Finance Act 1998

1998 CHAPTER 36

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

INCOME TAX AND CORPORATION TAX

Income tax charge, rates and reliefs

25 Charge and rates for 1998-99

Income tax shall be charged for the year 1998-99, and for that year—

(a) the lower rate shall be 20 per cent.;

(b) the basic rate shall be 23 per cent.; and

(c) the higher rate shall be 40 per cent.

26 Relief for a woman with a child and an incapacitated husband

(1) In subsection (1)(c) of section 259 of the Taxes Act 1988 (additional relief for children in the case of a man with an incapacitated wife), for "man" and "wife" there shall be substituted, respectively, "individual" and "spouse".

(2) In subsection (4) of that section (woman not entitled to relief in a case where a child is resident with her only while she is married and living with her husband), after "relief under this section" there shall be inserted "by virtue of subsection (1)(a) above".

(3) In section 261A(3) of that Act (rule in the year of a separation for man who is entitled to relief by virtue of section 259(1)(c)), for "a man" there shall be substituted "an individual".

(4) This section has effect for the year 1998-99 and subsequent years of assessment and shall be deemed to have had effect for the year 1997-98.

27 Married couple's allowance etc. in and after 1999-00

(1) The Taxes Act 1988 shall have effect for the year 1999-00 and subsequent years of assessment with the following amendments—

(a) in section 256(2)(a) of that Act (rate of reliefs given by way of income tax reduction under Chapter I of Part VII), for "15 per cent." there shall be substituted "10 per cent."; and

(b) in section 347B(5A)(a) of that Act (rate of relief for qualifying maintenance payments), for "the appropriate percentage" there shall be substituted "10 per cent.".

(2) For the purposes only of applying section 257C of the Taxes Act 1988 (indexation) for the year 1999-00, the amounts specified for the year 1998-99 in subsections (2) and (3) of section 257A of that Act (married couple's allowance for persons of 65 or more) shall be taken to have been £4,965 and £5,025, respectively.

Corporation tax charge and rates

28 Charge and rates for financial year 1998

(1) Corporation tax shall be charged for the financial year 1998 at the rate of 31 per cent.

(2) For that year—

(a) the small companies' rate shall be 21 per cent.; and

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

29 Charge and rates for financial year 1999

(1) Corporation tax shall be charged for the financial year 1999 at the rate of 30 per cent.

(2) For that year—

(a) the small companies' rate shall be 20 per cent.; and

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

Corporation tax: periodic payments etc

30 Corporation tax: due and payable date

(1) After section 59DA of the Taxes Management Act 1970 there shall be inserted—

"59E Further provision as to when corporation tax is due and payable

(1) The Treasury may by regulations make provision, in relation to companies of such descriptions as may be prescribed, for or in connection with treating amounts of corporation tax for an accounting period as becoming due and

payable on dates which fall on or before the date on which corporation tax for that period would become due and payable apart from this section.

(2) Without prejudice to the generality of subsection (1) above, regulations under this section may make provision—

(a) for or in connection with the determination of amounts of corporation tax which are treated as becoming due and payable under the regulations;

(b) for or in connection with the determination of the dates on which amounts of corporation tax are treated as becoming due and payable under the regulations;

(c) for or in connection with the making of payments to the Board in respect of amounts of corporation tax which are treated as becoming due and payable under the regulations;

(d) for or in connection with the determination of the amount of any such payments as are mentioned in paragraph (c) above;

(e) for or in connection with the determination of the dates on which any such payments as are mentioned in paragraph (c) above become due and payable;

(f) for or in connection with any assumptions which are to be made for any purposes of the regulations;

(g) for or in connection with the payment to the Board of interest on amounts of corporation tax which are treated as becoming due and payable under the regulations;

(h) for or in connection with the repayment of amounts paid under the regulations;

(i) for or in connection with the payment of interest by the Board on amounts paid or repaid under the regulations;

(j) with respect to the furnishing of information to the Board;

(k) with respect to the keeping, production or inspection of any books, documents or other records;

(l) for or in connection with the imposition of such requirements as the Treasury think necessary or expedient for any purposes of the regulations;

(m) for or in connection with appeals in relation to questions arising under the regulations.

(3) Regulations under this section may make provision—

(a) for amounts of corporation tax for an accounting period to be treated as becoming due and payable on dates which fall within the accounting period;

(b) for payments in respect of any such amounts of corporation tax for an accounting period as are mentioned in paragraph (a) above to become due and payable on dates which fall within the accounting period.

(4) Where interest is charged by virtue of regulations under this section on any amounts of corporation tax for an accounting period which are treated as becoming due and payable under the regulations, the company shall, in such circumstances as may be prescribed, be liable to a penalty not exceeding twice the amount of that interest.

(5) Regulations under this section—

(a) may make such modifications of any provisions of the Taxes Acts, or

(b) may apply such provisions of the Taxes Acts,

as the Treasury think necessary or expedient for or in connection with giving effect to the provisions of this section.

(6) Regulations under this section which apply any provisions of the Taxes Acts may apply those provisions either without modifications or with such modifications as the Treasury think necessary or expedient for or in connection with giving effect to the provisions of this section.

(7) Regulations under this section—

(a) may make different provision for different purposes, cases or circumstances;

(b) may make different provision in relation to companies or accounting periods of different descriptions;

(c) may make such supplementary, incidental, consequential or transitional provision as appears to the Treasury to be necessary or expedient.

(8) Subject to subsection (9) below, regulations under this section may make provision in relation to accounting periods beginning before (as well as accounting periods beginning on or after) the date on which the regulations are made.

(9) Regulations under this section may not make provision in relation to accounting periods ending before the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (corporation tax self-assessment).

(10) In this section—

“modifications” includes amendments, additions and omissions;

“prescribed” means prescribed by regulations made under this section.

(11) Any reference in this section to corporation tax includes a reference—

(a) to any amount due from a company under section 419 of the principal Act (loans to participators etc) as if it were an amount of corporation tax chargeable on the company;

(b) to any sum chargeable on a company under section 747(4)(a) of the principal Act (controlled foreign companies) as if it were an amount of corporation tax.”

(2) The Treasury may by regulations make provision for or in connection with the payment to the Board of an amount or amounts determined by or under the regulations in any case where, on or after 25th November 1997 and before 30th June 2002, a company takes any action specified in the regulations which has the effect—

(a) of delaying the application, or

(b) of delaying or avoiding the full effect,

in relation to the company of any regulations made under section 59E of the Taxes Management Act 1970.

(3) Any amount determined by or under regulations under this section shall be computed as if it were interest on a sum determined by or under the regulations; and any amount

so determined shall be treated for the purposes of the Tax Acts as if it were interest due to the Board.

(4) The action which may be specified in regulations under this section includes—

(a) a change by a company in the date or dates on which any of its accounting periods begin or end; or

(b) a transfer by a company of any property, rights or liabilities to a company which belongs to the same group as that company.

(5) In subsection (4) above "group" means a company which has one or more 51 per cent. subsidiaries together with that or those subsidiaries.

(6) Regulations under this section—

(a) may make different provision in relation to different cases or in relation to companies of different descriptions;

(b) may make such supplementary, incidental, consequential or transitional provision as appears to the Treasury to be necessary or expedient.

31 Abolition of advance corporation tax

(1) No company resident in the United Kingdom shall be liable to pay advance corporation tax in respect of any qualifying distribution made on or after 6th April 1999.

(2) For the purposes of the Tax Acts, no distribution made on or after 6th April 1999 shall be treated as giving rise to the making of a franked payment.

