



# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART XVII

#### TAX AVOIDANCE

### CHAPTER II

#### TRANSFERS OF SECURITIES

*Transfers with or without accrued interest: introductory*

#### **710 Meaning of “securities”, “transfer” etc. for purposes of sections 711 to 728**

- (1) This section has effect for the interpretation of sections 711 to 728.
- (2) “Securities” does not include shares in a company but, subject to subsection (3) below, includes any loan stock or similar security—
  - (a) whether of the government of the United Kingdom, any other government, any public or local authority in the United Kingdom or elsewhere, or any company or other body; and
  - (b) whether or not secured, whether or not carrying a right to interest of a fixed amount or at a fixed rate per cent. of the nominal value of the securities, and whether or not in bearer form.
- (3) “Securities” does not include—
  - (a) securities on which the whole of the return is a distribution by virtue of section 209(2)(e)(iv) and (v);
  - (b) national savings certificates (including Ulster Savings Certificates);
  - (c) war savings certificates;
  - (d) certificates of deposit (within the meaning of section 56(5));

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- (e) any security which fulfils the following conditions, namely, it is redeemable, the amount payable on its redemption exceeds its issue price, and no return other than the amount of that excess is payable on it.
- (4) Securities are to be taken to be of the same kind if they are treated as being of the same kind by the practice of a recognised stock exchange or would be so treated if dealt with on such a stock exchange.
- (5) “Transfer”, in relation to securities, means transfer by way of sale, exchange, gift or otherwise.
- (6) Where an agreement for the transfer of securities is made, they are transferred, and the person to whom they are agreed to be transferred becomes entitled to them, when the agreement is made and not on a later transfer made pursuant to the agreement; and “entitled”, “transfer” and cognate expressions shall be construed accordingly.
- (7) A person holds securities—
  - (a) at a particular time if he is entitled to them at the time;
  - (b) on a day if he is entitled to them throughout the day or he becomes and does not cease to be entitled to them on the day.
- (8) A person acquires securities when he becomes entitled to them.
- (9) Where—
  - (a) one individual holds securities at a particular time, and
  - (b) any interest on them would, if it became payable at that time, be treated for the purposes of the Tax Acts as part of another individual’s income,
 then, for the purposes of section 715(1)(b) and section 715(2)(b) so far as relating to section 715(1)(b), each of them shall be treated as holding at that time the securities which the other holds as well as those which he actually holds.
- (10) Where in Scotland two or more persons carry on a trade or business in partnership, any partnership dealings shall be treated as dealings by the partners and not by the firm as such and the partners as being entitled to securities held by the firm.
- (11) The nominal value of securities is—
  - (a) where the interest on them is expressed to be payable by reference to a given value, that value; and
  - (b) in any other case, the price of the securities when they were issued.
- (12) Where apart from this subsection the nominal value of securities would be a value (“the foreign value”) expressed in a currency other than sterling, then, for the purposes of section 715, their nominal value on a particular day is the sterling equivalent on that day of the foreign value.  
  
 For the purposes of this subsection the sterling equivalent of a value on a particular day is the sterling equivalent calculated by reference to the London closing rate of exchange for that day.
- (13) Where there is a conversion of securities then,—
  - (a) the person who was entitled to them immediately before the conversion shall be treated as transferring them on the day of the conversion (if there is no actual transfer); and
  - (b) the interest period in which the conversion is made shall be treated as ending on the day on which it would have ended had the conversion not been made.

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In this subsection “conversion” means a conversion within the meaning of section 82 of the 1979 Act.

- (14) In relation to an underwriting member of Lloyd's, “business” and “premiums trust fund” have the meanings given by section 457.

## **711 Meaning of “interest”, “transfers with or without accrued interest” etc**

- (1) This section has effect for the interpretation of sections 710 and 712 to 728.
- (2) An interest payment day, in relation to securities, is a day on which interest on them is payable; and, in a case where a particular payment of interest may be made on one of a number of days, the interest is for the purposes of this subsection payable on the first of those days.
- (3) Subject to subsection (4) below, the following are interest periods in relation to securities—
- (a) the period beginning with the day following that on which they are issued and ending with the first interest payment day to fall;
  - (b) the period beginning with the day following one interest payment day and ending with the next to fall.
- (4) A period which would (apart from this subsection) be an interest period exceeding 12 months (“a long period”) is not an interest period, but the following shall apply to it—
- (a) the period of 12 months beginning with the day on which it begins is an interest period;
  - (b) each successive period (if any) of 12 months falling within it is an interest period;
  - (c) any period of it which remains after applying paragraphs (a) and (b) above is an interest period.
- (5) Securities are transferred with accrued interest if they are transferred with the right to receive interest payable on—
- (a) the settlement day, if that is an interest payment day; or
  - (b) the next (or first) interest payment day to fall after the settlement day, in any other case;
- and they are transferred without accrued interest if they are transferred without that right.
- (6) Where section 710(13), 715(3), 720(4), 721(1) or 722(1) or (2) applies, the transfer shall be treated as made with accrued interest if the person treated as making the transfer was entitled to receive in respect of the securities interest payable on—
- (a) the settlement day, if that is an interest payment day; or
  - (b) the next (or first) interest payment day to fall after that day, in any other case;
- and they shall be treated as transferred without accrued interest if he was not so entitled.
- (7) The interest applicable to securities for an interest period is, subject to subsection (8) below, the interest payable on them on the interest payment day with which the period ends.
- (8) In the case of a period which is an interest period by virtue only of subsection (4) above or section 725(9)—

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- (a) the interest applicable to securities for the period is the interest payable on them on the interest payment day with which the long or straddling period concerned ends; and
  - (b) section 713(6) shall have effect as if the references to the period were to the long or straddling period concerned.
- (9) “Interest” includes dividends and any other return (however described) except a return consisting of an amount by which the amount payable on a security’s redemption exceeds its issue price.

### **712 Meaning of “settlement day” for purposes of sections 711 to 728**

- (1) This section has effect to determine, for the purposes of sections 711 and 713 to 728, the settlement day in relation to a transfer of securities.
- (2) Where the securities are transferred in accordance with the rules of a recognised market, the settlement day is the day on which the transferee agrees to settle or, if he may settle on one of a number of days, the day on which he settles; and, where they are transferred otherwise, subsections (3) to (5) below apply.
- (3) Where the consideration for the transfer is money alone, and the transferee agrees to pay the whole of it on or before the next (or first) interest payment day to fall after an agreement for transfer is made, the settlement day is the day on which he agrees to make the payment or, if payment may be made on one of a number of days, or on a number of different days, the latest of them to fall.
- (4) Where there is no consideration for the transfer, or the transfer is a transfer by virtue of sections 710(13), 715(3), 717(8), 720(4), 721 and 722, the settlement day is the day on which the securities are transferred.
- (5) In any other case, the settlement day is such day as an inspector decides; and the jurisdiction of the General Commissioners or the Special Commissioners on any appeal shall include jurisdiction to review such a decision of the inspector.

*Transfers with or without accrued interest: charge to tax and reliefs*

### **713 Deemed sums and reliefs**

- (1) Subject to sections 714 to 728, this section applies whether the securities in question are transferred before, on or after 6th April 1988; and in this section references to a period are references to the interest period in which the settlement day falls.
- (2) If securities are transferred with accrued interest—
  - (a) the transferor shall be treated as entitled to a sum on them in the period of an amount equal to the accrued amount; and
  - (b) the transferee shall be treated as entitled to relief on them in the period of the same amount.
- (3) If securities are transferred without accrued interest—
  - (a) the transferor shall be treated as entitled to relief on them in the period of an amount equal to the rebate amount; and
  - (b) the transferee shall be treated as entitled to a sum on them in the period of the same amount.

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- (4) In subsection (2) above “the accrued amount” means—
- (a) if the securities are transferred under an arrangement by virtue of which the transferee accounts to the transferor separately for the consideration for the securities and for gross interest accruing to the settlement day, an amount equal to the amount (if any) of gross interest so accounted for; and
  - (b) in any other case, an amount equal to the accrued proportion of the interest applicable to the securities for the period.

- (5) In subsection (3) above “the rebate amount” means—
- (a) if the securities are transferred under an arrangement by virtue of which the transferor accounts to the transferee for gross interest accruing from the settlement day to the next interest payment day, an amount equal to the amount (if any) of gross interest so accounted for; and
  - (b) in any other case, an amount equal to the rebate proportion of the interest applicable to the securities for the period.

