under this paragraph may recover that amount from the transferee company.
  - (6) A payment in pursuance of a notice under this paragraph is not allowed as a deduction in computing any income, profits or losses for any tax purposes.

*Power to require information*

- 10
- (1) The Commissioners may by notice require any person to furnish them within such time, not being less than 30 days, as may be specified in the notice with such information (including documents or records) as the Commissioners may reasonably require for the purposes of section 111 or this Schedule.



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- (2) A barrister or solicitor shall not be obliged in pursuance of a notice under this paragraph to disclose, without his client's consent, any information with respect to which a claim to professional privilege could be maintained.
- (3) In section 98(5) of the Taxes Management Act 1970 (c. 9) (penalty for failure to comply with notice to provide information), in the first column of the Table, at the appropriate place insert "paragraph 10 of Schedule 34 to the Finance Act 2002".

### Supplementary

- 11 Section 111 and this Schedule shall be construed as one with the Stamp Act 1891 (c. 39).

## SCHEDULE 35

Section 113

### STAMP DUTY: WITHDRAWAL OF RELIEF FOR COMPANY ACQUISITIONS: SUPPLEMENTARY PROVISIONS

#### Introduction

- 1 (1) The provisions of this Schedule supplement section 113 (withdrawal of relief under s.76 of the Finance Act 1986 (c. 41)).
- (2) Expressions used in this Schedule that are defined for the purposes of that section have the same meaning in this Schedule.

#### Change of control due to exempt transfer

- 2 Section 113 does not apply by reason of control of the acquiring company changing as a result of any of the transactions listed in the Schedule to the Stamp Duty (Exempt Instruments) Regulations 1987 (S.I. 1987/516).

#### Change of control due to intra-group transfer

- 3 (1) Section 113 does not apply by reason of control of the acquiring company changing as a result of a transfer of shares ("the intra-group transfer") in relation to which group relief applies.
- (2) In this paragraph—
- (a) "group relief" means relief under section 42 of the Finance Act 1930 (c. 28) or section 11 of the Finance Act (Northern Ireland) 1954 (c. 23 (N.I.)) (transfer of property between associated bodies corporate); and
- (b) references to a transfer in relation to which group relief applies are to a transfer such that an instrument effecting the transfer is exempt from stamp duty by virtue of either of the group relief provisions.
- (3) But if before the end of the period of two years beginning with the date on which the relevant instrument was executed—
- (a) a company ("company B") holding shares in the acquiring company to which the intra-group share transfer related, or that are derived from shares to which

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- that instrument related, ceases to be a member of the same group as the company referred to in section 76 as the target company (“company C”), and
- (b) the acquiring company [<sup>F275</sup>or a relevant associated company], at that time, holds an estate or interest in land—
- (i) that was transferred [<sup>F276</sup>to the acquiring company] by the relevant instrument, or
- (ii) that is derived from an estate or interest so transferred,
- [<sup>F277</sup>and that has not subsequently been transferred at market value by a duly stamped instrument on which *ad valorem* duty was paid and in respect of which section 76 relief was not claimed],
- (4) In those circumstances—
- (a) section 76 relief in relation to the relevant instrument (or an appropriate proportion of that relief) is withdrawn, and
- (b) the additional stamp duty that would have been paid on stamping the relevant instrument but for that relief if the land in question had been transferred by that instrument at market value, or an appropriate proportion of that amount, is payable by the acquiring company within 30 days after company B ceases to be a member of the same group as company C.
- (5) In this paragraph—
- (a) “company” includes any body corporate; and
- (b) references to a company being in the same group as another company are to the companies being associated bodies corporate within the meaning of the relevant group relief provision.

#### Textual Amendments

- F275** Words in Sch. 35 para. 3(3)(b) inserted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\), s. 127\(6\)\(a\)\(9\)](#) (with [s. 127\(7\)\(8\)](#))
- F276** Words in Sch. 35 para. 3(3)(b)(i) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\), s. 127\(6\)\(b\)\(9\)](#) (with [s. 127\(7\)\(8\)](#))
- F277** Words in Sch. 35 para. 3(3)(b) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\), s. 127\(6\)\(c\)\(9\)](#) (with [s. 127\(7\)\(8\)](#))

#### *Change of control due to exempt share acquisition*

- 4 (1) Section 113 does not apply by reason of control of the acquiring company changing as a result of a transfer of shares (“the exempt transfer”) to another company (“the parent company”) in relation to which share acquisition relief applies.
- (2) For this purpose—
- (a) “share acquisition relief” means relief under section 77 of the Finance Act 1986 (c. 41); and
- (b) references to a transfer in relation to which such relief applies are to a transfer such that an instrument effecting the transfer is exempt from stamp duty by virtue of that provision.
- (3) But if before the end of the period of two years beginning with the date on which the relevant instrument was executed—

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- (a) control of the parent company changes at a time when that company holds any shares transferred to it by the exempt transfer, or any shares derived from shares so transferred, and
- (b) the acquiring company [<sup>F278</sup>or a relevant associated company], at that time, holds an estate or interest in land—
  - (i) that was transferred [<sup>F279</sup>to the acquiring company] by the relevant instrument, or
  - (ii) that is derived from an estate or interest so transferred,<sup>F280</sup>and that has not subsequently been transferred at market value by a duly stamped instrument on which *ad valorem* duty was paid and in respect of which section 76 relief was not claimed],

the following provisions apply.

- (4) In those circumstances—
  - (a) section 76 relief in relation to the relevant instrument (or an appropriate proportion of that relief) is withdrawn, and
  - (b) the additional stamp duty that would have been paid on stamping the relevant instrument but for that relief if the land in question had been transferred by that instrument at market value, or an appropriate proportion of that additional duty, is payable by the acquiring company within 30 days after control of the parent company changed.

#### Textual Amendments

- F278** Words in Sch. 35 para. 4(3)(b) inserted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\)](#), [s. 127\(6\)\(a\)\(9\)](#) (with [s. 127\(7\)\(8\)](#))
- F279** Words in Sch. 35 para. 4(3)(b)(i) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\)](#), [s. 127\(6\)\(b\)\(9\)](#) (with [s. 127\(7\)\(8\)](#))
- F280** Words in Sch. 35 para. 4(3)(b) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\)](#), [s. 127\(6\)\(c\)\(9\)](#) (with [s. 127\(7\)\(8\)](#))

#### Change of control due to interest of loan creditor

- 5 (1) Section 113 does not apply by reason of control of the acquiring company changing as a result of a loan creditor becoming, or ceasing to be, treated as having control of the company if the other persons who were previously treated as controlling the company continue to be so treated.
- (2) In sub-paragraph (1) “loan creditor” has the meaning given by section 417(7) to (9) of the Taxes Act 1988.