(3) No franked investment income which is attributable to a distribution made on or after 6th April 1999 shall be used to frank any distributions of a company.

(4) Section 238(3) of the Taxes Act 1988 shall apply for the purposes of subsection (3) above as it applies for the purposes of Chapter V of Part VI of that Act.

(5) Schedule 3 to this Act (which makes provision for and in connection with the abolition of advance corporation tax) shall have effect.

32 Unrelieved surplus advance corporation tax

(1) The Treasury may by regulations make provision for or in connection with enabling unrelieved surplus advance corporation tax to be set against liability to corporation tax on profits charged to corporation tax for accounting periods ending on or after 6th April 1999 (and thus to discharge a corresponding amount of any such liability).

(2) Without prejudice to the generality of subsection (1) above, regulations under this section may make provision—

(a) for or in connection with imposing a limit or limits on the amount of unrelieved surplus advance corporation tax which may be set against liability to corporation tax on profits charged to corporation tax for an accounting period;

(b) for or in connection with the carrying forward of unrelieved surplus advance corporation tax from earlier accounting periods to later accounting periods;

(c) for or in connection with the recovery of corporation tax from companies in prescribed circumstances where any such liability as is mentioned in paragraph (a) above is or has been discharged by the set-off of unrelieved surplus advance corporation tax;

(d) for or in connection with the reduction or extinguishment of unrelieved surplus advance corporation tax;
(e) for or in connection with treating notional amounts of advance corporation tax ("shadow ACT") as paid by companies in respect of distributions made on or after 6th April 1999;
(f) for or in connection with the determination of amounts of shadow ACT which are treated as paid by companies in respect of distributions made on or after 6th April 1999;
(g) in relation to the treatment of shadow ACT;
(h) in relation to the treatment of companies which have prescribed relationships or connections with each other;
(i) in relation to the treatment of prescribed events, arrangements or transactions involving companies with unrelieved surplus advance corporation tax.

(3) The provision which may be made by regulations under this section includes provision—
(a) for or in connection with treating shadow ACT as reducing any limit or limits on the amount of unrelieved surplus advance corporation tax which may be set against any such liability as is mentioned in subsection (2)(a) above;
(b) for or in connection with the carrying forward of shadow ACT from earlier accounting periods to later accounting periods;
(c) for or in connection with the carrying back of shadow ACT from later accounting periods to earlier accounting periods;
(d) for or in connection with the transfer of shadow ACT between companies;
(e) for or in connection with the reduction or extinguishment of shadow ACT.

(4) The provision which may be made by virtue of subsection (2)(c) above includes provision for or in connection with the recovery of corporation tax from a company which has a prescribed relationship or connection with a company whose liability to corporation tax is or has been discharged by the set-off of unrelieved surplus advance corporation tax.

(5) The provision which may be made by regulations under this section includes provision for or in connection with enabling unrelieved surplus advance corporation tax to be set against liability to a sum chargeable under section 747(4)(a) of the Taxes Act 1988 (controlled foreign companies) as if it were an amount of corporation tax for an accounting period.

(6) In this section "unrelieved surplus advance corporation tax" means the advance corporation tax (if any) which, apart from sub-paragraph (3) of paragraph 11 of Schedule 3 to this Act but otherwise in accordance with that paragraph, would be treated by virtue of section 239(4) of the Taxes Act 1988 as paid in respect of distributions made by a company in the first accounting period of the company to begin on or after 6th April 1999.

(7) The reference in subsection (6) above to an accounting period beginning on or after 6th April 1999 includes a reference to a separate accounting period mentioned in section 245(2) of the Taxes Act 1988 which begins on 6th April 1999.

(8) Regulations under this section—
(a) may make such modifications of any provisions of the Tax Acts, or
(b) may apply such provisions of the Tax Acts,

as the Treasury think necessary or expedient for or in connection with giving effect to the provisions of this section.

(9) Regulations under this section which apply any provisions of the Tax Acts may apply those provisions either without modifications or with such modifications as the Treasury think necessary or expedient for or in connection with giving effect to the provisions of this section.

(10) Regulations under this section—

(a) may make different provision for different purposes, cases or circumstances;

(b) may make different provision in relation to companies or accounting periods of different descriptions;

(c) may make such supplementary, incidental, consequential or transitional provision as appears to the Treasury to be necessary or expedient.

(11) Regulations under this section may make provision in relation to accounting periods beginning before (as well as accounting periods beginning on or after) the date on which the regulations are made.

(12) In this section—

"modifications" includes amendments, additions and omissions;

"prescribed" means prescribed by regulations made under this section.

33 Relief for interest payable under the Tax Acts

(1) Section 90 of the Taxes Management Act 1970 (interest on overdue tax to be paid without deduction of income tax and not to be allowed as a deduction in computing income, profits or losses) shall be amended as follows.

(2) At the beginning there shall be inserted "(1)" and in the subsection (1) so formed—

(a) after "Interest payable under this Part of this Act" there shall be inserted "(a)"; and

(b) after "and" there shall be inserted "(b)".

(3) At the beginning of the paragraph (b) formed by subsection (2)(b) above (disallowance of relief for interest) there shall be inserted "subject to subsection (2) below,".

(4) At the end of the section there shall be added—

"(2) Paragraph (b) of subsection (1) above does not apply in relation to interest under section 87 or 87A of this Act payable by a company within the charge to corporation tax."

(5) The amendments made by subsections (3) and (4) above have effect in relation to—

(a) interest on corporation tax for accounting periods ending on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (corporation tax self-assessment); and

(b) interest on tax assessable in accordance with Schedule 13 or 16 to the Taxes Act 1988 for return periods in accounting periods ending on or after that day.

34 Charge to tax on interest payable under the Tax Acts

(1) Section 826 of the Taxes Act 1988 (interest on tax overpaid) shall be amended as follows.

(2) In subsection (5) (interest on overpaid tax to be paid without deduction of income tax and not to be brought into account in computing profits or income)—

(a) after "Interest paid under this section" there shall be inserted "(a)"; and

(b) after "and" there shall be inserted "(b)".

(3) At the beginning of the paragraph (b) formed by subsection (2)(b) above (interest not to be brought into account in computing profits or income) there shall be inserted "subject to subsection (5A) below,".

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

"(5A) Paragraph (b) of subsection (5) above does not apply in relation to interest payable to a company within the charge to corporation tax."

(5) The amendments made by subsections (3) and (4) above have effect in relation to interest payable by virtue of any paragraph of section 826(1) of the Taxes Act 1988 if the accounting period mentioned in that paragraph is one which ends on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (corporation tax self-assessment).

35 Further provision about interest payable under the Tax Acts

Schedule 4 to this Act (which makes further amendments relating to interest payable under the Tax Acts by or to companies) shall have effect.

36 Arrangements with respect to payment of corporation tax

(1) The Board may enter into arrangements with some or all of the members of a group of companies for one of those members to discharge any liability of each of those members to pay corporation tax for the accounting periods to which the arrangements relate.

(2) Any such arrangements—

(a) may make provision in relation to cases where companies become or cease to be members of a group of companies;

(b) may make provision in relation to the discharge of liability to pay interest or penalties;

(c) may make provision in relation to the discharge of liability to pay any amount treated as corporation tax;

(d) may make provision for or in connection with the termination of the arrangements;

(e) may make such supplementary, incidental, consequential or transitional provision as is necessary or expedient for the purposes of the arrangements.