- (6) In this section—
- (a) the accrued proportion is—

$$\frac{\mathbf{A}}{\mathbf{B}}$$

- (b) the rebate proportion is—

$$\frac{\mathbf{B} - \mathbf{A}}{\mathbf{B}}$$

where—

A is the number of days in the period up to (and including) the settlement day, and

B is the number of days in the period.

- (7) For the purposes of subsection (2) above, in a case where the interest on the securities is payable in a currency other than sterling the accrued amount is to be determined as follows—
- (a) if subsection (4)(a) above applies and the sterling equivalent of the amount of gross interest there mentioned is shown in an agreement for transfer, the accrued amount is the sterling equivalent so shown;
  - (b) if subsection (4)(a) applies but paragraph (a) above does not, or if subsection (4)(b) above applies, the accrued amount is the sterling equivalent on the settlement day of the amount found by virtue of subsection (4)(a) or (b) (as the case may be).
- (8) For the purposes of subsection (3) above, in a case where the interest on the securities is payable in a currency other than sterling the rebate amount is to be determined as follows—
- (a) if subsection (5)(a) above applies and the sterling equivalent of the amount of gross interest there mentioned is shown in an agreement for transfer, the rebate amount is the sterling equivalent so shown;
  - (b) if subsection (5)(a) applies but paragraph (a) above does not, or if subsection (5)(b) above applies, the rebate amount is the sterling equivalent

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on the settlement day of the amount found by virtue of subsection (5)(a) or (b) (as the case may be).

- (9) For the purposes of subsections (7) and (8) above the sterling equivalent of an amount on a particular day is the sterling equivalent calculated by reference to the London closing rate of exchange for that day.

#### **714 Treatment of deemed sums and reliefs**

- (1) Subsection (2) below applies if a person is treated as entitled under section 713 to a sum on securities of a particular kind in an interest period, and either—
- (a) he is not treated as entitled under that section to relief on securities of that kind in the period; or
  - (b) the sum (or total sum) to which he is treated as entitled exceeds the amount (or total amount) of relief to which he is treated as entitled under that section on securities of that kind in the period.
- (2) The person shall be treated as receiving on the day the period ends annual profits or gains whose amount is (depending on whether subsection (1)(a) or (1)(b) above applies) equal to the sum (or total sum) to which he is treated as entitled or equal to the amount of the excess; and the profits or gains shall be chargeable to tax under Case VI of Schedule D for the chargeable period in which they are treated as received.
- (3) Subsection (4) below applies if a person is treated as entitled under section 713 to relief on securities of a particular kind in an interest period, and either—
- (a) he is not treated as entitled under that section to a sum on securities of that kind in the period; or
  - (b) the amount (or total amount) of relief to which he is treated as entitled exceeds the sum (or total sum) to which he is treated as entitled under that section on securities of that kind in the period.
- (4) The person shall be entitled to an allowance whose amount is (depending on whether subsection (3)(a) or (3)(b) above applies) equal to the amount (or total amount) of relief to which he is treated as entitled or equal to the amount of the excess; and subsection (5) below shall apply.
- (5) Any amount to which the person is entitled by way of interest which—
- (a) falls due on the securities at the end of the interest period, and
  - (b) is taken into account in computing tax charged for the chargeable period in which the interest period ends,
- shall for the purposes of the Tax Acts be treated as reduced by the amount of the allowance; but if the period is one which does not end with an interest payment day, he shall be treated as becoming, in the next interest period, entitled under section 713 to relief on the securities of an amount equal to the amount of the allowance.
- (6) Where, but for this subsection, a company would by virtue of subsection (2) above be treated as receiving profits or gains on a day which does not fall within an accounting period of the company, the profits or gains shall instead be treated as received by the company on the latest day of the interest period which does so fall.

#### **715 Exceptions from sections 713 and 714**

- (1) Section 713(2)(a) or (3)(a) (as the case may be) does not apply—

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- (a) if the transferor carries on a trade and the transfer falls to be taken into account for the purposes of the Tax Acts in computing the profits or losses of that trade;
  - (b) if the transferor is an individual and on no day in the year of assessment in which the interest period ends or the previous year of assessment the nominal value of securities held by him exceeded £5,000;
  - (c) if the securities transferred form part of the estate of a deceased person, the transferor is that person's personal representative and on no day in the year of assessment in which the interest period ends or the previous year of assessment the nominal value of securities held by him as the deceased's personal representative exceeded £5,000;
  - (d) where—
    - (i) if the transferor became entitled to any interest on the securities transferred and applied it for charitable purposes only, exemption could be granted under section 505(1)(c) in respect of the interest;
    - (ii) if the transferor became entitled to any interest on the securities transferred and applied it for the purposes mentioned in paragraph (d) of section 505(1), exemption could be granted under that paragraph in respect of the interest;
  - (e) if the securities transferred are held on a disabled person's trusts, the transferor is trustee of the settlement and on no day in the year of assessment in which the interest period ends or the previous year of assessment the nominal value of securities held by him as trustee of the settlement exceeded £5,000;
  - (f) if the transferor does not fulfil the residence requirement for the chargeable period in which the transfer is made and is not a non-resident United Kingdom trader in that period;
  - (g) if the transferor is not ordinarily resident in the United Kingdom during the chargeable period in which the transfer occurs and, if he became entitled in the period to any interest on the securities transferred, it would not be liable to income tax by virtue of section 47;
  - (h) if the securities transferred are FOTRA securities, the transferor is not domiciled in the United Kingdom at any time in the chargeable period in which the transfer occurs, and he is either not ordinarily resident in the United Kingdom during that period or a non-resident United Kingdom trader in that period;
  - (j) if the transferor is an individual who, if he became entitled in the year of assessment in which the transfer occurs to any interest on the securities transferred, would be liable, in respect of the interest, to tax chargeable under Case IV or V of Schedule D and computed on the amount of sums received in the United Kingdom; or
  - (k) where, if the transferor became entitled to any interest on the securities transferred, exemption could be allowed under section 592(2) in respect of the interest.
- (2) Section 713(2)(b) or (3)(b) (as the case may be) does not apply if—
- (a) the transferee carries on a trade, and if at the time he acquired the securities he were to transfer them that transfer would fall to be taken into account for the purposes of the Tax Acts in computing the profits or losses of that trade; or
  - (b) any provision of subsection (1) above except paragraph (a) would apply if “transferor” read “transferee”.

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- (3) If securities held on charitable trusts cease to be subject to charitable trusts the trustees shall be treated for the purposes of sections 710 to 728 as transferring the securities (in their capacity as charitable trustees) to themselves (in another capacity) at the time when the securities cease to be so subject.
- (4) For the purposes of this section a person fulfils the residence requirement for a chargeable period if he is resident in the United Kingdom during any part of the period or is ordinarily resident in the United Kingdom during the period.
- (5) For the purposes of this section a person is a non-resident United Kingdom trader in a chargeable period if during any part of it he is (though neither resident during any part of it nor ordinarily resident during it) carrying on a trade in the United Kingdom through a branch or agency and the securities transferred—
- (a) were situated in the United Kingdom and used or held for the purposes of the branch or agency at or before the time of the transfer (where the person concerned is a transferor); or
  - (b) were so situated at the time of the transfer and were acquired for use by or for the purposes of the branch or agency (where the person concerned is a transferee);

but the provisions of this subsection relating to the situation of the securities in the United Kingdom do not apply where the person concerned is a company.

- (6) In any case where securities are transferred without accrued interest to a person (“the seller”) and a contract is made for the sale by the seller of securities of that kind (“the seller’s contract”) and the seller’s contract or any contract under which the securities are transferred to the seller is one in the case of which section 737 has effect and in relation to which the seller is the dividend manufacturer, then—
- (a) where the nominal value of the securities subject to the seller’s contract is greater than or equal to that of the securities transferred, the seller shall not be treated as entitled to any sum to which, but for this subsection, he would be treated as entitled under section 713(3)(b) on the securities transferred;
  - (b) where the nominal value of the securities subject to the seller’s contract is less than that of the securities transferred, any sum (or the aggregate of any sums) to which he is treated as entitled under section 713(3)(b) on the securities transferred shall be reduced by the amount of any part of the sum (or aggregate) attributable to securities (“relevant securities”) of a nominal value equal to that of the securities subject to the seller’s contract;

and for the purposes of sections 710 to 728 the securities which the seller contracts to sell shall not be treated as transferred by him (though treated as transferred to the person to whom he contracts to sell).