#### Interest

- 6 (1) If any duty payable under section 113 or this Schedule is not paid within the period of 30 days within which payment is to be made, interest is payable on the amount remaining unpaid.
- (2) The provisions of section 15A(3) to (5) of the Stamp Act 1891 (c. 39) (rate of interest on unpaid duty, etc) apply in relation to interest under this paragraph.

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### *Duty of acquiring company to notify particulars*

- 7 (1) The acquiring company shall, within the period of 30 days within which payment is to be made, notify the Commissioners of—
- (a) the date on which the event occurred by reason of which it is liable to make a payment of duty under section 113 or this Schedule,
  - (b) the relevant land held by it at that time,
  - (c) the nature of the relevant instrument, the date on which it was executed, the parties to the instrument and the date on which the instrument was stamped,
  - (d) the market value of the land transferred to it by the relevant instrument at the date it was executed, and
  - (e) the amount of duty and interest payable by it.
- (2) In sub-paragraph (1)(b) the “relevant land” held by the acquiring company means every estate or interest to in relation to which section 113(1)(c) applies.
- (3) In section 98(5) of the Taxes Management Act 1970 (c. 9) (penalty for failure to provide information), in the second column of the Table, at the appropriate place insert “paragraph 7 of Schedule 35 to the Finance Act 2002”.

### *Determination, collection and recovery of duty and interest*

- 8 The provisions of regulations under section 98 of the Finance Act 1986 (c. 41) (stamp duty reserve tax: administration etc), and the provisions of the Taxes Management Act 1970 applied by those regulations, have effect with the necessary modifications in relation to—
- (a) the determination by the Commissioners of the duty payable under section 113 or this Schedule, or of the interest payable thereon,
  - (b) appeals against any such determination, and
  - (c) the collection and recovery of any such duty or interest,
- as if it were an amount of stamp duty reserve tax.

### *Recovery of section 76 relief from from another group company or controlling director*

- 9 (1) This paragraph applies where—
- (a) an amount is payable under section 113 or this Schedule by the acquiring company,
  - (b) a notice of determination of the amount payable has been issued by the Inland Revenue, and
  - (c) the whole or part of that amount is unpaid six months after the date on which it became payable.
- (2) The following persons may, by notice under paragraph 10, be required to pay the unpaid amount—
- (a) any company that at any relevant time was a member of the same group as the acquiring company and was above it in the group structure, and
  - (b) any person who at any relevant time was a controlling director of the acquiring company or of a company having control of the acquiring company.

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- (3) For this purpose a “relevant time” means any time between the execution of the relevant instrument and the change of control by virtue of which the liability to pay the amount arises.
- (4) In this paragraph—
- (a) references to companies being in the same group are to one company having control of the other or both companies being under the control of the same person or persons;
  - (b) a company is “above” another company in a group structure if it controls—
    - (i) that company, or
    - (ii) another company that is above that company in the group structure;
  - (c) “director”, in relation to a company, has the meaning given by section 168(8) of the Taxes Act 1988 (read with subsection (9) of that section) and includes any person falling within section 417(5) of that Act (read with subsection (6) of that section); and
  - (d) “controlling director”, in relation to a company, means a director of the company who has control of it.

*Recovery of section 76 relief from another group company or controlling director: procedure and time limit*

- 10 (1) The Commissioners may serve a notice on a person within paragraph 9(2) requiring him, within 30 days of the service of the notice, to pay the amount that remains unpaid.
- (2) A notice under this paragraph must be served before the end of the period of three years beginning with the date on which the notice of determination mentioned in paragraph 9(1)(b) is issued.
- (3) The notice must state the amount required to be paid by the person on whom the notice is served.
- (4) The notice has effect—
- (a) for the purposes of the recovery from that person of the amount required to be paid and of interest on that amount, and
  - (b) for the purposes of appeals,
- as if it were a notice of determination and that amount were an amount of stamp duty reserve tax due from that person.
- (5) A person who has paid an amount in pursuance of a notice under this paragraph may recover that amount from the acquiring company.
- (6) A payment in pursuance of a notice under this paragraph is not allowed as a deduction in computing any income, profits or losses for any tax purposes.

*Power to require information*

- 11 (1) The Commissioners may by notice require any person to furnish them within such time, not being less than 30 days, as may be specified in the notice with such information (including documents or records) as the Commissioners may reasonably require for the purposes of section 113 or this Schedule.

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- (2) A barrister or solicitor shall not be obliged in pursuance of a notice under this paragraph to disclose, without his client's consent, any information with respect to which a claim to professional privilege could be maintained.
- (3) In section 98(5) of the Taxes Management Act 1970 (c. 9) (penalty for failure to comply with notice to provide information), in the first column of the Table, at the appropriate place insert "paragraph 11 of Schedule 35 to the Finance Act 2002".

### *Supplementary*

- 12 Section 113 and this Schedule shall be construed as one with the Stamp Act 1891 (c. 39).

## SCHEDULE 36

Section 115(7)

### STAMP DUTY: CONTRACTS CHARGEABLE AS CONVEYANCES: SUPPLEMENTARY PROVISIONS

#### PART 1

#### SUBSALES

#### *Introduction*

- 1 This Part of this Schedule has effect for affording relief from duty under section 115 (contracts chargeable as conveyances) on a subsale.

#### *Meaning of "subsale"*

- 2 For the purposes of this Schedule there is a subsale—
- (a) where the purchaser under a contract or agreement for the sale of an estate or interest in land in the United Kingdom ("the original sale"), without having obtained a conveyance of the property contracted to be sold, contracts to sell the whole or part of the property to another person, or
  - (b) where the sub-purchaser under a subsale of an estate or interest in land in the United Kingdom, without having obtained a conveyance of the property contracted to be sold, contracts to sell to another person the whole or part of the property contracted to be sold by the original sale,
- so as to entitle that person to call for a conveyance from the original seller.