(3) Any such arrangements—

(a) shall not affect the liability to corporation tax, or to pay corporation tax, of any company to which the arrangements relate; and

(b) shall not affect any other liability of any such company under the Tax Acts.

(4) For the purposes of this section a company and all its 51 per cent. subsidiaries form a group of companies and, if any of those subsidiaries have 51 per cent. subsidiaries, the group of companies includes them and their 51 per cent. subsidiaries, and so on.

(5) The reference in subsection (2)(c) above to any amount treated as corporation tax is a reference—

(a) to any amount due from a company under section 419 of the Taxes Act 1988 (loans to participators etc) as if it were an amount of corporation tax chargeable on the company;

(b) to any sum chargeable on a company under section 747(4)(a) of the Taxes Act 1988 (controlled foreign companies) as if it were an amount of corporation tax.

Gilt-edged securities

37 Abolition of periodic accounting

(1) Section 51B of the Taxes Act 1988 (which enables provision to be made requiring tax on interest on gilt-edged securities to be accounted for periodically) shall cease to have effect.

(2) In consequence of subsection (1) above, in paragraph 3 of Schedule 19AB to that Act (repayment of excessive provisional payments made on self-assessment), in sub-paragraph (1C) (as inserted by Schedule 34 to the Finance Act 1996)—

(a) the word "or" shall be inserted at the end of paragraph (a); and

(b) paragraph (c) and the word "or" immediately preceding it shall be omitted.

(3) The preceding provisions of this section have effect in relation only to payments of interest falling due on or after such day as the Treasury may by order appoint.

Rents and other receipts from land

38 Taxation of rents and other receipts from land

(1) The provisions of Schedule 5 to this Act have effect with respect to tax on rents and other receipts from land.

Part I contains amendments relating to the charge to tax under Schedule A or Case V of Schedule D on rents and other receipts from land.

Part II contains amendments about relief for losses incurred in a Schedule A business or overseas property business, and the relationship between such relief and other reliefs.

Part III contains minor and consequential amendments.

(2) So far as relating to income tax, the provisions of Parts I to III of that Schedule have effect for the year 1998-99 and subsequent years of assessment.

(3) So far as relating to corporation tax, the provisions of Parts I to III of that Schedule come into force on 1st April 1998, subject to the transitional provisions in Part IV of the Schedule.

39 Land managed as one estate and maintenance funds for historic buildings

Sections 26 and 27 of the Taxes Act 1988 (deductions from rent: land managed as one estate and maintenance funds for historic buildings) shall cease to have effect—

(a) for income tax purposes, on and after 6th April 2001;

(b) for corporation tax purposes, for accounting periods beginning on or after 1st April 2001.

40 Treatment of premiums as rent

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

(2) In subsection (1) for "becoming entitled when the lease is granted to" substitute "receiving when the lease is granted".

(3) In subsection (4)—

(a) in paragraph (a), for the words from "in computing" to "in lieu of rent" substitute "in computing the profits of the Schedule A business of which the sum payable in lieu of rent is by virtue of this subsection to be treated as a receipt"; and

(b) in paragraph (b), for "deemed to become due" substitute "deemed to be received".

(4) In subsection (5)—

(a) in paragraph (a), for "tax chargeable by virtue of this subsection" substitute "the profits of the Schedule A business of which that sum is by virtue of this subsection to be treated as a receipt"; and

(b) in paragraph (b), for "deemed to become due" substitute "deemed to be received".

(5) The above amendments have effect in relation to amounts treated as received under section 34 of the Taxes Act 1988 on or after 17th March 1998.

41 Tied premises: receipts and expenses treated as those of trade

(1) For section 98 of the Taxes Act 1988 (tied premises) substitute—

"98 Tied premises: receipts and expenses treated as those of trade

(1) This section applies where a person ("the trader")—

(a) carries on a trade,

(b) in the course of the trade supplies, or is concerned in the supply of, goods sold or used on premises occupied by another person,

(c) has an estate or interest in those premises, and

(d) deals with that estate or interest as property employed for the purposes of the trade.

(2) Where this section applies the receipts and expenses in connection with the premises that would otherwise fall to be brought into account in computing the profits of a Schedule A business carried on by the trader shall instead be brought into account in computing the profits of the trade.

(3) Any necessary apportionment shall be made on a just and reasonable basis of receipts or expenses—

(a) which do not relate only to the premises concerned, or

(b) where the conditions in subsection (1) are met only in relation to part of the premises.

(4) This section applies to premises outside the United Kingdom as if the premises were in the United Kingdom.”.

(2) In section 156 of the Taxation of Chargeable Gains Act 1992 (replacement of business assets: buildings and land), for subsection (4) substitute—

“(4) Where section 98 of the Taxes Act applies (tied premises: receipts and expenses treated as those of trade), the trader shall be treated, to the extent that the conditions in subsection (1) of that section are met in relation to premises, as occupying as well as using the premises for the purposes of the trade.”.

(3) The above amendments have effect on and after 17th March 1998, subject to the following transitional provisions.

In those provisions—

“before commencement” and “after commencement” mean, respectively, before 17th March 1998 and on or after that date; and

“the new section 98” means the section as substituted by subsection (1) above.

(4) To the extent that receipts or expenses have been taken into account before commencement, they shall not be taken into account again under the new section 98 after commencement.

(5) To the extent that receipts or expenses would under the new section 98 have been brought into account before commencement, and were not so brought into account, they shall be brought into account immediately after commencement.

(6) If any estate, interest or rights in or over land is or are transferred from one person to another, the references in subsections (4) and (5) above to receipts or expenses being taken into account shall be construed as references to their being taken into account in relation to either of those persons.

(7) For the purposes of those subsections an amount is “taken into account” if—

(a) it is brought into account for tax purposes, or

(b) it would have been so brought into account if the person concerned were chargeable to tax.

Computation of profits of trade, profession or vocation

42 Computation of profits of trade, profession or vocation

(1) For the purposes of Case I or II of Schedule D the profits of a trade, profession or vocation must be computed on an accounting basis which gives a true and fair view, subject to any adjustment required or authorised by law in computing profits for those purposes.

(2) This does not—

(a) require a person to comply with the requirements of the Companies Act 1985 or the Companies (Northern Ireland) Order 1986 except as to the basis of computation, or

(b) impose any requirements as to audit or disclosure.

(3) This section applies to periods of account beginning after 6th April 1999.

A period of account beginning on or before 6th April 1999 which is still current on 7th April 2000 shall be treated for the purposes of this section as having ended on 6th April 1999 and a new period as having begun on 7th April 1999.

(4) This section is subject to the exemption in section 43 below (barristers and advocates in early years of practice).

(5) This section does not affect provisions of the Tax Acts relating to the computation of the profits of Lloyd's underwriters or companies carrying on life insurance, or otherwise laying down special rules for the computation of the profits of a particular description of business.

43 Barristers and advocates in early years of practice

(1) The profits of a barrister or advocate in actual practice for a period of account ending not more than seven years after the commencement of such practice may be computed in accordance with this section.

(2) For this purpose barristers and advocates are regarded as commencing in actual practice when they first hold themselves out as available for fee-earning work.

(3) The profits of a barrister or advocate for a period of account to which this section applies may be computed—

(a) on a cash basis, or

(b) by reference to fees earned whose amount has been agreed or in respect of which a fee note has been delivered.

Once a particular basis has been adopted it must be applied consistently.

(4) The exemption given by this section ceases if for any period of account an accounting basis is adopted that complies with section 42 above.

In that case, that section applies to all subsequent periods of account.