- (7) In determining for the purposes of subsection (6)(b) above which of the securities transferred are relevant securities, those transferred to the seller earlier must be chosen before those transferred to him later.
- (8) For the purposes of this section—

“disabled person’s trusts” means trusts falling within paragraph 5(1) of Schedule 1 to the 1979 Act;

“branch or agency” has the meaning given by section 12(3) of the 1979 Act;

“FOTRA securities” means securities issued with the condition mentioned in section 22(1) of the Finance (No.2) Act 1931 (securities free of tax for



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residents abroad) as modified by virtue of section 60(1) of the Finance Act 1940;

and the place where securities are situated shall be determined in accordance with section 18(4) of the 1979 Act.

## **716 Transfer of unrealised interest**

- (1) This section applies where securities are transferred (whether before or after 6th April 1988) with the right to receive interest (“unrealised interest”) payable on them on an interest payment day falling before the settlement day.
- (2) Where the settlement day falls within an interest period, section 714 shall (subject to subsection (5) below) apply as if the transferor were entitled under section 713 to a sum on them in the period of an amount equal to the unrealised interest (in addition to any other sum to which he may be treated as so entitled).
- (3) Where the settlement day falls after the end of the last interest period in relation to the securities, the transferor shall be treated as receiving on the settlement day annual profits or gains of an amount equal to the unrealised interest; and the profits or gains shall be chargeable to tax under Case VI of Schedule D for the chargeable period in which they are treated as received.
- (4) Where the transferee receives the unrealised interest, and but for this subsection it would be taken into account in computing tax charged for the chargeable period in which the interest is received, it shall for the purposes of the Tax Acts be left out of account.
- (5) Section 715 shall apply for the purposes of this section as if—
  - (a) in subsection (1)—
    - (i) the reference to section 713(2)(a) or (3)(a) were a reference to subsection (2) or (3) above; and
    - (ii) references to the year of assessment in which the interest period ends were references to the year in which the settlement day falls; and
  - (b) in subsection (2) the reference to section 713(2)(b) or (3)(b) were a reference to subsection (4) above.

Paragraph (b) above does not apply where the securities in question were transferred before 19th March 1986.

- (6) Where the unrealised interest is payable in a currency other than sterling its amount is for the purposes of this section the sterling equivalent on the settlement day of the amount it would be apart from this subsection; and for this purpose the sterling equivalent is to be calculated by reference to the London closing rate of exchange for the day.

## **717 Variable interest rate**

- (1) This section applies to securities other than securities falling within subsection (2) or (4) below.
- (2) Securities fall within this subsection if their terms of issue provide that throughout the period from issue to redemption (whenever redemption might occur) they are to carry interest at a rate which falls into one, and one only, of the following categories—
  - (a) a fixed rate which is the same throughout the period;

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- (b) a rate which bears to a standard published base rate the same fixed relationship throughout the period;
  - (c) a rate which bears to a published index of prices the same fixed relationship throughout the period.
- (3) In subsection (2)(c) above “published index of prices” means the retail prices index or any similar general index of prices which is published by, or by an agent of, the government of any territory outside the United Kingdom.
- (4) Securities fall within this subsection if they are deep discount securities and the rate of interest for each (or their only) interest period is equal to or less than the yield to maturity.
- (5) In subsection (4) above “deep discount securities” and “yield to maturity” have the same meanings as in Schedule 4; and for the purposes of that subsection the rate of interest for an interest period is, in relation to securities, the rate of return (expressed as a percentage) attributable to the interest applicable to them for the interest period.
- (6) Subsections (7) to (11) below apply if securities to which this section applies are transferred at any time between the time they are issued and the time they are redeemed.
- (7) If the securities are transferred without accrued interest they shall be treated for the purposes of sections 710 to 728 as transferred with accrued interest.
- (8) The person entitled to the securities immediately before they are redeemed shall be treated for the purposes of those sections as transferring them with accrued interest on the day they are redeemed.
- (9) Where there is a transfer as mentioned in subsection (6) above or by virtue of subsection (8) above, section 713 shall have effect with the omission of subsection (2) (b) and with the substitution for subsections (3) to (6) of the following subsection—
- “(3) In subsection (2) above “the accrued amount” means such amount (if any) as an inspector decides is just and reasonable; and the jurisdiction of the General Commissioners or the Special Commissioners on any appeal shall include jurisdiction to review such a decision of the inspector.”.
- (10) Subsection (11) below applies where there is a transfer by virtue of subsection (8) above and the settlement day in relation to the transfer falls after the end of a period which would (by virtue of section 711(3) and (4) and apart from this subsection) be the only or last interest period in relation to the securities.
- (11) For the purposes of sections 710 to 728 the period beginning with the day following that interest period and ending with the settlement day shall be treated as an interest period in relation to the securities; and section 711(4) shall not apply to it.

## **718 Interest in default**

- (1) This section applies where, because of any failure to fulfil the obligation to pay interest on securities, the value (on a day mentioned in section 711(7) or (8)(a), as the case may be) of the right to receive the interest payable on them on that day is less than the interest so payable.
- (2) Section 711(7) or (8)(a), as the case may be, shall be construed as if the reference to that interest were to an amount equal to that value.

## 719 Unrealised interest in default

- (1) Where securities are transferred as mentioned in section 716(1) and, because of any failure to fulfil the obligation to pay interest on them, the value (on the day of the transfer) of the right to receive the unrealised interest is less than the amount of the unrealised interest, section 716 shall have effect as modified by subsections (2) to (4) below.
- (2) In subsections (2) and (3) for “the unrealised interest” there shall be substituted “amount A”.
- (3) For subsection (4) there shall be substituted—
  - “(4) Where the transferee receives an amount by way of the unrealised interest (amount B) and that amount falls to be taken into account in computing tax charged for the chargeable period in which it is received, it shall for the purposes of the Tax Acts be treated as reduced by an amount (amount C) equal to—
    - (a) nil, if the amounts have been previously received by the transferee by way of the unrealised interest and their aggregate is equal to or greater than the value (on the day of the transfer to the transferee) of the right to receive the unrealised interest;
    - (b) amount B, if that value is equal to or greater than amount B (aggregated with other amounts previously so received, if any);
    - (c) that value, if no amount has been previously so received and that value is less than amount B; or
    - (d) so much of that value as exceeds the aggregate of amounts previously so received, in any other case.”.
- (4) The following shall be substituted for subsection (6)—
  - “(6) In this section “amount A” means, in a case where the transferor acquired the securities on or after 28th February 1986 with the right to received unrealised interest—
    - (a) an amount equal to amount D less amount E; or
    - (b) if amount D is equal to or less than amount E, nil.
  - (7) In this section “amount A” means, in a case not falling within subsection (6) above, an amount equal to amount D.
  - (8) In this section “amount D” means an amount equal to the value (on the day of the transfer by the transferor) of the right to receive the unrealised interest.
  - (9) In this section “amount E” means, in a case where the transferor (as transferee) has received in respect of the securities an amount or amounts falling within subsection (4) above—
    - (a) an amount equal to amount F less the total received; or
    - (b) if amount F is equal to or less than the total received, nil.
- (10) In this section “amount E” means, in any other case, an amount equal to amount F.
- (11) In this section “amount F” means an amount equal to the value (on the day of the transfer to the transferor) of the right to receive the unrealised interest.

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- (12) In determining for the purposes of this section which securities of a particular kind a person has transferred, he is to be taken to have transferred securities of that kind which he acquired later before securities of that kind which he acquired earlier.
- (13) Where the unrealised interest is payable in a currency other than sterling—
- (a) any amount received by way of the interest is for the purposes of this section the sterling equivalent on the day it is received of the amount it would be apart from this subsection; and
  - (b) the value (on the day of a transfer) of the right to receive the interest is for the purposes of this section the sterling equivalent (on that day) of the value it would be apart from this subsection;
- and for this purpose the sterling equivalent is to be calculated by reference to the London closing rate of exchange for the day concerned.”