#### *Relief where duty paid on original sale or earlier subsale*

- 3 (1) Where duty under section 115 has been paid—
- (a) on the original sale, or
  - (b) on an intervening subsale,
- duty under that section on a subsale, or subsequent subsale, is chargeable only in respect of the amount (if any) by which the chargeable consideration on that transaction exceeds the chargeable consideration on the earlier transaction.

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- (2) If there is more than one such earlier transaction on which duty has been paid, the reference in sub-paragraph (1) to the chargeable consideration on the earlier transaction shall be read as a reference to the higher or highest amount of chargeable consideration on which duty has been paid.
- (3) If the subsale does not relate to the whole of the property to which the earlier transaction related, the references in sub-paragraphs (1) and (2) to the chargeable consideration on an earlier transaction shall be read as references to an appropriate proportion of that consideration.
- (4) What is an appropriate proportion shall be determined on a just and reasonable basis having regard to the subject matter of the subsale and of the earlier transaction.
- (5) For the purposes of this paragraph the chargeable consideration on a transaction is the consideration that falls to be brought into account in determining the duty chargeable on it.
- (6) Where under this paragraph duty on a subsale is chargeable in respect of part only of the consideration for the subsale, it is chargeable at the rate that would be applicable if the whole of the chargeable consideration on the subsale were taken into account.

## PART 2

### SUBSEQUENT CONVEYANCE OR TRANSFER

#### *Introduction*

- 4 (1) This Part of this Schedule has effect for affording relief where *ad valorem* duty is chargeable both—
  - (a) under section 115 on a contract or agreement (“the original sale”), and
  - (b) on a subsequent conveyance or transfer by the original seller to the purchaser, or a sub-purchaser, in conformity with that contract or agreement.
- (2) References in this Part to the purchaser under the original sale, or a sub-purchaser under a subsale, include a person by whom the rights of the purchaser, or a sub-purchaser, are exercisable by virtue of any assignment (in Scotland, assignation) or agreement (other than a subsale).

#### *Conveyance or transfer of property contracted to be sold*

- 5 (1) Where the original seller conveys the whole of the property contracted to be sold—
  - (a) to the purchaser, or
  - (b) to a sub-purchaser in circumstances in which section 58(4) of the Stamp Act 1891 (c. 39) applies (conveyance chargeable only on consideration moving from sub-purchaser),the conveyance or transfer is chargeable with duty only to the extent (if any) that the *ad valorem* duty chargeable on it (apart from this sub-paragraph) exceeds the duty paid under section 115 on the original sale together with the amount of any such duty paid on an intervening subsale.
- (2) Where—

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- (a) the original seller conveys the property contracted to be sold to different sub-purchasers in parts or parcels, and
- (b) section 58(5) of the Stamp Act 1891 (c. 39) applies (conveyance chargeable only on consideration moving from sub-purchaser),

the conveyance or transfer of each part or parcel is chargeable with duty only to the extent (if any) that the *ad valorem* duty chargeable on it (apart from this sub-paragraph) exceeds an appropriate proportion of the *ad valorem* duty paid on the original sale together with an appropriate proportion of any such duty paid on an intervening subsale.

- (3) What is an appropriate proportion shall be determined on a just and reasonable basis having regard to the subject matter of the conveyance or transfer and of the earlier transaction.
- (4) Where sub-paragraph (1) or (2) applies to reduce or extinguish the duty payable on a conveyance or transfer, the Commissioners shall, upon application and upon production of the earlier instrument or instruments, duly stamped, either—
  - (a) denote the payment of the whole of the *ad valorem* duty upon the conveyance or transfer, or
  - (b) transfer to the conveyance or transfer the *ad valorem* duty paid on the earlier instrument or instruments.

#### *Repayment of duty in certain cases*

- 6 (1) Where—
  - (a) duty is paid under section 115 on the original sale,
  - (b) one or more conveyances or transfers are executed in conformity with that contract or agreement so that the whole of the property contracted to be sold is duly conveyed to a purchaser or to one or more sub-purchasers,
  - (c) those conveyances or transfers are all duly stamped, and
  - (d) the aggregate amount of the duty that would have been paid on those conveyances or transfers but for duty having been previously paid on the original sale is less than the duty paid on the original sale,
 the Commissioners shall repay the difference to the person by whom the duty was paid on the original sale.
- (2) If duty has been paid under section 115 on one or more intervening subsales, sub-paragraph (1) has effect with the following modifications—
  - (a) the reference to duty having been paid on the original sale shall be read as a reference to duty having been paid either on the original sale or on an intervening subsale;
  - (b) the reference to the amount of duty paid on the original sale shall be read as a reference to the aggregate of the amounts paid on the original sale and any intervening subsales, and
  - (c) any repayment shall be apportioned among the persons by whom those amounts were paid.
- (3) The apportionment mentioned in sub-paragraph (2)(c) shall be made on a just and reasonable basis having regard to the subject matter of the original sale and of the subsale or subsales in question.



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### PART 3

#### GENERAL SUPPLEMENTARY PROVISIONS

##### *Construction of references to duty on transactions*

- 7 Any reference in section 115 or this Schedule to duty chargeable or paid on a transaction is to duty chargeable or paid on the stamping of the instrument by which the transaction is effected.

##### *Transactions relating to land in the UK and to other property*

- 8 (1) Where a transaction relates both to land in the United Kingdom and to other property, section 115 and this Schedule apply as if there were separate transactions.
- (2) Similarly, the reference in section 115(1)(b) to a series of transactions is to a series of transactions so far as relating to land in the United Kingdom.
- (3) If, in a case where a transaction or series of transactions relates partly to land in the United Kingdom and partly to other property, the consideration is not apportioned in a manner that is just and reasonable, section 115 and this Schedule shall have effect as if the consideration had been apportioned in such a manner.

##### *Person claiming relief to establish entitlement*

- 9 It is for a person claiming any relief under this Schedule to prove to the satisfaction of the Commissioners that he is entitled to relief and in what amount.

##### *Construction as one*

- 10 Section 115 and this Schedule shall be construed as one with the Stamp Act 1891 (c. 39).