44 Change of accounting basis

(1) The provisions of Schedule 6 to this Act apply where there is a change, from one period of account to the next of a trade, profession or vocation, of the accounting basis on which profits are computed for tax purposes.

(2) The Schedule only applies if the old basis accords with the law and practice applicable immediately before the change and the new basis accords with the law and practice applicable immediately after the change.

(3) The provisions of the Schedule replace section 104(4) of the Taxes Act 1988 and any rule of law as to the adjustments necessary for tax purposes in those circumstances.

(4) They apply to any change of accounting basis taking effect on or after 6th April 1999.

45 Meaning of "period of account"

In sections 42 to 44 above a "period of account" means any period for which accounts of the trade, profession or vocation are drawn up.

46 Minor and consequential provisions about computations

(1) In provisions of the Tax Acts relating to the computation of the profits of a trade, profession or vocation references to receipts and expenses are (except where otherwise expressly provided) to any items brought into account as credits or debits in computing such profits.

There is no implication that an amount has been actually received or expended.

(2) Except where otherwise expressly provided, the same rules apply in computing losses of a trade, profession or vocation for any purpose of the Tax Acts as apply in computing profits.

(3) In the provisions of the Tax Acts which refer to the subject of the charge under Case I or II of Schedule D as "profits or gains" or "profits and gains" of a trade, profession or vocation—

(a) for "profits or gains" or "profits and gains", wherever occurring, substitute "profits", and

(b) for "arising or accruing", in reference to such profits or gains, substitute "arising".

The provisions affected are listed in Schedule 7 to this Act.

Gifts to charities

47 Gifts in kind for relief in poor countries

(1) This section applies where—

(a) any article falling within subsection (2) below is given to a charity at any time in the period beginning with the first designation date and ending with 31st December 2000;

(b) the person making the gift ("the donor") is a person carrying on a trade, profession or vocation; and

(c) that gift is made for the purpose of enabling the article to be used in a designated country or territory either for medical purposes or by an educational establishment in that country or territory.

(2) An article falls within this subsection if—

(a) it is an article manufactured, or of a class or description sold, by the donor in the course of his trade; or

(b) it is an article used by the donor in the course of his trade, profession or vocation which for the purposes of Part II of the Capital Allowances Act 1990 constitutes machinery or plant used by him wholly or partly in the course of that trade, profession or vocation.

(3) Subject to subsections (4) and (5) below, where this section applies in the case of the gift of any article—

(a) no amount shall be required, in consequence of the donor's disposal of that article from trading stock, to be brought into account for the purposes of the Tax Acts as a trading receipt of the donor; and

(b) subsection (6) of section 24 of the Capital Allowances Act 1990 shall not require the donor to bring into account any disposal value in respect of the article for the purposes of that section.

(4) In any case where—

(a) relief is given under subsection (3) above in respect of the gift of an article, and

(b) any benefit received in any chargeable period by the donor or any person connected with him is in any way attributable to the making of that gift,

the donor shall in respect of that chargeable period be charged to tax under Case I or Case II of Schedule D or, if he is not chargeable to tax under either of those Cases for that period, under Case VI of Schedule D on an amount equal to the value of that benefit.

(5) Subsection (3) above shall not apply unless the donor makes a claim for relief under this section; and such a claim—

(a) must be made within the required period; and

(b) must specify the article given and the name of the charity to which it is given.

(6) In subsection (5)(a) above "the required period" means—

(a) in the case of a claim with respect to income tax, the period ending with the first anniversary of the 31st January next following the year of assessment in whose basis period the gift is made; and

(b) in the case of a claim with respect to corporation tax, the period of two years beginning at the end of the accounting period in which the gift is made.

(7) In paragraph (a) of subsection (6) above "basis period" means—

(a) in relation to a year of assessment for which a basis period is given by sections 60 to 63 of the Taxes Act 1988, that basis period; and

(b) in relation to a year of assessment for which no basis period is given by those sections, the year of assessment.

(8) A country or territory is a designated country or territory for the purposes of this section if—

(a) it is designated as such by an order made for those purposes by the Treasury; or

(b) it is of a description specified in an order so made;

and a description specified in such an order may be expressed by reference to the opinion of any person so specified or by reference to the contents from time to time of a document prepared by a person so specified.

(9) In this section—

"charity" has the same meaning as in section 506 of the Taxes Act 1988;

"the first designation date" means the date on which the Treasury first makes an order under subsection (8) above; and

"medical purposes" includes medical research and the promotion of health.

(10) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of this section.

48 Gifts of money for relief in poor countries

(1) This section applies to any gift of a sum of money by an individual to a charity that has given the required notification to the Board if that gift is made—

(a) in the period beginning with the first designation date and ending with 31st December 2000; and

(b) in circumstances giving rise to a reasonable expectation that the sum given will be applied for, or in connection with, one or both of the purposes specified in subsection (2) below.

(2) Those purposes are—

(a) the relief of poverty in any one or more designated countries or territories, and

(b) the advancement of education in any one or more designated countries or territories.

(3) Subject to the following provisions of this section, subsection (2)(g) of section 25 of the Finance Act 1990 (minimum payment for which relief given on gift by an individual) shall have effect in relation to any gift to which this section applies as if for "£250" there were substituted "£100".

(4) Where—

(a) a relevant gift of less than £100 is made by an individual to a charity that has given the required notification to the Board,

(b) the aggregate of that gift and any one or more subsequent relevant gifts made by that individual to that charity is £100 or more,

(c) that individual gives an appropriate certificate in relation to that aggregate to that charity, and

(d) the condition specified in paragraph (e) of subsection (2) of section 25 of the Finance Act 1990 (limit on benefit for the donor) would be satisfied if the aggregated gifts constituted a single gift by that individual to that charity made at the time of the making of the last of them to be made,

the aggregated gifts shall be treated for the purposes of that section as if they together constituted a single qualifying donation made by that individual to that charity at that time.

(5) The gifts aggregated for the purposes of subsection (4) above must not include either—

(a) a relevant gift of £250 or more; or

(b) more than one relevant gift of £100 or more.

(6) The reference in paragraph (c) of subsection (4) above to an appropriate certificate is a reference to a certificate which states—

(a) that each of the gifts being aggregated qualifies as a relevant gift for the purposes of this section;

(b) that if those gifts are treated in accordance with this section as a single qualifying donation made at the time specified in subsection (4) above, the single donation will satisfy the taxation condition; and

(c) that the condition in paragraph (d) of that subsection is satisfied in the case of those gifts taken together.

(7) For the purposes of subsection (6) above the taxation condition in the case of any relevant gift is that, either directly or by deduction from profits or gains brought into charge to tax in the relevant year of assessment, the individual making the gift has

paid or will pay to the Board income tax of an amount equal to income tax at the basic rate for the relevant year of assessment on the grossed up amount of that gift.

(8) In this section—

"the first designation date" means the date on which the Treasury first makes an order under subsection (9) below;

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

(a) a gift which satisfies the requirements of subsection (2) of section 25 of the Finance Act 1990; or

(b) a gift of less than £100 which would satisfy those requirements if paragraph (g) of that subsection, or that paragraph together with paragraph (e), were disregarded;

and

"required notification", in relation to a charity, means a notification (including one given before the passing of this Act) which—

(i) is in such form, and contains such information, as may have been required by the Board, and

(ii) contains a statement to the effect that the charity proposes to accept gifts to which this section applies.

(9) A country or territory is a designated country or territory for the purposes of this section if—

(a) it is designated as such by an order made for those purposes by the Treasury; or

(b) it is of a description specified in an order so made;

and a description specified in such an order may be expressed by reference to the opinion of any person so specified or by reference to the contents from time to time of a document prepared by a person so specified.