*Transfers with or without accrued interest: supplemental*

## **720 Nominees, trustees etc**

- (1) Where securities are transferred by or to a person as nominee for another person, or as trustee for another person absolutely entitled as against the trustee, or for any person who would be so entitled but for being an infant or other person under disability, or for two or more persons who are or would be jointly so entitled, sections 713, 715 and 716 shall apply as if references to the transferor or the transferee (as the case may be) were to the person or persons for whom the nominee or trustee disposes or acquires.
- (2) It is hereby declared that for the purposes of subsection (1) above—
  - (a) securities are transferred by a person as trustee for another person absolutely entitled as against the trustee if that other person has immediately before the transfer the exclusive right to direct how the securities shall be dealt with, subject only to satisfying any outstanding charge, lien or other right of the trustee to resort to the securities for payment of duty, taxes, costs or other outgoings; and
  - (b) securities are transferred to a person as trustee for another person so entitled if that other person has that right immediately after the transfer.
- (3) An underwriting member of Lloyd’s shall be treated for the purposes of sections 710 to 728 as absolutely entitled as against the trustees to the securities forming part of his premiums trust fund, his special reserve fund (if any) and any other trust fund required or authorised by the rules of Lloyd’s or required by the underwriting agent through whom his business or any part of it is carried on, to be kept in connection with the business.
- (4) Where a person who is entitled to securities becomes trustee of them, he shall be treated for the purposes of sections 710 to 728 as transferring them (in a capacity other than trustee) to himself (in his capacity as trustee), or to himself and any other trustees, at the time he becomes trustee.
- (5) Annual profits or gains which by virtue of 714(2) or 716(3) are treated as received in a year of assessment by trustees shall be chargeable to income tax at a rate equal to the sum of the basic rate and the additional rate for that year.

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This subsection does not apply where the profits or gains are treated as received by the investment manager of a common investment fund for the time being designated as mentioned in section 328(1).

- (6) In any case where—
- (a) a trustee of a settlement is treated as receiving annual profits or gains under section 714(2), or
  - (b) a trustee of a settlement who is resident or domiciled outside the United Kingdom throughout any chargeable period in which an interest period (or part of it) falls would, at the end of the interest period, have been treated under section 714(2) as receiving annual profits or gains or annual profits or gains of a greater amount if he had been resident or domiciled in the United Kingdom during a part of each such chargeable period,

Chapters II to IV of Part XV shall have effect as if the amount which the trustee is or would be treated as receiving were income (within Chapter II) or income arising under the settlement (within Chapter III or IV).

- (7) In any case where income of a trustee of a settlement who is resident or domiciled outside the United Kingdom throughout any chargeable period in which an interest period (or part of it) falls consists of interest which—
- (a) falls due at the end of the interest period; and
  - (b) would have been treated under section 714(5) as reduced by an allowance or an allowance of a greater amount if he had been resident or domiciled in the United Kingdom during a part of each such chargeable period;

then, for the purposes of Chapters II to IV of Part XV, the interest shall be treated as being reduced by the amount of the allowance or by the additional amount (as the case may be).

- (8) In subsections (6) and (7) above—
- (a) “settlement” means settlement within the meaning of Chapter II, III or IV of Part XV (as the case may be); and
  - (b) references to a trustee of a settlement are, where there is no trustee of the settlement, to any person entitled to securities comprised in the settlement.

## **721 Death**

- (1) Where an individual who is entitled to securities dies, he shall be treated for the purposes of sections 710 to 728 as transferring the securities to his personal representatives immediately before his death.
- (2) Where the securities are transferred with accrued interest by the personal representatives to a legatee in the interest period in which the individual died—
- (a) section 713 shall not apply to the transfer, and
  - (b) the transfer of the securities which the individual is treated as making by virtue of subsection (1) above shall be treated as made to the legatee (and not to the personal representatives).
- (3) In subsection (2) above “legatee” includes any person taking (whether beneficially or as trustee) under a testamentary disposition or on an intestacy or partial intestacy, including any person taking by virtue of an appropriation by the personal representatives in or towards satisfaction of a legacy or other interest or share in the deceased’s property.

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- (4) In the case of an individual who dies in an interest period, section 714(2) shall have effect as if the reference to the day the period ends were to the day he dies.
- (5) Subsections (1) to (4) above do not apply where the individual concerned is an underwriting member of Lloyd's and the securities concerned form part of a premiums trust fund, a special reserve fund or any other trust fund required or authorised by the rules of Lloyd's or required by the underwriting agent through whom the individual's business or any part of it is carried on, to be kept in connection with the business.
- (6) In a case where subsection (5) above applies the deceased's personal representatives shall be treated for the purposes of sections 710 to 728 as the transferor or transferee in relation to transfers of securities as to which the deceased was the transferor or transferee (as the case may be) in the interest period in which he died.

## **722 Trading stock**

- (1) Where securities acquired by a person otherwise than as trading stock of a trade carried on by him are appropriated by him for the purposes of the trade as trading stock (whether on the commencement of the trade or otherwise), he shall be treated for the purposes of sections 710 to 728 as transferring them otherwise than in the course of the trade and re-acquiring them in the course of the trade on the day the appropriation is made.
- (2) Where securities forming part of the trading stock of a person's trade are appropriated by him for any other purpose, or are retained by him on his ceasing to carry on the trade, he shall be treated for the purposes of sections 710 to 728 as transferring them in the course of the trade and re-acquiring them otherwise than in the course of the trade on the day the appropriation is made or (as the case may be) he ceases to carry on the trade.

## **723 Foreign securities: delayed remittances**

- (1) This section applies where in an interest period a person is treated as entitled to a sum or sums under section 713(2)(a) in respect of a transfer or transfers of securities of a particular kind which are situated outside the United Kingdom.
- (2) Subject to subsection (3) below, the amount of any annual profits or gains which the person is treated under section 714 as receiving on the day the period ends in respect of securities of that kind shall be reduced—
  - (a) if the amount of the sum or aggregate of the sums exceeds the amount of the profits or gains, to nil; or
  - (b) in any other case, by the amount of the sum or aggregate.
- (3) No reduction shall be made unless the person makes a claim and shows that the conditions in subsection (5) below are, so far as applicable, satisfied in the chargeable period in which the profits or gains are treated as received.
- (4) The claimant (or his personal representatives) shall be charged to tax under Case VI of Schedule D on the amount of the reduction for the chargeable period in which the conditions in subsection (5) below cease to be satisfied.
- (5) The conditions are—
  - (a) that the claimant was unable to remit the proceeds of the transfer or transfers to the United Kingdom;

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- (b) that the inability was due to the laws of the territory in which the securities are situated, or to the executive action of its government, or to the impossibility of obtaining foreign currency in that territory; and
  - (c) that the inability was not due to any want of reasonable endeavours on the part of the claimant.
- (6) No claim under this section shall be made in respect of a transfer more than six years after the end of the interest period in which the transfer occurred.
- (7) The personal representatives of a deceased person may make any claim which he might have made under this section if he had not died.
- (8) For the purposes of this section the place where securities are situated shall be determined in accordance with section 18(4) of the 1979 Act.

#### **724 Insurance companies**

- (1) The references in section 715(1)(a) and (2)(a) to computing the profits or losses of a trade shall not be taken as applying to a computation of income for the purposes of section 76(2).
- (2) Where an insurance company carrying on life assurance business is treated as receiving annual profits or gains under section 714(2) or 716(3) in respect of securities held as investments in connection with that business, the profits or gains shall be treated for the purposes of section 434(3) to (5) as if they were income from investments held in connection with that business.
- (3) Section 713(2)(a) or (3)(a) (as the case may be) shall not apply if the transferor is an insurance company and—
- (a) the transfer falls to be taken into account in computing its profits or losses for the purposes of section 436; or
  - (b) if the company became entitled to any interest on the securities transferred, it would by virtue of section 441(1) be liable, in respect of the interest, to tax computed by reference to the amount of income received in the United Kingdom; or
  - (c) if the company became entitled to any interest on the securities transferred and applied the interest for the purposes of its foreign life assurance fund, it would by virtue of section 441(2) not be liable to tax in respect of the interest.
- (4) Section 713(2)(b) or (3)(b) (as the case may be) shall not apply if subsection (3) above would apply if in that subsection “transferor” read “transferee”.
- (5) Where an overseas life insurance company (within the meaning of section 431) is entitled to an allowance under section 714(4), section 714(5) and (6) shall not apply but subsections (6) and (7) below shall apply.
- (6) If the company is treated under section 714(2) as receiving annual profits or gains in an accounting period, the profits or gains shall be treated as reduced by any amount (“the deductible amount”) equal to the allowance or aggregate of the allowances, as the case may be, to which the company is entitled under section 714(4) in relation to an interest period or periods ending in the accounting period.
- (7) Where the deductible amount exceeds the amount of those annual profits or gains, the company may claim to have the excess treated as reducing any annual profits or gains the company is treated as receiving under section 714(2) in the company’s next

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accounting period or, if there is still an excess, the one after (and so on for future accounting periods).