## SCHEDULE 37

Section 116(2)

### STAMP DUTY: ABOLITION OF DUTY ON INSTRUMENTS RELATING TO GOODWILL: SUPPLEMENTARY PROVISIONS

##### *Reduction of stamp duty where instrument partly relating to goodwill*

- 1 (1) This paragraph applies where stamp duty under Part 1 of Schedule 13 to the Finance Act 1999 (c. 16) (conveyance or transfer on sale) is chargeable on an instrument that relates partly to goodwill and partly to property other than goodwill.
- (2) In such a case—
- (a) the consideration in respect of which duty would otherwise be charged shall be apportioned, on a just and reasonable basis, as between the goodwill and the other property, and
- (b) the instrument shall be charged only in respect of the consideration attributed to the other property.
- (3) This paragraph applies to instruments executed on or after 23rd April 2002.

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### *Apportionment of consideration for stamp duty purposes*

- 2 (1) Where part of the property referred to in section 58(1) of the Stamp Act 1891 (c. 39) (consideration to be apportioned between different instruments as parties think fit) consists of goodwill, 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 goodwill, 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 shall 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) This paragraph applies to instruments executed on or after 23rd April 2002.

### *Certification of instruments for stamp duty purposes*

- 3 (1) Goodwill shall be disregarded for the purposes of paragraph 6 of Schedule 13 to the Finance Act 1999 (c. 19) (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 23rd April 2002.

### *Acquisition under statute*

- 4 (1) Section 12 of the Finance Act 1895 (c. 16) (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 after 23rd April 2002 to include any

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goodwill in the instrument of conveyance required by that section to be produced to the Commissioners.

- (2) If the property consists wholly of goodwill 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 after 23rd April 2002.

### *Interpretation*

- 5 In this Schedule “the enactments relating to stamp duty” means the Stamp Act 1891 (c.39) and any enactment amending that Act or that is to be construed as one with that Act.

## SCHEDULE 38

Section 132

### AGGREGATES LEVY AMENDMENTS

#### *Introduction*

- 1 This Schedule makes amendments to provisions of Part 2 of the Finance Act 2001 (c. 9) (aggregates levy).

#### *The charge*

- 2 In section 16(1) (charge to aggregates levy), for “A levy” substitute “ A tax ”.

#### *Meaning of “aggregat”e etc*

- 3 (1) Section 17 (meaning of “aggregate” etc) is amended as follows.
  - (2) In subsection (2) (meaning of “taxable” aggregate), for paragraph (d) substitute—
    - “(d) it is aggregate that on the commencement date is on a site other than—
      - (i) its originating site, or
      - (ii) a site that is required to be registered under the name of a person who is the operator, or one of the operators, of that originating site.”.
  - (3) In subsection (3)(d) (exemption for aggregate won in the course of road works), in sub-paragraph (ii) for “otherwise than wholly or mainly” substitute “ not ”.
  - (4) In subsection (4), in paragraph (d) (exemption for cuttings from oil drilling)—
    - (a) after “the Petroleum Act 1998” insert “ or the Petroleum (Production) Act (Northern Ireland) 1964 ”;
    - (b) omit the words from “otherwise” to the end (which restrict the exemption to off-shore drilling).

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### *Exempt processes*

- 4 (1) Section 18 (exempt processes) is amended as follows.
- (2) In subsection (2)(c) (exemption for production of lime etc), for “some other substance” substitute “ anything else ”.
- (3) In subsection (3) (meaning of “relevant substance”), omit paragraphs (d) (calcite) and (h) (flint).

### *Commercial exploitation*

- 5 (1) Section 19 (commercial exploitation) is amended as follows.
- (2) In subsection (2) (description of sites removal of aggregate from which counts as exploitation), in paragraph (b) for the words from “who is the operator” to the end substitute “ under whose name that originating site is also registered ”.
- (3) After subsection (3) (meaning of “commercial” exploitation) insert—
- “(3A) For the purposes of subsection (3)(a) above “business” includes any activity of a Government department, local authority or charity.”.
- (4) In subsection (4) (exemption in certain cases where aggregate is won from one site and incorporated into a neighbouring site), for the words “adjacent land” in both places substitute “ other land ”.

### *Responsibility for commercial exploitation*

- 6 In section 22 (which determines who is taken to be responsible for exploitation of aggregate), at the end of subsection (2) (responsibility for “commercial” exploitation) insert—
- “For the purposes of this subsection “business” includes any activity of a Government department, local authority or charity.”.

### *The register*

- 7 In section 24 (the register), in subsection (6) (premises that may be registered) insert after paragraph (c)—
- “(ca) for mixing, otherwise than in permitted circumstances (within the meaning given by section 19(7)), any aggregate with any material or substance other than water,”.

### *Insolvency etc*

- 8 In section 37 (regulations about cases of insolvency etc), in subsection (7) (meaning of “insolvency procedure) omit paragraphs (g) to (j) (appointment of receiver and other interim or provisional orders).

### *Notification of registrability etc*

- 9 (1) Paragraph 1 of Schedule 4 (notification of registrability etc) is amended as follows.
- (2) For sub-paragraph (1) substitute—

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- “(1) An unregistered person who—
- (a) is required to be registered for the purposes of aggregates levy, or
  - (b) has formed the intention of carrying out taxable activities that are registrable,
- shall notify the Commissioners of that fact.
- (1A) An unregistered person who—
- (a) would be required to be registered for the purposes of aggregates levy but for an exemption by virtue of regulations under section 24(4) of this Act, or
  - (b) has formed the intention of carrying out taxable activities that would be registrable but for such an exemption,
- shall, in such cases or circumstances as may be prescribed in the regulations, notify the Commissioners of that fact.
- (1B) For the purposes of sub-paragraphs (1) and (1A) above, taxable activities are “registrable” if a person carrying them out is, by reason of doing so, required by section 24(2) of this Act to be registered for the purposes of aggregates levy.”.
- (3) In sub-paragraphs (2) and (5), after “sub-paragraph (1)” insert “ or (1A) ”.

*Restriction on powers to provide for set-off*

- 10 In paragraph 11 of Schedule 8 (restriction on powers to provide for set-off), in sub-paragraph (2) (meaning of “insolvency procedure”) omit paragraphs (f), (g) and (h) (appointment of receiver and other interim or provisional orders).