(10) Expressions used in this section and in section 25 of the Finance Act 1990 have the same meanings in this section as in that section.

Employee share incentives

49 Employee share options

(1) In section 135 of the Taxes Act 1988, in each of subsections (2) and (5) (in accordance with which there is a charge to tax when an employee obtains a share option that is exercisable more than seven years after being obtained), for "seven" there shall be substituted "ten".

(2) Subsection (1) above has effect in relation to rights obtained on or after 6th April 1998.

50 Conditional acquisition of shares

(1) After section 140 of the Taxes Act 1988 there shall be inserted the following sections—

"**140A Conditional acquisition of shares**

(1) This section applies where—

(a) a beneficial interest in any shares in a company ("the employee"s interest') is acquired by any person ("the employee") as a director or employee of that or another company; and

(b) the employee acquires that interest on terms that make his interest in the shares only conditional.

(2) If the terms on which the employee acquires the employee's interest are such that his interest in the shares in question will or might continue to be only conditional until a time more than five years after his acquisition of the interest, tax shall be chargeable under Schedule E in respect of that interest on the basis that it is emoluments of the office or employment concerned.

(3) In any other case, there shall (subject to the following provisions of this section) be no tax chargeable on the employee under Schedule E in respect of his acquisition of the interest except any tax which is so chargeable by virtue only of section 135 or 162.

(4) If, in a case falling within subsection (2) or (3) above—

(a) the shares cease, without the employee ceasing to have a beneficial interest in them, to be shares in which the employee's interest is only conditional, or

(b) the employee, not having become chargeable by virtue of this subsection in relation to the shares, sells or otherwise disposes of the employee's interest or any other beneficial interest in them,

he shall, for the year of assessment in which they so cease, or in which the sale or other disposal takes place, be chargeable to tax under Schedule E on the amount specified in subsection (5) below.

(5) That amount is the amount (if any) by which the sum of the deductible amounts is exceeded by the market value of the employee's interest immediately after that interest ceases to be only conditional or, as the case may be, at the time of the sale or other disposal.

(6) For the purposes of subsection (5) above the market value of the employee's interest at any time is the amount that might reasonably be expected to be obtained from a sale of that interest in the open market at that time.

(7) For those purposes the deductible amounts are—

(a) the amount or value of the consideration given for the employee's interest;

(b) any amounts on which the employee has become chargeable to tax under Schedule E in respect of his acquisition of the employee's interest;

(c) any amounts on which the employee has, by reference to an event occurring not later than the time of the event by virtue of which a charge arises under this section, become chargeable to tax in respect of the shares under section 78 or 79 of the Finance Act 1988 (unapproved employee share schemes).

(8) Where the employee dies holding the employee's interest this section shall have effect—

(a) as if he had disposed of that interest immediately before his death; and

Status: *This is the original version (as it was originally enacted).*

(b) as if the market value of the interest at the time of that disposal were to be determined for the purposes of subsection (5) above on the basis-
   (i) that it is known that the disposal is being made immediately before the employee's death; and
   (ii) that any restriction on disposal subject to which the employee holds the shares is to be disregarded in so far as it is a restriction terminating on his death.

(9) Any reference in this section or section 140B or 140C to shares in a company includes a reference to securities issued by a company; and the references in subsection (7)(c) above to an event include references to the expiry of a period.

140B Consideration for shares conditionally acquired

(1) This section applies in relation to any shares for determining the amount or value of the consideration referred to in section 140A(7)(a).

(2) Subject to the following provisions of this section, that consideration is any given by—
   (a) the employee; or
   (b) in a case where section 140H(1)(b) applies and the shares were acquired by another person, that other person,

   in respect of the acquisition of an interest in the shares.

(3) The amount or value of the consideration given by any person for an interest in the shares shall include—
   (a) the amount or value of any consideration given for a right to acquire those shares; and
   (b) the amount or value of any consideration given for anything by virtue of which the employee's interest in the shares ceases to be only conditional.

(4) Where any consideration is given partly in respect of one thing and partly in respect of another, the amount given in respect of the different things shall be determined on a just and reasonable apportionment.

(5) The consideration which for the purposes of this section is taken to be given wholly or partly for anything shall not include the performance of any duties of or in connection with the office or employment by reference to which the interest in the shares in question has been acquired by a person as a director or employee of a company.

(6) No amount shall be counted more than once in the computation of the amount or value of any consideration.

(7) Subsections (1) to (3) of section 136 shall apply for determining for the purposes of subsection (3)(a) above the amount or value of the consideration given for a right to acquire any shares as they apply for determining such an amount for the purposes of section 135.

140C Cases where interest to be treated as only conditional

(1) For the purposes of sections 140A and 140B (but subject to the following provisions of this section) a beneficial interest in shares is only conditional for so long as the terms on which the person with that interest is entitled to it—

(a) provide that, if certain circumstances arise, or do not arise, there will be a transfer, reversion or forfeiture as a result of which that person will cease to be entitled to any beneficial interest in the shares; and

(b) are not such that, on the transfer, reversion or forfeiture, that person will be entitled in respect of his interest to receive an amount equal to or more than the amount that might reasonably be expected (if there were no provision for transfer, reversion or forfeiture) to be obtained from a sale of that interest in the open market at that time.

(2) A person shall not for the purposes of sections 140A and 140B be taken, in relation to any shares, to have an interest which is only conditional by reason only that, in a case where there is no restriction on the meeting of calls by that person, the shares—

(a) are unpaid or partly paid; and

(b) may be forfeited for non-payment of calls.

(3) A person shall not for the purposes of sections 140A and 140B be taken, in relation to any shares in a company, to have an interest which is only conditional by reason only that the articles of association of the company require him to offer the shares for sale if he ceases to be an officer or, as the case may be, employee of the company.

(4) A person shall not for the purposes of sections 140A and 140B be taken, in relation to any security, to have an interest which is only conditional by reason only that the security may be redeemed on payment of any amount.

(5) In subsection (1) above the references, in relation to the terms of a person's entitlement, to circumstances arising include references—

(a) to the expiration of a period specified in or determined under those terms or the death of that person or any other person; and

(b) to the exercise by any person of any power conferred on him by or under those terms."

(2) In section 77(1) of the Finance Act 1988 (application of Chapter about unapproved employee share schemes), after "Subject to" there shall be inserted "section 140A of the Taxes Act 1988 and".

(3) After subsection (6) of section 79 of that Act (charge for shares in dependent subsidiaries) there shall be inserted the following subsection—

"(6A) If, before the time by reference to which the chargeable increase is determined, an event occurs by virtue of which the person making the acquisition becomes chargeable to tax under section 140A(4) of the Taxes Act 1988 (employee's interest in shares ceasing to be only conditional) on any amount ("the charged amount") in respect of the shares, the amount on which tax is chargeable by virtue of this section shall be reduced by the charged amount."

(4) The preceding provisions of this section apply in relation to interests acquired on or after 17th March 1998.

51 Convertible shares provided to directors and employees

(1) After the section 140C of the Taxes Act 1988 inserted by section 50 above there shall be inserted the following sections—

"140D Convertible shares

(1) This section applies where a person ("the employee") has acquired convertible shares in a company as a director or employee of that or another company.

(2) For the purposes of this section shares are convertible wherever they—

(a) confer on the holder an immediate or conditional entitlement to convert them into shares of a different class; or

(b) are held on terms that authorise or require the grant of such an entitlement to the holder if certain circumstances arise, or do not arise.