- (8) Subsections (5) to (7) above do not apply to an overseas life insurance company if, by virtue of arrangements specified in an Order in Council under section 788, no charge to corporation tax under Case III of Schedule D arises under section 445 in respect of any income of the company.

## **725 Lloyd’s underwriters**

- (1) The securities forming part of a premiums trust fund at the beginning of 1st January of any year shall be treated for the purposes of sections 710 to 728 as transferred on that day to the trustees of the fund, and in relation to such a transfer, the settlement day is the day preceding that of the transfer (notwithstanding section 712).
- (2) The securities shall be treated as transferred with accrued interest if the trustees are entitled to receive in respect of them interest payable on—
- (a) the day of the transfer, if that is an interest payment day, or
  - (b) the next (or first) interest payment day to fall after that day, in any other case;
- and they shall be treated as transferred without accrued interest if they are not so entitled.
- (3) Subsections (1) and (2) above do not apply as regards securities if the day preceding 1st January concerned is an interest payment day in relation to them.
- (4) The securities forming part of a premiums trust fund at the end of 31st December of any year shall be treated for the purposes of sections 710 to 728 as transferred on that day by the trustees of the fund, and in relation to such a transfer, the settlement day is the day of the transfer (notwithstanding section 712).
- (5) The securities shall be treated as transferred with accrued interest if the trustees are entitled to receive in respect of them interest payable on the next (or first) interest payment day to fall after the day of the transfer, and they shall be treated as transferred without accrued interest if they are not so entitled.
- (6) Subsections (4) and (5) above do not apply as regards securities if 31st December concerned is an interest payment day in relation to them.
- (7) Where securities are transferred by or to the trustees of a premiums trust fund, subsections (8) and (9) below shall have effect in relation to the trustees, though not in relation to the transferee or transferor (unless in turn constituting trustees of such a fund).
- (8) In subsection (9) below “straddling period” means a period which would (by virtue of section 711(3) and (4) and apart from subsection (9)) be in relation to the securities an interest period beginning on or before and ending after 31st December of any year.
- (9) For the purposes of sections 710 to 728 a straddling period is not an interest period, but—
- (a) the period beginning with the day on which the straddling period begins and ending with 31st December concerned is an interest period; and
  - (b) the period beginning with the day following 31st December concerned and ending with the day with which the straddling period ends is an interest period.



## 726 Building societies

- (1) Subsections (2) to (5) below apply where securities are transferred and the interest which falls due on them either before the settlement day or at the end of the interest period in which the settlement day falls is subject to the provisions of regulations under section 476(1) but would not on being paid (to whatever person) be a gross payment within the meaning of those regulations (“a gross payment”).
- (2) Section 713(4) shall be construed as if the following were substituted for paragraphs (a) and (b)—
  - “(a) if the securities are transferred under an arrangement by virtue of which the transferee accounts to the transferor separately for the consideration for the securities and for an amount equal to the grossed up equivalent of the interest (if any) accruing to the settlement day, an amount equal to that amount; and
  - (b) in any other case, an amount equal to the accrued proportion of the grossed up equivalent of the interest applicable to the securities for the period.”.
- (3) Section 713(5) shall be construed as if the following were substituted for paragraphs (a) and (b)—
  - “(a) if the securities are transferred under an arrangement by virtue of which the transferor accounts to the transferee for an amount equal to the grossed up equivalent of the interest (if any) accruing from the settlement day to the next interest payment day, an amount equal to that amount; and
  - (b) in any other case, an amount equal to the rebate proportion of the grossed up equivalent of the interest applicable to the securities for the period.”.
- (4) Section 716 shall be construed as if in subsections (2) and (3) “the unrealised interest” read “the grossed up equivalent of the unrealised interest”.
- (5) In calculating the grossed up equivalent of interest for the purposes of sections 713(4)(b) and (5)(b) and 716(2) and (3) of this Act (as substituted or amended as mentioned in this section) and section 33A(5)(c) of the 1979 Act, the interest shall be treated as if it would, on being paid, not be a gross payment.
- (6) For the purposes of the provisions mentioned in subsection (5) above, the grossed up equivalent of interest is to be calculated by adding to the interest a sum found by applying the formula—

$$\frac{S}{1 + R} = R$$

where—

S is the sum to be found;

I is the interest; and

R is the basic rate of income tax (expressed as a fraction) for the year of assessment in which the interest is payable.

- (7) Where a sum is both interest mentioned in section 714(5), 720(7) or 742(6) and dividends or interest in the case of which section 476(3)(b) or (5)(c) applies—

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- (a) in calculating the deduction of income tax as mentioned in section 476(3)(b) or (5)(c) any reduction mentioned in section 714(5), 720(7) or 742(6) shall be disregarded; and
- (b) the amount which is treated as reduced as mentioned in section 714(5), 720(7) or 742(6) shall be the amount the person concerned is treated as receiving by virtue of section 476(3)(b) or (5)(c) (rather than the interest which falls due).

### **727 Stock lending**

- (1) The effect of section 129(3) shall be disregarded in construing section 715(1)(a) and (2)(a).
- (2) Where securities are transferred in circumstances such that by virtue of section 149B(9) of the 1979 Act (capital gains tax exemption) any disposal and acquisition are disregarded for the purposes of capital gains tax, sections 713(2) and (3) and 716 shall not apply.

### **728 Information**

- (1) In order to obtain for the purposes of sections 710 to 727 particulars relating to securities, an inspector may by notice require a return under subsection (2) or (3) below.
- (2) A member of the Stock Exchange, other than a market maker, may be required to make a return giving, in relation to any transactions effected by him in the course of his business in the period specified in the notice, such particulars as may be so specified.  
  
 In relation to transactions before 27th October 1986 this subsection shall have effect with the substitution of “jobber” for “market maker”.
- (3) A person (other than a member of the Stock Exchange), who acts as an agent or broker in the United Kingdom in transactions in securities, may be required to make a return giving, in relation to any such transactions effected by him in the period specified in the notice, such particulars as may be so specified.
- (4) No person shall be required under subsection (2) or (3) above to include in a return particulars of any transaction effected more than three years before the service of the notice requiring him to make the return.
- (5) In order to obtain for the purposes of sections 710 to 727 particulars relating to securities, the Board or an inspector may by notice require any person in whose name any securities are registered to state whether or not he is the beneficial owner of those securities and, if he is not the beneficial owner of them or any of them, to furnish the name and address of the person or persons on whose behalf the securities are registered in his name.
- (6) In this section “market maker”, in relation to securities, means a person who—
  - (a) holds himself out at all normal times in compliance with the rules of the Stock Exchange as willing to buy and sell securities of the kind concerned at a price specified by him; and
  - (b) is recognised as doing so by the Council of the Stock Exchange.
- (7) The Board may by regulations provide that—

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- (a) subsections (2), (3) and (6)(a) above shall have effect as if references to the Stock Exchange were to any recognised investment exchange (within the meaning of the Financial Services Act 1986) or to any of those exchanges specified in the regulations; and
  - (b) subsection (6)(b) shall have effect as if the reference to the Council of the Stock Exchange were to the investment exchange concerned.
- (8) Regulations under subsection (7) above shall apply in relation to transactions effected on or after such day as may be specified in the regulations.