SCHEDULE 39

Section 134(1)

RECOVERY OF TAXES ETC DUE IN OTHER MEMBER STATES

**Modifications etc. (not altering text)**

**C15** Sch. 39 applied (with modifications) (22.7.2004) by [Finance Act 2004 \(c. 12\), s. 322](#)

*Introduction*

- 1 (1) This Schedule applies where in accordance with the Mutual Assistance Recovery Directive an authority in another member State makes a request for the recovery in the United Kingdom of a sum claimed by that authority in that State.
- (2) In this Schedule—
- (a) the “Mutual Assistance Recovery Directive” has the meaning given by section 134; and
  - (b) the “foreign claim” means the claim in relation to which a request under that Directive is made as mentioned in sub-paragraph (1).

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### *Enforcement of claims in the United Kingdom*

- 2 (1) Subject to the following provisions of this Schedule—
- (a) such proceedings may be taken by or on behalf of the relevant UK authority to enforce the foreign claim, by way of legal proceedings, distress, diligence or otherwise, as might be taken to enforce a corresponding UK claim, and
  - (b) any enactment or rule of law relating to a corresponding UK claim shall apply, with any necessary adaptations, in relation to the foreign claim.
- (2) “The relevant UK authority” means—
- (a) in relation to matters corresponding to those within the care and management of the Commissioners of Customs and Excise, those Commissioners;
  - (b) in relation to matters corresponding to those within the care and management of the Commissioners of Inland Revenue, those Commissioners;
  - (c) in relation to agricultural levies of the European Community, the relevant Minister, that is—
    - (i) in England, the Secretary of State,
    - (ii) in Scotland, the Scottish Ministers,
    - (iii) in Wales, the National Assembly for Wales, and
    - (iv) in Northern Ireland, the Department of Agriculture and Rural Development.
- (3) A “corresponding UK claim” means a claim in the United Kingdom corresponding to the foreign claim.
- (4) The enactments referred to in sub-paragraph (1)(b) include, in particular, those relating to the recovery of penalties and of interest on unpaid amounts.

### *Power to make supplementary provision by regulations*

- 3 (1) The Treasury may make provision by regulations—
- (a) as to what is a corresponding UK claim in relation to any description of foreign claim, and
  - (b) as to such other procedural and other supplementary matters as appear to them appropriate for implementing the Mutual Assistance Recovery Directive.
- (2) In relation to a case where there is no claim in the United Kingdom that is directly equivalent to a particular description of foreign claim, regulations under sub-paragraph (1)(a) may prescribe as the corresponding UK claim one that appears to the Treasury to be closest to an equivalent.
- (3) The power conferred by sub-paragraph (1)(b) includes power to make any provision appearing to the Treasury to be appropriate to give effect to any Commission Directive laying down detailed rules for implementing the Mutual Assistance Recovery Directive.
- (4) The relevant UK authority may make provision by regulations as to the application, non-application or adaptation in relation to foreign claims of any enactment or rule of law applicable to corresponding UK claims.

This is without prejudice to the application of any such enactment or rule in relation to foreign claims in circumstances not dealt with by regulations under this sub-paragraph.

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- (5) 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.

#### *Proceedings on contested claims*

- 4 (1) Except where permitted by virtue of regulations under paragraph 3(4) applying an enactment that permits such proceedings in the case of a corresponding UK claim, no proceedings under this Schedule shall be taken against a person if he shows that proceedings relevant to his liability on the foreign claim are pending, or are about to be instituted, before a court, tribunal or other competent body in the member State in question.
- (2) For this purpose proceedings are pending so long as an appeal may be brought against any decision in the proceedings.
- (3) Proceedings under this Schedule may be taken if the proceedings in the member State are not prosecuted or instituted with reasonable expedition.

#### *Claims determined in taxpayer's favour*

- 5 (1) No proceedings under this Schedule shall be taken against a person if a final decision on the foreign claim has been given in his favour by a court, tribunal or other competent body in the member State in question.
- (2) For this purpose a final decision is one against which no appeal lies or against which an appeal lies within a period that has expired without an appeal having been brought.
- (3) If he shows that such a decision has been given in respect of part of the claim no proceedings under this Schedule shall be taken in relation to that part.

#### *Other supplementary provisions*

- 6 For the purposes of proceedings under this Schedule—
- (a) a request made by an authority in another member State shall be taken to be duly made in accordance with the Mutual Assistance Recovery Directive unless the contrary is proved, and
- (b) except as mentioned in paragraph 5, no question may be raised as to a person's liability on the foreign claim.

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## SCHEDULE 40

Section 141

## REPEALS

## PART 1

## EXCISE DUTIES

## (1) ALCOHOLIC LIQUOR DUTIES

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Alcoholic Liquor Duties Act 1979 (c. 4)	Section 1(9).

This repeal shall be deemed to have come into force on 28th April 2002.

## (2) HYDROCARBON OIL DUTIES

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Hydrocarbon Oil Duties Act 1979 (c. 5)	In section 6AB(1), the words from “and delivered” to the end.
Finance Act 1998 (c. 36)	Section 9(2) and (3).

1 The repeal in the Hydrocarbon Oil Duties Act 1979 has effect in accordance with section 5(8)(c) of this Act.

2 The repeals in the Finance Act 1988 have effect in accordance with section 5(8)(b) of this Act.

## (3) AMUSEMENT MACHINE LICENCE DUTY

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Betting and Gaming Duties Act 1981 (c. 63)	In section 26(2), the definition of “thirty-five-penny machine”.
Finance Act 1995 (c. 4)	In Schedule 3, paragraph 8(2)(b).

These repeals have effect in accordance with section 8(6) of this Act.

## (4) BETTING DUTIES

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Excise Duties (Surcharges or Rebates) Act 1979 (c. 8)	In section 1(3), the words from “, except that if the duty is pool betting duty” to the end.
Betting and Gaming Duties Act 1981 (c. 63)	In section 2(2), paragraph (d) and the word “or” preceding it. In section 9(2), the words “or coupon betting” (in both places). In section 9(3)(a), the words “or coupon betting”.



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	In section 9(3)(aa)(i), the words “or coupon betting”.
	Section 9(4).
	Section 11.
	In section 12(3), the words “(except in sections 6, 7, 8, 9(2)(a) and 9(5) in their application to coupon betting)”.
	In Schedule 1—
	(a) in paragraph 3, the words “shall be under the care and management of the Commissioners, and”;
	(b) paragraphs 4(4) to (6), 6(2)(b), 8 and 12;
	(c) in paragraph 14(1), the words after paragraph (b).
Finance Act 1986 (c. 41)	In Schedule 4, paragraph 2(1).
Finance Act 1993 (c. 34)	Section 39(a).
Finance Act 2001 (c. 9)	In Schedule 1, the second paragraph (which begins “In section 6(1)”).