(3) The employee shall be chargeable to tax under Schedule E if, at a time when he has a beneficial interest in them, the shares are converted into shares of a different class in pursuance of any entitlement to convert them that has been conferred on the holder.

(4) A charge by virtue of this section shall be a charge for the year of assessment in which the conversion occurs on the amount of the gain from the conversion.

(5) The amount of the gain from the conversion is the amount (if any) by which the market value at the time of the conversion of the shares into which the convertible shares are converted exceeds the sum of the deductible amounts.

(6) The deductible amounts are—

(a) the amount or value of any consideration given for the convertible shares;

(b) the amount or value of any consideration given for the conversion in question;

(c) any amounts on which the employee has become chargeable to tax under Schedule E in respect of his acquisition of those shares;

(d) any amounts on which the employee has, by reference to an event occurring not later than the time of the conversion, become chargeable to tax in respect of the shares under section 78 or 79 of the Finance Act 1988 (unapproved employee share schemes);

(e) if the convertible shares were acquired through a series of conversions each of which was a taxable conversion, the amount of the gain from each conversion, so far as not falling within paragraph (c) above.

(7) In subsection (6) above the reference to a taxable conversion is a reference to any conversion which—

(a) gave rise to a gain on which the employee was chargeable to tax by virtue of this section, or

(b) would have given rise to such a gain but for the fact that the market value of the shares at the time of the conversion did not exceed the sum of the deductible amounts.

(8) Tax shall not be chargeable by virtue of this section if—

(a) the conversion is a conversion of shares of one class only ("the original class") into shares of one other class only ("the new class");

(b) all shares of the original class are converted into shares of the new class; and

(c) one of the conditions in subsection (9) below is fulfilled.

(9) The conditions referred to in subsection (8) above are—

(a) that immediately before the conversion the majority of the company's shares of the original class are held otherwise than by or for the benefit of—

(i) directors or employees of the company;

(ii) an associated company of the company; or

(iii) directors or employees of such an associated company;

and

(b) that immediately before the conversion the company is employee-controlled by virtue of holdings of shares of the original class.

(10) Tax shall not be chargeable by virtue of this section where the interest which the employee acquires in the shares into which the convertible shares are converted is an interest which (within the meaning given for the purposes of section 140A by section 140C) is only conditional.

140E Consideration for convertible shares

(1) This section applies in relation to any shares for determining the amount or value of the consideration referred to in section 140D(6)(a) or (b).

(2) Subject to the following provisions of this section, the consideration referred to in section 140D(6)(a) is any consideration given by—

(a) the employee; or

(b) in a case where section 140H(1)(b) applies and the shares were acquired by another person, that other person,

in respect of the acquisition of the shares.

(3) The amount or value of the consideration given by any person for any shares shall include the amount or value of any consideration given for a right to acquire those shares.

(4) Where any consideration is given partly in respect of one thing and partly in respect of another, the amount given in respect of the different things shall be determined on a just and reasonable apportionment.

(5) The consideration which for the purposes of this section is taken to be given wholly or partly for anything shall not include the performance of any duties of or in connection with the office or employment by reference to which the shares in question have been acquired by a person as a director or employee of a company.

(6) No amount shall be counted more than once in the computation of the amount or value of any consideration.

(7) Subsections (1) to (3) of section 136 shall apply for determining for the purposes of subsection (3) above the amount or value of the consideration given for a right to acquire any shares as they apply for determining such an amount for the purposes of section 135.

140F Supplemental provision with respect to convertible shares

(1) Where—

(a) a person has an interest in any convertible shares at the time of his death,

(b) those shares are converted into shares of a different class either on his death or within the following twelve months, and

(c) the conversion takes place wholly or partly as a consequence of his death,

section 140D shall have effect as if the conversion had taken place immediately before his death and had been in pursuance of an entitlement to convert conferred on the deceased.

(2) In section 140D(2) the references, in relation to the terms of a person's entitlement, to circumstances arising include references—

(a) to the expiration of a period specified in or determined under those terms or the death of that person or any other person; and

(b) to the exercise by any person of any power conferred on him by or under those terms.

(3) For the purposes of section 140D, the market value of any shares at any time is the amount that might reasonably be expected to be obtained from a sale of the shares in the open market at that time.

(4) In this section and section 140D "associated company" has the same meaning as it has for the purposes of Part XI by virtue of section 416.

(5) For the purposes of section 140D a company is employee-controlled by virtue of holdings of shares of a class if—

(a) the majority of the company's shares of that class (other than any held by or for the benefit of an associated company) are held by or for the benefit of employees or directors of the company or a company controlled by the company; and

(b) those directors and employees are together able as holders of the shares to control the company.

(6) The provisions of sections 140D and 140E and this section apply in relation to an interest in shares as they apply in relation to shares.

(7) Section 840 (control) applies for the purposes of this section."

(2) Before subsection (7) of section 79 of the Finance Act 1988 (charge for shares in dependent subsidiaries) there shall be inserted the following subsection—

"(6B) If, before the time by reference to which the chargeable increase is determined, an event occurs by virtue of which the person making the acquisition becomes

chargeable to tax under section 140D(3) of the Taxes Act 1988 (charge on conversion of convertible shares) on any amount ("the charged amount") in respect of the shares, the amount on which tax is chargeable by virtue of this section shall be reduced by the charged amount."

(3) The preceding provisions of this section apply in relation to shares acquired on or after 17th March 1998.

52 Information powers

(1) After the section 140F of the Taxes Act 1988 inserted by section 51 above there shall be inserted the following section—

"140G Information for the purposes of sections 140A to 140F

(1) Where—

(a) any person provides any individual with an interest in shares which is only conditional, and

(b) the circumstances are such that—

(i) the acquisition of that interest by that individual,

(ii) its subsequently ceasing to be only conditional,

(iii) its subsequent disposal, or

(iv) the death of the individual,

gives rise or may give rise to a charge under section 140A on that individual,

each of the relevant persons shall deliver to an officer of the Board particulars in writing of the interest and its provision.

(2) Where—

(a) a person has an interest in any shares which is only conditional,

(b) those shares cease to be shares in which that person's interest is only conditional or are disposed of or that person dies, and

(c) that event gives rise to a charge under section 140A(4),

each of the relevant persons shall deliver to an officer of the Board particulars in writing of the shares and the event.

(3) Where—

(a) any person has provided any individual with any convertible shares in a company,

(b) those shares are subsequently converted into shares of a different class, and

(c) the circumstances are such that the conversion gives rise or may give rise to a charge under section 140D on that individual,

each of the relevant persons shall deliver to an officer of the Board particulars in writing of the shares and their conversion.

(4) For the purposes of this section the relevant persons are—

(a) the person who is providing, or who provided, the shares in question; and

(b) the person under or with whom the office or employment is or was held by reference to which the charge may arise or has arisen.

(5) Particulars required to be delivered under this section must be delivered no later than thirty days after the end of the year of assessment in which the interest is provided, the event occurs or the conversion takes place.

(6) Expressions used in this section and in section 140A or 140D above have the same meanings in this section as in section 140A or, as the case may be, section 140D."

(2) In the second column of the Table in section 98 of the Taxes Management Act 1970 (penalties for failure to furnish information), after the entry relating to section 136(6) of the Taxes Act 1988 there shall be inserted the following entry—

"section 140G;".