#### *Other transfers of securities*

### **729 Sale and repurchase of securities**

- (1) Where the owner of any securities (“the owner”) agrees to sell or transfer those securities and by the same or any collateral agreement—
- (a) agrees to buy back or re-acquire the securities, or
  - (b) acquires an option, which he subsequently exercises, to buy back or re-acquire the securities,
- then, if the result of the transaction is that any interest becoming payable in respect of the securities is receivable otherwise than by the owner, the following provisions shall have effect—
- (i) the interest so payable shall, whether it would or would not have been chargeable to tax apart from the provisions of this section, be deemed for all the purposes of the Tax Acts to be the income of the owner and not to be the income of any other person; and
  - (ii) if the securities are of such a character that the interest payable in respect thereof may be paid without deduction of tax, the owner shall be chargeable to tax under Case VI of Schedule D in respect of the interest which is so deemed to be his income, but shall be entitled to credit for any tax which that income is shown to have borne.
- (2) In relation to corporation tax—
- (a) subject to the provisions of the Tax Acts about distributions, interest deemed under subsection (1)(i) above to be the income of the owner shall be chargeable under Case VI of Schedule D, and
  - (b) subsection (1)(ii) above shall not apply.
- (3) The references in subsection (1) above to buying back or re-acquiring the securities shall be deemed to include references to buying or acquiring similar securities, so, however, that where similar securities are bought or acquired, the owner shall be under no greater liability to tax than he would have been under if the original securities had been bought back or re-acquired.
- (4) Where any person carrying on a trade which consists wholly or partly in dealing in securities agrees to buy or acquire any securities, and by the same or any collateral agreement—
- (a) agrees to sell back or re-transfer the securities, or
  - (b) acquires an option, which he subsequently exercises, to sell back or re-transfer the securities,

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then, if the result of the transaction is that any interest becoming payable in respect of the securities is receivable by him, no account shall be taken of the transaction in computing for any of the purposes of the Tax Acts the profits arising from or loss sustained in the trade.

- (5) Subsection (4) above shall have effect, subject to any necessary modifications, as if references to selling back or re-transferring the securities included references to selling or transferring similar securities.
- (6) This section shall not apply to any income to which section 786(4) applies.
- (7) Subsections (1) and (2) above shall not apply where—
  - (a) the securities are Eurobonds or foreign government stock; and
  - (b) the owner of the securities carries on a trade which consists wholly or partly in dealing in securities and the person who agrees to buy or acquire the securities carries on such a trade.
- (8) Subsection (4) above shall not apply where—
  - (a) the securities are Eurobonds or foreign government stock; and
  - (b) the person from whom the person there mentioned agrees to buy or acquire the securities carries on a trade which consists wholly or partly in dealing in securities.
- (9) In subsections (7) and (8) above—
 

“Eurobond” has the same meaning as in section 732(5); and

“foreign government stock” means stock which is issued by a government other than that of the United Kingdom and is denominated in a currency other than sterling.
- (10) For the purposes of this section—
  - (a) “interest” includes a dividend;
  - (b) “securities” includes stocks and shares, except securities which are securities for the purposes of sections 710 to 728; and
  - (c) securities shall be deemed to be similar if they entitle their holders to the same rights against the same persons as to capital and interest and the same remedies for the enforcement of those rights, notwithstanding any difference in the total nominal amounts of the respective securities or in the form in which they are held or the manner in which they can be transferred.
- (11) The Board may by notice require any person to furnish them within such time as they may direct (not being less than 28 days), in respect of all securities of which he was the owner at any time during the period specified in the notice, such particulars as they consider necessary for the purposes of this section and for the purpose of discovering whether tax has been borne in respect of the interest on all those securities.
- (12) In any case where the owner agrees to sell or transfer before such day as the Board may by order appoint for the purposes of this section or the person referred to in subsection (4) above agreed to buy or acquire before that day—
  - (a) subsections (1) and (2) above shall not apply if the owner’s agreement to sell or transfer constitutes a transfer to which section 713(2)(a) applies; and
  - (b) subsection (10)(b) above shall have effect with the omission of the words “except securities which are securities for the purposes of sections 710 to 728”.

### **730 Transfers of income arising from securities**

- (1) Where in any chargeable period the owner of any securities (“the owner”) sells or transfers the right to receive any interest payable (whether before or after the sale or transfer) in respect of the securities without selling or transferring the securities, then, for all the purposes of the Tax Acts, that interest, whether it would or would not be chargeable to tax apart from the provisions of this section—
  - (a) shall be deemed to be the income of the owner or, in a case where the owner is not the beneficial owner of the securities and some other person (“a beneficiary”) is beneficially entitled to the income arising from the securities, the income of the beneficiary, and
  - (b) shall be deemed to be the income of the owner or beneficiary for that chargeable period, and
  - (c) shall not be deemed to be the income of any other person.
- (2) For the purposes of subsection (1) above, in the case of a sale or other realisation the proceeds of which are chargeable to tax under Schedule C or under section 123(3) the interest so deemed to be the income of the owner or beneficiary shall be deemed to be equal in amount to the amount of those proceeds.
- (3) Nothing in subsection (1) above shall affect any provision of this Act authorising or requiring the deduction of income tax—
  - (a) from any interest which, under that subsection, is deemed to be the income of the owner or beneficiary, or
  - (b) from the proceeds of any subsequent sale or other realisation of the right to receive that interest;but the proceeds of any such subsequent sale or other realisation shall not, for any of the purposes of the Tax Acts, be deemed to be the income of the seller or the person on whose behalf the right is otherwise realised.
- (4) Where—
  - (a) the securities are of such a character that the interest payable in respect thereof may be paid without deduction of income tax, and
  - (b) the owner or beneficiary does not show that the proceeds of any sale or other realisation of the right to receive the interest which is deemed to be his income by virtue of this section have been charged to tax under Schedule C or under section 123(3),then the owner or beneficiary shall be chargeable to tax under Case VI of Schedule D in respect of that interest, but shall be entitled to credit for any tax which that interest is shown to have borne.
- (5) For the purposes of subsection (4) above, in any case where, if the interest had been chargeable under Case IV or Case V of Schedule D, the computation of tax would have been made by reference to the amount received in the United Kingdom, the tax under Case VI shall be computed on the full amount of the sums which have been or will be received in the United Kingdom in the year of assessment or any subsequent year in which the owner remains the owner of the securities.
- (6) In relation to corporation tax, subsections (4) and (5) above shall not apply but, subject to the provisions of the Tax Acts about distributions, the owner or beneficiary shall, in respect of any interest which is deemed to be his income by virtue of this section, be chargeable to corporation tax under Case VI of Schedule D unless he shows that the

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proceeds of any sale or other realisation of the right to receive that interest have been charged to tax under Schedule C or under section 123(3).

- (7) In this section—
- “interest” includes dividends, annuities and shares of annuities, and
  - “securities” includes stocks and shares.
- (8) The Board may by notice require any person to furnish them within such time as they may direct (not being less than 28 days), in respect of all securities of which he was the owner at any time during the period specified in the notice, with such particulars as they consider necessary for the purposes of this section and for the purpose of discovering whether—
- (a) tax has been borne in respect of the interest on all those securities; or
  - (b) the proceeds of any sale or other realisation of the right to receive the interest on the securities have been charged to tax under Schedule C or section 123(3).

*Purchase and sale of securities*

**731 Application and interpretation of sections 732 to 734**

- (1) In this section “the relevant provisions” means sections 732, 733, 734 and this section.
- (2) Subject to subsections (3) to (10) below, the relevant provisions relate to cases of a purchase by a person (“the first buyer”) of any securities and their subsequent sale by him, the result of the transaction being that interest becoming payable in respect of the securities (“the interest”) is receivable by the first buyer.
- (3) The relevant provisions do not relate to cases where—
- (a) the time elapsing between the purchase by the first buyer and his taking steps to dispose of the securities exceeded six months, or
  - (b) that time exceeded one month and it is shown to the satisfaction of the Board that the purchase and sale were each effected at the current market price, and that the sale was not effected in pursuance of an agreement or arrangement made before or at the time of the purchase.
- The jurisdiction of the General Commissioners or Special Commissioners on any appeal shall include jurisdiction to review any relevant decision taken by the Board in the exercise of their functions under this subsection.
- (4) The reference in subsection (3) above to the first buyer taking steps to dispose of the securities shall be construed—
- (a) if he sold them in the exercise of an option he had acquired, as a reference to his acquisition of the option,
  - (b) in any other case, as a reference to his selling them.
- (5) For the purposes of the relevant provisions, a sale of securities similar to, and of the like nominal amount as, securities previously bought (“the original securities”) shall be equivalent to a sale of the original securities, and subsection (4) above shall apply accordingly; and where the first buyer bought parcels of similar securities at different times a subsequent sale of any of the securities shall, so far as may be, be related to the last to be bought of the parcels, and then to the last but one, and so on.