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1 The repeal of section 9(4) of the Betting and Gaming Duties Act 1981 has effect in accordance with section 14(6) of this Act.

2 The other repeals have effect in accordance with section 12 of this Act.

#### (5) VEHICLE EXCISE DUTY

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Vehicle Excise and Registration Act 1994 (c. 22)	Section 57(8). In Schedule 1, paragraph 2(4).
Finance Act 1995 (c. 4)	In Schedule 4, paragraph 7.

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1 The repeal of paragraph 2(4) of Schedule 1 to the Vehicle Excise and Registration Act 1994 has effect subject to the saving in section 20(3) of this Act.

2 The repeal of paragraph 7 of Schedule 4 to the Finance Act 1995 has effect in accordance with section 18(3) of this Act.

#### (6) Drawback of excise duty

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Customs and Excise Management Act 1979 (c. 2)	Section 133(3).

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*Status:* Point in time view as at 21/07/2009. This version of this Act contains provisions that are prospective.

*Changes to legislation:* Finance Act 2002 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## PART 2

### VALUE ADDED TAX

#### (1) DISALLOWANCE OF INPUT TAX WHERE CONSIDERATION NOT PAID

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Value Added Tax Act 1994 (c. 23)	Section 36(4A) and (5)(ea).
Finance Act 1997 (c. 16)	Section 39(2) to (4).

These repeals have effect in accordance with section 22(3) of this Act.

#### (2) INVOICES

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Value Added Tax Act 1994 (c. 23)	Section 6(9). In paragraph 2 of Schedule 11— (a) in the heading, the words “, VAT invoices”; (b) in sub-paragraph (1), the words from “and may require” to the end; (c) sub-paragraphs (2) and (2A).
Finance Act 1996 (c. 8)	Section 38(2).

These repeals have effect in accordance with section 24(5) and (6) of this Act.

## PART 3

### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

#### (1) DEDUCTIONS FROM PAYMENTS TO SUB-CONTRACTORS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	In section 559— (a) in subsection (4), the words from “and the sum so deducted” to the end; (b) subsections (5) and (5A); (c) subsection (8).
Finance Act 1998 (c. 36)	In Schedule 7, in paragraph 1 the words “559(4)(b) and (5) (twice)”. In Schedule 8, paragraph 2(1).

These repeals have effect in accordance with section 40(4) of this Act.

#### (2) COMPANY RECONSTRUCTIONS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
These repeals have effect in accordance with paragraphs 7 and 8 of Schedule 9 to this Act.	

*Status:* Point in time view as at 21/07/2009. This version of this Act contains provisions that are prospective.

*Changes to legislation:* Finance Act 2002 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Income and Corporation Taxes Act 1988 (c. 1)	In section 842(3)(c), the words “or amalgamation”.
Taxation of Chargeable Gains Act 1992 (c. 12)	In the heading before section 135, the words “and amalgamations”. In section 139(1), in the heading, in subsection (1)(a) and in subsection (5) (twice), the words “or amalgamation”. In section 211(2)— (a) in paragraph (a), and (b) in the closing words, the words “or amalgamation”. In section 214C(2)(a) and (3), the words “or amalgamation”.
Finance (No. 2) Act 1992 (c. 48)	Section 35(1).

These repeals have effect in accordance with paragraphs 7 and 8 of Schedule 9 to this Act.

### (3) TAPER RELIEF

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Taxation of Chargeable Gains Act 1992 (c. 12)	In section 2A(8)(b)(ii), the words “11 or”. In Schedule A1— (a) paragraph 11; (b) in paragraph 22(1), in the definition of “51 per cent subsidiary”, the words “(except in paragraph 11 above)”; (c) in paragraph 23, the final sentence of sub-paragraph (4), sub-paragraph (5), in sub-paragraph (7) the words “, (5)(b)” and sub-paragraphs (9) and (10); (d) paragraph 24(6).

These repeals have effect in accordance with paragraphs 2, 4 and 7 of Schedule 10 to this Act.

### (4) GAINS TREATED AS ACCRUING TO SETTLORS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Taxation of Chargeable Gains Act 1992 (c. 12)	In section 2(5)(b), the words “77, 86”. Section 77(6A). Section 86(4A). In section 86A(8), the words “or aggregate amount”.
Finance Act 1998 (c. 36)	In Schedule 21, paragraph 6(1) and (2).

These repeals have effect in accordance with paragraphs 7 and 8 of Schedule 11 to this Act.

### (5) TAX RELIEF FOR RESEARCH AND DEVELOPMENT EXPENDITURE

<i>Short title and chapter</i>	<i>Extent of repeal</i>
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These repeals have effect for accounting periods ending on or after 1st April 2002.

*Status:* Point in time view as at 21/07/2009. This version of this Act contains provisions that are prospective.

*Changes to legislation:* Finance Act 2002 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Finance Act 2000 (c. 17)	In Schedule 20— (a) in paragraph 5(1)(c), the words “(within the meaning of section 231A(4) of the Taxes Act 1988)”; (b) in paragraph 12, the word “and” at the end of paragraph (a).
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These repeals have effect for accounting periods ending on or after 1st April 2002.

#### (6) COMMUNITY INVESTMENT TAX CREDIT

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 1990 (c. 29)	In section 25(7), the word “and” at the end of paragraph (b).

This repeal has effect in accordance with section 57(3) and (4)(b) of this Act.

#### (7) CARS WITH LOW CARBON DIOXIDE EMISSIONS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Capital Allowances Act 2001 (c. 2)	In section 39, the word “or” preceding the words “section 45A”. In section 46(1), the word “or” preceding the words “section 45A”. In section 74(2), the word “and” preceding paragraph (b).

These repeals have effect in accordance with section 59 of this Act.

#### (8) COMPUTATION OF PROFITS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	In section 473(2), the words, “, if the securities were not such as are mentioned in subsection (1)(b) above”.
Finance Act 1998 (c. 36)	Section 44. Schedule 6.
Capital Allowances Act 2001	In Schedule 2, paragraph 102.