53 Provision supplemental to sections 50 to 52

After the section 140G of the Taxes Act 1988 inserted by section 52 above there shall be inserted the following section—

"140H Construction of sections 140A to 140G

(1) For the purposes of sections 140A to 140G and this section, a person acquires any shares or securities as a director or employee of a company if—

(a) he acquires them in pursuance of a right conferred on him, or an opportunity offered to him, by reason of his office or employment as a director or employee of the company; or

(b) the shares or securities are, or a right or opportunity in pursuance of which he acquires them is, assigned to him after being acquired by, conferred on or, as the case may be, offered to some other person by reason of the assignee's office or employment as a director or employee of the company.

(2) Subject to subsection (3) below, the references in subsection (1) above to a right or opportunity conferred or offered by reason of a person's office or employment shall be taken to include—

(a) a reference to one so conferred or offered after he has ceased to hold it; and

(b) a reference to one that arises from the fact that any shares which a person acquires as a director or employee (or is treated as so acquiring by virtue of this paragraph) are convertible for the purposes of section 140D.

(3) For the purposes of this section—

(a) the references in subsections (1) and (2) above to a person's office or employment are references only to an office or employment in respect of which he is chargeable to tax under Case I of Schedule E; but

(b) subsection (2)(a) above shall not apply where a right or opportunity conferred or offered in the last chargeable period in which the office or

employment was held by the person in question would not have fallen to be taken into account for the purposes of subsection (1)(a) above.

(4) Without prejudice to subsection (2)(b) above where—

(a) a person has acquired an interest in any shares or securities which is only conditional or has acquired any convertible shares,

(b) he acquired that interest or those shares as a director or employee of a company, or is treated by virtue of this subsection as having done so, and

(c) as a result of any two or more transactions—

(i) he ceases to be entitled to that interest or those shares, and

(ii) he or a connected person becomes entitled to any interest in any shares or securities which is only conditional or to any convertible shares,

he shall be treated for the purposes of sections 140A to 140G as if the interest or shares to which he becomes entitled were also acquired by him as a director or employee of the company in question.

(5) Sections 140C and 140D(2) have effect for the purposes of subsection (4) above as they have effect for the purposes of sections 140A and 140B and section 140D respectively.

(6) References in sections 140A to 140G or this section to the terms on which a person is entitled to an interest in shares or securities include references to any terms imposed by any contract or arrangement or in any other way.

(7) References in this section to shares or to securities include references to an interest in shares or, as the case may be, securities.

(8) Subsection (5) of section 136 applies for the purposes of sections 140A to 140G and this section as it applies for the purposes of that section but as if—

(a) references to a body corporate were references to a company;

(b) at the end of paragraph (d) there were inserted "or any other interest of a member of a company"; and

(c) the words after paragraph (d) were omitted.

(9) Section 839 applies for the purposes of this section."

54 Amendments consequential on sections 50 to 53

(1) The Taxation of Chargeable Gains Act 1992 shall be amended as follows.

(2) After subsection (5) of section 120 (increase of expenditure by reference to tax charged in relation to shares) there shall be inserted the following subsections—

"(5A) Where an amount is chargeable to tax under section 140A of the Taxes Act in respect of—

(a) the acquisition or disposal of any interest in shares, or

(b) any interest in shares ceasing to be only conditional,

the relevant amount is a sum equal to the amount so chargeable.

(5B) Where an amount is chargeable to tax under section 140D of the Taxes Act in respect of the conversion of shares, the relevant amount is a sum equal to the amount so chargeable.”

(3) In subsection (7) of that section—

(a) after “(5),” there shall be inserted “, (5A), (5B)”; and

(b) after “138” there shall be inserted “, 140A, 140D”.

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

“(8) For the purposes of subsection (5A) above this section shall have effect as if references in this section to shares included anything referred to as shares in section 140A of the Taxes Act.”

(5) After section 149A there shall be inserted the following section—

“149B Employee incentive schemes: conditional interests in shares

(1) Where—

(a) an individual has acquired an interest in any shares or securities which is only conditional,

(b) that interest is one which for the purposes of section 140A of the Taxes Act is taken to have been acquired by him as a director or employee of a company, and

(c) by virtue of section 17(1)(b) the acquisition of that interest would, apart from this section, be an acquisition for a consideration equal to the market value of the interest,

section 17 shall not apply for calculating the consideration.

(2) Instead, the consideration for the acquisition shall be taken (subject to section 120) to be equal to the actual amount or value of the consideration given for that interest as computed in accordance with section 140B of the Taxes Act.

(3) This section shall apply in relation only to the individual making the acquisition and, accordingly, shall be disregarded in calculating the consideration received by the person from whom the interest is acquired.

(4) Expressions used in this section and in section 140A of the Taxes Act have the same meanings in this section as in that section.”

(6) This section has effect in relation to disposals on or after 17th March 1998 of interests and shares acquired on or after that date.

Construction industry workers

55 Construction workers supplied by agencies

(1) In section 134 of the Taxes Act 1988, subsection (5)(c) (which excepts from charge by virtue of that section the remuneration of construction workers who are sub-contractors supplied by agencies) shall cease to have effect.

(2) In section 559 of the Taxes Act 1988 (deductions on account of tax etc. from payments to certain sub-contractors), in subsection (1), for "subsection (2) below" there shall be substituted "the following provisions of this section"; and after subsection (1) there shall be inserted the following subsection—

"(1A) Subsection (1) above shall not apply to any payment made under the contract in question that is chargeable to income tax under Schedule E by virtue of section 134(1)."

(3) Subsections (1) and (2) above have effect in relation to—

(a) any payments made on or after 6th April 1998 other than any made in respect of services rendered before that date; and

(b) any payments made before 6th April 1998 in respect of services to be rendered on or after that date.

56 Transitional provisions in connection with section 55

(1) Subject to subsection (6) below, subsection (2) below applies if—

(a) a construction trade is being carried on by a person ("the sub-contractor") at the end of the year 1997-98; and

(b) there are receipts of that trade which, but for section 134(5)(c) of the Taxes Act 1988, would have fallen to be treated for the year 1997-98 as the emoluments of an office or employment.

(2) Where this subsection applies, then, subject to subsections (4) and (5) below—

(a) the trade shall be deemed to have been permanently discontinued at the end of the year 1997-98; and

(b) to the extent (if any) that the trade includes activities in addition to the rendering of services falling by virtue of section 55 to be treated as the duties of an office or employment, a new trade shall be deemed to have been set up and commenced on 6th April 1998.

(3) Subsection (4) below applies if—

(a) a construction trade ("the old trade") is deemed by virtue of subsection (2)(a) above to have been permanently discontinued; and

(b) a construction trade ("the new trade")—

(i) is deemed by virtue of subsection (2)(b) above to have been set up and commenced; or

(ii) (where sub-paragraph (i) above does not apply) is actually set up and commenced in the year 1998-99.

(4) Where this subsection applies then, notwithstanding the deemed discontinuance, the old trade and the new trade shall be treated as the same for the purposes of section 385 of the Taxes Act 1988 (carry-forward of losses against subsequent profits).

(5) An officer of the Board shall not become entitled by virtue of anything in this section to give a direction under paragraph 3(2) of Schedule 20 to the Finance Act 1994 (power to revise assessment so that made on the actual basis) in the case of a person whose trade is deemed under subsection (2) above to cease on 5th April 1998.

(6) Subsection (2) above does not apply if the sub-contractor by notice to an officer of the Board otherwise elects.