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- (6) A person shall be under no greater liability to tax by virtue of subsection (5) above than he would have been under if instead of selling the similar securities he had sold the original securities.
- (7) Where at the time when a trade is, or is deemed to be, set up and commenced any securities form part of the trading stock belonging to the trade, those securities shall be treated for the purposes of this section—
- (a) as having been sold at that time in the open market by the person to whom they belonged immediately before that time, and
  - (b) as having been purchased at that time in the open market by the person thereafter engaged in carrying on the trade.
- (8) Subject to subsection (7) above, where there is a change in the persons engaged in carrying on a trade which is not a change on which the trade is deemed to be discontinued, the provisions of this section shall apply in relation to the person so engaged after the change as if anything done to or by his predecessor had been done to or by him.
- (9) For the purposes of the relevant provisions—
- “interest” includes a qualifying distribution and any dividend which is not a qualifying distribution, and in applying references to interest in relation to a qualifying distribution—
    - (a) “gross interest” means the qualifying distribution together with the tax credit to which the recipient of the distribution is entitled in respect of it; and
    - (b) “net interest” means the qualifying distribution exclusive of any such tax credit;
  - “person” includes any body of persons, and references to a person entitled to any exemption from tax include, in a case of an exemption expressed to apply to income of a trust or fund, references to the persons entitled to make claims for the granting of that exemption;
  - “securities” includes stocks and shares, except securities which are securities for the purposes of sections 710 to 728.
- (10) For the purposes of the relevant provisions, securities shall be deemed to be similar if they entitle their holders to the same rights against the same persons as to capital and interest and the same remedies for the enforcement of those rights, notwithstanding any difference in the total nominal amounts of the respective securities or in the form in which they are held or the manner in which they can be transferred; and for the purposes of this subsection, rights guaranteed by the Treasury shall be treated as rights against the Treasury.

## **732 Dealers in securities**

- (1) Subject to the provisions of this section, if the first buyer is engaged in carrying on a trade which consists of or comprises dealings in securities, then, in computing for any of the purposes of the Tax Acts the profits arising from or loss sustained in the trade, the price paid by him for the securities shall be reduced by the appropriate amount in respect of the interest, as determined in accordance with section 735.

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- (2) Subsection (1) above shall not apply if the subsequent sale is carried out by the first buyer after 26th October 1986 in the ordinary course of his business as a market maker in securities of the kind concerned.
- (3) Subsection (1) above shall not apply if the purchase of the securities by the first buyer and their resale, or as the case may be the subsequent sale of similar securities, constitute a transaction which is to be left out of account in computing profits or losses by virtue of section 729(4), or a transaction which would fall to be so left out of account apart from section 729(8).
- (4) Subsection (1) above shall not apply if the securities are overseas securities bought by the first buyer on a stock exchange outside the United Kingdom in the ordinary course of his trade as a dealer in securities and the following conditions are satisfied, namely—
- (a) the interest is brought into account in computing for the purposes of the Tax Acts the profits arising from or loss sustained in the trade, and
  - (b) where credit against tax would fall to be allowed in respect of the interest under section 788 or 790, the first buyer elects that credit shall not be so allowed.

In this subsection “overseas securities” means securities of the government of, or of a body of persons resident in, any country or territory outside the United Kingdom and the Republic of Ireland.

- (5) Subsection (1) above shall not apply if the securities are Eurobonds bought by the first buyer in the ordinary course of his trade as a dealer in Eurobonds; and in this subsection “Eurobond” means a security—
- (a) which is neither preference stock nor preference share capital; and
  - (b) which is issued in bearer form; and
  - (c) which carries a right to interest either at a fixed rate or at a rate bearing a fixed relationship to a standard published base rate; and
  - (d) which does not carry a right to any other form of benefit, whether in the nature of interest, participation in profits or otherwise; and
  - (e) the interest on which is payable without any deduction in respect of income tax or of any tax of a similar character imposed by the laws of a territory outside the United Kingdom;

but, notwithstanding anything in paragraph (d) above, a security is not prevented from being a Eurobond by reason only that it carries a right to convert into a security of another description or to subscribe for further securities (whether of the same description or not).

- (6) For the purposes of subsection (2) above a person is a market maker in securities of a particular kind if he—
- (a) holds himself out at all normal times in compliance with the rules of the Stock Exchange as willing to buy and sell securities of that kind at a price specified by him; and
  - (b) is recognised as doing so by the Council of the Stock Exchange.

### **733 Persons entitled to exemptions**

- (1) If the first buyer is entitled under any enactment to an exemption from tax which, apart from this subsection, would extend to the interest, then the exemption shall not extend



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to an amount equal to the appropriate amount in respect of the interest, as determined in accordance with section 735.

- (2) If the first buyer is so entitled and any annual payment is payable by him out of the interest, the annual payment shall be deemed as to the whole thereof to be paid out of profits or gains not brought into charge to income tax, and section 349(1) shall apply accordingly.

#### **734 Persons other than dealers in securities**

- (1) If the first buyer carries on a trade not falling within section 732, then in ascertaining whether any or what repayment of income tax is to be made to him under section 380 or 381 by reference to any loss sustained in the trade and the amount of his income for the year of assessment his income for which includes the interest, there shall be left out of account—
- (a) the appropriate amount in respect of the interest, as determined in accordance with section 735, and
  - (b) any tax paid on that amount.
- (2) Where the first buyer is a company which does not carry on a trade falling within section 732—
- (a) the appropriate amount in respect of the interest, as determined in accordance with section 735(2), and
  - (b) any tax paid in respect of or deducted from that amount,
- shall be disregarded except that, for the purposes of corporation tax on chargeable gains, the appropriate proportion of the net interest receivable by the first buyer as mentioned in section 735(2) shall be treated as if it were a capital distribution within the meaning of section 72(5)(b) of the 1979 Act received in respect of the holding of the securities concerned.
- (3) In applying references in this section to interest in relation to a qualifying distribution, references to any tax paid on or in respect of an amount shall be construed as references to so much of any related tax credit as is attributable to that amount; and for this purpose “related tax credit”, in relation to an amount, means the tax credit to which the recipient of the distribution of which that amount is a proportion is entitled.

#### **735 Meaning of “appropriate amount in respect of” interest**

- (1) For the purposes of section 732 the appropriate amount in respect of the interest is the appropriate proportion of the net interest receivable by the first buyer.
- (2) For the purposes of sections 733 and 734 the appropriate amount in respect of the interest is the gross amount corresponding with the appropriate proportion of the net interest receivable by the first buyer.
- (3) For the purposes of this section the appropriate proportion is the proportion which—
- (a) the period beginning with the date on which the securities were first listed in The Stock Exchange Daily Official List at a price excluding the value of the interest payment last payable before the interest receivable by the first buyer, and ending with the day before the day on which the first buyer bought the securities,
- bears to—

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- (b) the period beginning with that date and ending with the day before the first date after the purchase by the first buyer on which the securities are quoted in that List at a price excluding the value of the interest receivable by the first buyer.
- (4) Where the interest receivable by the first buyer was the first interest payment payable in respect of the securities, paragraphs (a) and (b) of subsection (3) above shall have effect with the substitution, for references to the date on which the securities were first quoted as mentioned in paragraph (a), of the beginning of the period for which the interest was payable; except that where the capital amount of the securities was not fully paid at the beginning of that period and one or more instalments of capital were paid during that period—
- (a) the interest shall be treated as divided into parts, calculated by reference to the amount of the interest attributable to the capital paid at or before the beginning of that period and the amount thereof attributable to each such instalment, and
  - (b) treating each of those parts as interest payable for that period or, where the part was calculated by reference to any such instalment, as interest payable for the part of that period beginning with the payment of the instalment, there shall be calculated, in accordance with the preceding provisions of this section, the amount constituting the appropriate proportion of each part, and
  - (c) the appropriate proportion of the interest for the purposes of this section shall be the proportion thereof constituted by the sum of those amounts.
- (5) In relation to securities not listed in the Stock Exchange Daily Official List, subsection (3) above shall have effect with the substitution for the periods therein mentioned of such periods as in the opinion of the Commissioners having jurisdiction in the matter, correspond therewith in the case of the securities in question.