The repeal in section 473(2) of the Taxes Act 1988 has effect in accordance with section 67(4)(a) of this Act.

The other repeals have effect in accordance with section 64(6) of and paragraphs 16 and 17 of Schedule 22 to this Act.

#### (9) ASSET-LINKED LOAN RELATIONSHIPS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
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Finance Act 1996 (c. 8) In section 92, in subsection (1)(e), the word “and”.  
Section 93(11) and (13).

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The repeal in section 92 of the Finance Act 1996 (c. 8) has effect in accordance with section 72 of this Act.

The repeals in section 93 of that Act have effect in accordance with section 75 of this Act.

(10) FOREX AND EXCHANGE GAINS AND LOSSES FROM LOAN RELATIONSHIPS ETC

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	In section 15(1), the second indent of paragraph 2(3) of Schedule A. Section 56(3A) to (3D). In Schedule 24, paragraphs 13 to 19. In Schedule 27, paragraph 5(2A) so far as relating to sections 125 to 133 of the Finance Act 1993.
Taxation of Chargeable Gains Act 1992 (c. 12)	In section 117(A1), the words “(subject to sections 117A and 117B below)”. Sections 117A and 117B.
Finance Act 1993 (c. 34)	Section 60. Sections 125 to 169. Schedules 15 to 17. In Schedule 18, paragraph 2.
Finance Act 1994 (c. 9)	Sections 114 to 116. Section 226(2).
Finance Act 1995 (c. 4)	Section 52(2). Section 131. In Schedule 24, paragraphs 1 to 3. In Schedule 25, paragraphs 6(5) and 7.
Finance Act 1996 (c. 8)	In section 85(2), the word “and” at the end of paragraph (b). In section 92(6)(b), the words “127 or”. In Schedule 9— (a) paragraphs 4 and 11(4); (b) in paragraph 13(6), the definition of “related transaction”; (c) in paragraph 15(1), the words “for the purposes of section 84 of this Act”. In Schedule 11, in paragraph 3A(1)(b), the words “debt or”. In Schedule 14, paragraphs 67 to 74. In Schedule 15, paragraphs 22 to 24. In Schedule 20, paragraphs 68 to 70.
Finance Act 1998 (c. 36)	Section 108(3) and (4)(a). In section 109— (a) subsections (1) and (2);

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	(b) subsection (4) so far as relating to those subsections;
	(c) subsection (5) so far as relating to the enactments specified in paragraph (a) of it. Section 110(4)(b). Schedule 4, paragraph 7.
Finance Act 2000 (c. 17)	Section 106. In Schedule 22, paragraph 50(2)(b). In Schedule 29, paragraphs 20, 21 and 41 to 43.

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The repeal in Schedule 27 to the Taxes Act 1988 has effect for account periods beginning on or after 1st October 2002.

The other repeals have effect in accordance with section 79(3) of this Act and Schedule 23 to this Act.

#### (11) CORPORATION TAX: CURRENCY

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 1993 (c. 34)	In section 93, subsections (3) and (6) and, in subsection (7), the definitions of “branch” and “the closing rate/net investment method”.
Finance Act 1994 (c. 9)	Section 226(1).
Finance Act 1998 (c. 36)	Section 163(3)(b) and (c).

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These repeals have effect in accordance with section 80 of this Act and Schedule 24 to this Act.

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#### (12) LOAN RELATIONSHIPS: GENERAL AMENDMENTS

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	In section 77(2)(a), sub-paragraph (ii) and the preceding word “or”. Section 403ZC(2). In section 432A(9B), the definition of “money debt”. In section 797A, the second sentence in subsection (5) and in subsection (7). In Schedule 28A— (a) in paragraph 7, in sub-paragraph (1)(d), the word “and” preceding sub-paragraph (iii), in sub-paragraph (1)(e), the word “and” preceding sub-paragraph (iii), and sub-paragraph (2); (b) in paragraph 16, in sub-paragraph (1)(d), the word “and” preceding sub-paragraph (iii), in sub-paragraph (1)(e), the word “and” preceding sub-paragraph (iii), and sub-paragraph (2).

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These repeals have effect in accordance with section 82(2) of this Act.

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Finance Act 1988 (c. 39)	In Schedule 6, in paragraph 3— (a) sub-paragraphs (3)(a), (4)(a) and (5)(a) and (b); (b) in sub-paragraph (5), in the words following paragraph (c), the word “group”; (c) sub-paragraph (6).
Finance Act 1996 (c. 8)	In section 83— (a) in subsection (2), paragraphs (b) and (d) and the word “or” at the end of paragraph (c); (b) subsection (4); (c) in subsection (7), in paragraph (a), the word “(b)”, and paragraph (b) and the preceding word “and”. In section 87— (a) in subsection (3), in paragraph (a) the words “or in the two years before the beginning of that period”, in paragraph (b) the words “or in those two years”, and paragraph (c) and the preceding word “or”; (b) subsections (6) to (8). Section 89. Section 91. In Schedule 8, paragraph 2. In Schedule 9, in paragraph 17— (a) in sub-paragraph (5), in paragraph (a) the words “or in the period of two years before the beginning of that period” and in paragraph (b) the words “or in those two years”; (b) sub-paragraphs (6) and (7). In Schedule 9, in paragraph 18— (a) in sub-paragraph (1), the word “and” immediately preceding paragraph (b); (b) in sub-paragraph (4), the definition of “control”. Finance Act 1998 (c. 36) Section 82(1) and (2)(c) and (e).

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These repeals have effect in accordance with section 82(2) of this Act.

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### (13) DERIVATIVE CONTRACTS

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	Section 468AA. In section 807A(7), the definition of “relevant qualifying payment”. In Schedule 5AA— (a) in paragraph 1, sub-paragraphs (2)(b) and (c) and (3), in sub-paragraph (5), the words “and 396”, in sub-paragraph (6), the words “, corporation tax” and “or 396”, and sub-paragraph (7);

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	(b) paragraph 2(3); (c) paragraph 4(4A); (d) in paragraph 4A, in sub-paragraph (5) (b), the words “or 396”, and sub- paragraph (10A); (e) paragraph 6(3A); (f) paragraph 9. In Schedule 27, paragraph 5(2A) so far as relating to sections 159 and 160 of, and paragraph 1 of Schedule 18 to, the Finance Act 1994.
Finance Act 1990 (c. 29)	Section 81(1).
Finance Act 1994 (c. 9)	Sections 147 to 175. Section 177. Schedule 18.
Finance Act 1995 (c. 4)	Section 52(3). Section 132.
Finance Act 1996 (c. 8)	Section 93A(3)(a) and (7). Section 101(2) to (6). Schedule 12. In Schedule 14, paragraphs 75 to 79. In Schedule 15, paragraph 25. In Schedule 20, paragraph 71.
Finance Act 1998 (c. 36)	Section 99(2) and (3). In section 109— (a) subsection (3); (b) subsection (4) so far as relating to subsection (3); (c) subsection (5) so far as relating to the enactments specified in paragraph (b) of it.
Finance Act 2000 (c. 17)	In Schedule 30, paragraph 24(3).
Finance Act 2002 (c. 23)	Sections 69 and 70. Section 78.

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The repeal in Schedule 27 to the Taxes Act 1988 has effect for account periods beginning on or after 1st October 2002.

The other repeals have effect in accordance with section 83(3) of this Act.

#### (14) DEDUCTION OF TAX: PAYMENTS TO EXEMPT BODIES ETC

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	Section 349B(1)(b) and the word “or” preceding it.

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This repeal has effect in accordance with section 94(7) of this Act.

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## (15) GIFTS OF REAL PROPERTY TO CHARITY

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988	In section 587B(9), the word “and” preceding paragraph (d).

This repeal has effect in accordance with section 97 of this Act.

## (16) REFERENCES TO ACCOUNTING PRACTICE AND PERIODS OF ACCOUNT

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Taxes Management Act 1970 (c. 9)	In section 12AB(5), the definition of “period of account”.
Income and Corporation Taxes Act 1988 (c. 1)	Section 43A(2). Section 91A(8). Section 91B(11)(e) and the word “and” preceding it. In section 297(5B), the second sentence. Section 494AA(2)(b) and the word “or” preceding it. In section 560(2), the words from “and in paragraph (f)” to the end. In section 834(1), in the definition of “accounting date”, the words from “and “period of account”” to the end. Section 837A(5). In section 842B(2), the second sentence. In Schedule 5, in paragraphs 2(6) and 6(4), the definitions of “period of account”. In Schedule 28B, in paragraph 4(6B), the second sentence.
Finance Act 1988 (c. 39)	In section 86(3), the definition of “period of account”.
Finance Act 1989 (c. 26)	In section 43(9), the definition of “period of account”.
Taxation of Chargeable Gains Act 1992 (c. 12)	In section 161(3A), the words from “and in paragraph (a)” to the end. In section 13(5B), the second sentence.
Finance Act 1997 (c. 16)	In Schedule 12— (a) in paragraph 1(1)(c), the words “, in the case of companies incorporated in any part of the United Kingdom,” and “for the purposes of the accounts of such companies”; (b) in paragraph 4(5), the words “, if the recipient were a company incorporated in the United Kingdom,”; (c) in paragraph 15(1)(c), the words “, in the case of companies incorporated in any part of

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	the United Kingdom," and "for the purposes of the accounts of such companies"; (d) paragraph 28(1) to (4).
Finance Act 1998 (c. 36)	Section 45. In Schedule 18, in paragraph 14(2), the second sentence.
Finance Act 1999 (c. 16)	In Schedule 6, paragraph 3(5).
Finance Act 2000 (c. 17)	In Schedule 14, in paragraph 22(4), the second sentence. In Schedule 15, in paragraph 29(4), the second sentence. In Schedule 20, in paragraph 25(1), the definition of "normal accounting practice". In Schedule 23, in paragraph 5, the definitions of "normal accounting practice" and "statutory accounts".
Capital Allowances Act 2001 (c. 2)	Section 179(2). Section 219(2).

#### (17) FINANCIAL TRADING STOCK

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	Section 100(1B)(a).
Finance Act 1988 (c. 39)	In Schedule 12, paragraph 2.

#### (18) BANKS ETC IN COMPULSORY LIQUIDATION

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance (No. 2) Act 1992 (c. 48)	In Schedule 12, paragraphs 3(3)(c) and 4(3).
Finance Act 1998 (c. 36)	In Schedule 7, in paragraph 8, the words "3(3)(c) and".

These repeals have effect in accordance with section 107 of this Act.

## PART 4

### OTHER TAXES

#### (1) AIR PASSENGER DUTY: EXTENSION OF AREA TO WHICH EEA RATES APPLY

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 1994 (c. 9)	In section 30(2), the word "or" preceding paragraph (b).

This repeal has effect in accordance with section 121 of this Act.

*Status:* Point in time view as at 21/07/2009. This version of this Act contains provisions that are prospective.

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## (2) CLIMATE CHANGE LEVY

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 2000 (c. 17)	In Schedule 6, in paragraph 20(7), paragraph (c) and the preceding word “and”.

This repeal has effect in accordance with section 125(2) of this Act.

## (3) AGGREGATES LEVY

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 2001 (c. 9)	In section 17— (a) subsection (3)(a); (b) in subsection (4), paragraph (b) and the words in paragraph (d) from “otherwise” to the end. Section 18(3)(d) and (h). In section 20(1)— (a) the words “and is not rock” in paragraphs (a) and (b); (b) paragraph (c). Section 21(2)(b). Section 24(6)(b) and (8)(a). Section 37(7)(g) to (j). In Schedule 6, in paragraph 7(1), paragraph (b) and the words from “equal to the amount” to the end. In Schedule 8, in paragraph 11(2), paragraphs (f), (g) and (h).

The repeals in Schedule 6 to the Finance Act 2001 shall be deemed to have come into force on 1st May 2002.

The other repeals shall be deemed to have come into force on 1st April 2002.

## PART 5

### MISCELLANEOUS

#### RECOVERY OF TAX DUE IN OTHER MEMBER STATES

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 1977 (c. 36)	Section 11.
Finance Act 1980 (c. 48)	In section 17— (a) subsection (1); (b) in subsection (2A), the words “(1) and”; (c) in subsection (3), the words from the beginning to “passing of this Act;”.

**Status:**

Point in time view as at 21/07/2009. This version of this Act contains provisions that are prospective.

**Changes to legislation:**

Finance Act 2002 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.