*Miscellaneous provisions relating to securities*

**736 Company dealing in securities: distribution materially reducing value of holding**

- (1) Subsection (2) below applies where a company has, as a dealing company, a holding in another company resident in the United Kingdom (being a body corporate), and—
- (a) the holding amounts to, or is an ingredient in a holding amounting to, 10 per cent. of all holdings of the same class in that company, and
  - (b) a distribution is, or two or more distributions are, made in respect of the holding, and
  - (c) the value (at any accounting date or immediately before realisation or appropriation) of any security comprised in the holding is materially reduced below the value of the security at the time when it was acquired, and the whole or any part of this reduction is attributable to any distribution falling within paragraph (b) above;
- and in relation to any security comprised in the holding, the company having the holding is in subsection (2) below referred to as “the dealing company” and so much of any reduction in the value of the security as is attributable to any distribution falling within paragraph (b) above is in that subsection referred to as “the relevant reduction”.
- (2) Where this subsection applies, an amount equal to the relevant reduction in the value of a security comprised in the holding—
- (a) shall, if and so long as the security is not realised or appropriated as mentioned below, be added to the value of the security for the purposes of any valuation;

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- (b) shall be treated, on any realisation of the security in the course of trade, as a trading receipt of the dealing company or, in the event of a partial realisation, shall be so treated to an appropriate extent, and
  - (c) shall be treated as a trading receipt of the dealing company if the security is appropriated in such circumstances that a profit on the sale of the security would no longer form part of the dealing company's trading profits.
- (3) References in this section to a holding in a company refer to a holding of securities by virtue of which the holder may receive distributions made by the company, but so that—
  - (a) a company's holdings of different classes in another company shall be treated as separate holdings, and
  - (b) holdings of securities which differ in the entitlements or obligations they confer or impose shall be regarded as holdings of different classes.
- (4) For the purposes of subsection (2) above—
  - (a) all a company's holdings of the same class in another company are to be treated as ingredients constituting a single holding, and
  - (b) a company's holding of a particular class shall be treated as an ingredient in a holding amounting to 10 per cent. of all holdings of that class if the aggregate of that holding and other holdings of that class held by connected persons amounts to 10 per cent. of all holdings of that class;and section 839 shall have effect in relation to paragraph (b) above as if, in subsection (7) of that section, after the words "or exercise control of" in each place where they occur there were inserted the words "or to acquire a holding in".
- (5) Where this section applies in relation to a distribution which consists of or includes interest to which section 732 applies, any reduction under that section in the price paid for the securities in respect of which the distribution is made shall be adjusted in such manner as seems appropriate to the Board to take account of subsection (2) above.
- (6) For the purposes of this section "security" includes a share or other right and a company is a "dealing company" in relation to a holding if a profit on a sale of the holding would be taken into account in computing the company's trading profits.

### **737 Manufactured dividends: treatment of tax deducted**

- (1) Subject to the provisions of this section, where—
  - (a) under a contract for the sale of securities one of the parties to the contract ("the dividend manufacturer") is required to pay to the other the amount of a periodical payment of interest on the securities, and
  - (b) the dividend manufacturer does not satisfy the following condition, that is to say, that he is entitled to that payment of interest either as the registered holder of the securities or from a person from whom the dividend manufacturer purchased them,section 350(1) and Schedule 16 shall apply as if the payment by the dividend manufacturer were an annual payment made, after due deduction of tax, wholly out of a source other than profits or gains brought into charge to income tax.
- (2) Subsection (1) of this section shall not apply where otherwise than by virtue of section 476(5)(a) the interest in question is payable without deduction of tax or where, under the rules of the stock exchange governing the transaction, the payment required

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to be made in respect of the interest is of the amount of the interest before deduction of tax.

- (3) If for any chargeable period the liability to tax of a market maker is determined on the footing that any excess of his payments in respect of interest on securities over his receipts in respect thereof, being payments made or receipts accrued in pursuance of a contract for the sale or purchase of the securities, is to be treated for all the purposes of the Tax Acts as an annual payment made by him, then as respects that chargeable period subsection (1) above shall not apply to him if he sold or purchased the securities in the ordinary course of his business as a market maker in securities of the kind concerned.
- (4) Where the dividend manufacturer is resident in the United Kingdom and purchased the securities (otherwise than through a broker) from a person not so resident, then paragraph (b) of subsection (1) above shall have effect as if after the word “say” there were inserted the word “either” and as if for the words from “either as” to the end of the paragraph there were inserted the words “as the registered holder of the securities or that he shows that he acquired the securities, directly or indirectly, from a person who was so entitled to the payment”.
- (5) Where the dividend manufacturer in relation to such a contract as is mentioned in paragraph (a) of subsection (1) above is not resident in the United Kingdom, and the sale is effected through a broker, that subsection shall not apply; but unless the broker shows either—
- (a) that the dividend manufacturer was entitled to the payment of interest as the registered holder of the securities, or
  - (b) that the dividend manufacturer acquired the securities, directly or indirectly, from a person who was so entitled to the payment,
- section 350(1) shall apply as if the payment through the broker of the amount of the payment of interest were an annual payment by the broker made, after due deduction of tax, wholly out of such a source as is mentioned in subsection (1) above.
- (6) In this section—
- “broker”, in relation to securities, means a member of the Stock Exchange who carries on business in the United Kingdom and is not, at the time the contract is made, a market maker in securities of the kind concerned;
- “market maker”, in relation to securities of a particular kind, means a person who—
- (a) holds himself out at all normal times in compliance with the rules of the Stock Exchange as willing to buy and sell securities of that kind at a price specified by him; and
  - (b) is recognised as doing so by the Council of the Stock Exchange;
- “securities” includes shares and stock;
- and references to a periodical payment of interest include references to a qualifying distribution and any dividend which is not a qualifying distribution.
- (7) In the application of this section in a case where the references in subsection (1) above to a periodical payment of interest are construed as references to a qualifying distribution, subsection (2) above shall be omitted.
- (8) Where it appears to the Board that by reason of any transaction or transactions a person may by virtue of this section have incurred any liability to tax, the Board may by notice served on him require him, within such time not less than 28 days as may be specified

in the notice, to furnish information in his possession with respect to the transaction or any of the transactions, being information as to matters, specified in the notice, which are relevant to the question whether he has incurred any such liability.

*Supplemental*

**738 Power to amend sections 732, 735 and 737**

- (1) The Board may by regulations provide for all or any of the following—
- (a) that section 732(2) shall not apply unless the subsequent sale is carried out in compliance with further conditions specified in the regulations;
  - (b) that section 732(6) shall have effect as if the reference to the Stock Exchange in paragraph (a) were to any recognised investment exchange or to any of those exchanges specified in the regulations, and as if the reference to the Council of the Stock Exchange in paragraph (b) were to the investment exchange concerned;
  - (c) that for section 735(3) and (5) (which refer to the Stock Exchange Daily Official List) there shall be substituted such provisions as the Board think fit to take account of recognised investment exchanges.

Regulations under this subsection shall apply where the subsequent sale is carried out by the first buyer on or after such day as is specified in the regulations.

- (2) The Board may by regulations provide that section 737(6) shall have effect—
- (a) as if references to the Stock Exchange in the definition of “broker” and in paragraph (a) of the definition of “market maker” were to any recognised investment exchange or to any of those exchanges specified in the regulations; and
  - (b) as if the reference to the Council of the Stock Exchange in paragraph (b) of the definition of “market maker” were to the investment exchange concerned.
- (3) The Board may by regulations substitute for subsection (3) of section 737 a provision that subsection (1) of that section shall not apply to such persons and in such circumstances as are specified in the substituted provision, and make such incidental and consequential provisions (which may include the amendment of other provisions of section 737) as appear to the Board to be appropriate.
- (4) Regulations under subsections (2) and (3) above shall apply where the contract for the sale of securities is made on or after such day as is specified in the regulations.
- (5) In this section “recognised investment exchange” means a recognised investment exchange within the meaning of the Financial Services Act 1986.