(7) An election under subsection (6) above—

(a) if it relates to a trade carried on by an individual, must be included in a return under section 8 of the Taxes Management Act 1970 which is made and delivered in that individual's case on or before the day on which it is required to be made and delivered under that section; and

(b) if it relates to a trade carried on by persons in partnership, must be included in a return under section 12AA of that Act which is made and delivered in the partners' case, or in the case of any one or more of them, on or before the day specified in relation to that return under subsection (2) or (3) of that section.

(8) In this section "construction trade" means a trade consisting in or including the rendering of services under contracts relating to construction operations (within the meaning of Chapter IV of Part XIII of the Taxes Act 1988).

(9) Where at any time on or after 17th March 1998 and before the day on which this Act is passed any election corresponding to an election under subsection (6) above has been made under a resolution of the House of Commons having effect in accordance with the provisions of the Provisional Collection of Taxes Act 1968, this section has effect, on and after the day on which this Act is passed, as if that election were an election under subsection (6) above.

57 Sub-contractors in the construction industry

Schedule 8 to this Act (which makes provision in relation to sub-contractors in the construction industry) shall have effect.

Payments and other benefits in connection with termination of employment etc.

58 Payments and other benefits in connection with termination of employment, etc

(1) For section 148 of the Taxes Act 1988 (payments on retirement or removal from office or employment) substitute—

"148 Payments and other benefits in connection with termination of employment, etc

(1) Payments and other benefits not otherwise chargeable to tax which are received in connection with—

(a) the termination of a person's employment, or

(b) any change in the duties of or emoluments from a person's employment,

are chargeable to tax under this section if and to the extent that their amount exceeds £30,000.

(2) For the purposes of this section a "benefit" includes anything which, if received for performance of the duties of the employment—

(a) would be an emolument of the employment, or

(b) would be chargeable to tax as an emolument of the employment,

or which would be such an emolument, or so chargeable, apart from any exemption.

(3) An amount chargeable to tax under this section is income chargeable under Schedule E for the year of assessment in which the payment or other benefit is received.

The right to receive the payments or other benefits is not itself regarded as a benefit for this purpose.

(4) For the purposes of this section—

(a) a cash benefit is treated as received—

(i) when payment is made of or on account of the benefit, or

(ii) when the recipient becomes entitled to require payment of or on account of the benefit; and

(b) a non-cash benefit is treated as received when it is used or enjoyed.

(5) This section applies—

(a) whether the payment or other benefit is provided by the employer or former employer or by another person, and

(b) whether or not the payment or other benefit is provided in pursuance of a legal obligation.

(6) This section has effect subject to Schedule 11, which contains provisions extending, restricting and otherwise supplementing the provisions of this section.

(7) In this section and that Schedule "employment" includes an office and related expressions have a corresponding meaning.".

(2) In the Taxes Act 1988, for Schedule 11 (relief as respects tax on payments on retirement or removal from office or employment) substitute the Schedule set out in Part I of Schedule 9 to this Act.

(3) The enactments mentioned in Part II of Schedule 9 to this Act have effect with the amendments specified there which are consequential on this section.

(4) This section applies to payments or other benefits received (within the meaning of section 148 of the Taxes Act 1988 as substituted by subsection (1) above) on or after 6th April 1998, except where the payment or other benefit or the right to receive it has been brought into charge to tax before that date.

Benefits in kind

59 Car fuel

(1) In section 158 of the Taxes Act 1988 (car fuel) for the Tables in subsection (2) (tables of cash equivalents) there shall be substituted—

"TABLE A

Cylinder capacity of car in cubic centimetres	*Cash equivalent*
1,400 or less	£1,010
More than 1,400 but not more than 2,000	£1,280

Cylinder capacity of car in cubic centimetres	*Cash equivalent*
More than 2,000	£1,890

TABLE AB

Cylinder capacity of car in cubic centimetres	*Cash equivalent*
2,000 or less	£1,280
More than 2,000	£1,890

TABLE B

Description of car	*Cash equivalent*
Any car	£1,890”

(2) This section shall have effect for the year 1998-99 and subsequent years of assessment.

60 Reductions for road fuel gas cars

(1) In subsection (1) of section 168A of the Taxes Act 1988 (price of a car as regards year), for the words “sections 168B to 168G” there shall be substituted the words “sections 168AB to 168G”.

(2) In subsection (11) of that section, after the words “section 168AA” there shall be inserted the words “or 168AB(1)”.

(3) After section 168AA of that Act there shall be inserted the following section—

“168AB Equipment etc. to enable car to run on road fuel gas

(1) Equipment by means of which the car is capable of running on road fuel gas shall not be regarded as an accessory for the purposes of section 168A.

(2) Where the car is manufactured in such way as to be capable of running on road fuel gas, the price of the car as regards each relevant year shall be treated as the price given by section 168A, reduced by so much of that price as it is reasonable to attribute to the car’s being manufactured in that way rather than in such a way as to be capable of running only on petrol.

(3) In this section “road fuel gas” means any substance which is gaseous at a temperature of 15°C and under a pressure of 1013.25 millibars, and which is for use as fuel in road vehicles.”

(4) In subsection (2) of section 168B of that Act (accessories not included in list price), for the words “section 168A” there shall be substituted the words “sections 168A and 168AB”.

(5) In subsection (2) of section 168C of that Act (accessories available after car first made available), for the words “sections 168A and 168B” there shall be substituted the words “sections 168A to 168B”.

(6) This section has effect for the year 1998-99 and subsequent years of assessment.

61 Travelling expenses

(1) For subsections (1) to (1B) of section 198 of the Taxes Act 1988 (relief for necessary expenses) substitute—

"(1) If the holder of an office or employment is obliged to incur and defray out of the emoluments of the office or employment—

(a) qualifying travelling expenses, or

(b) any amount (other than qualifying travelling expenses) expended wholly, exclusively and necessarily in the performance of the duties of the office or employment,

there may be deducted from the emoluments to be assessed the amount so incurred and defrayed.

(1A) "Qualifying travelling expenses" means—

(a) amounts necessarily expended on travelling in the performance of the duties of the office or employment, or

(b) other expenses of travelling which—

(i) are attributable to the necessary attendance at any place of the holder of the office or employment in the performance of the duties of the office or employment, and

(ii) are not expenses of ordinary commuting or private travel.

What is ordinary commuting or private travel for this purpose is defined in Schedule 12A.

(1B) Expenses of travel by the holder of an office or employment between two places at which he performs duties of different offices or employments under or with companies in the same group are treated as necessarily expended in the performance of the duties which he is to perform at his destination.

For this purpose companies are taken to be members of the same group if, and only if, one is a 51 per cent. subsidiary of the other or both are 51 per cent. subsidiaries of a third company.".

(2) In the Taxes Act 1988 insert as Schedule 12A the Schedule set out in Schedule 10 to this Act.

(3) This section has effect for the year 1998-99 and subsequent years of assessment.

Profit-related pay

62 Provision preventing manipulation of profit periods

Schedule 11 to this Act (which makes provision to prevent the manipulation of profit periods in relation to the phasing out of relief for profit-related pay) shall have effect.

Foreign earnings deduction

63 Withdrawal except in relation to seafarers

(1) Section 193(1) of the Taxes Act 1988 (Schedule E foreign earnings deduction) shall cease to have effect.

Status: *This is the original version (as it was originally enacted).*

(2) Before that section insert—

"192A Foreign earnings deduction for seafarers

(1) Where in any year of assessment—

(a) the duties of an employment as a seafarer are performed wholly or partly outside the United Kingdom, and

(b) any of those duties are performed in the course of a qualifying period (within the meaning of Schedule 12) which falls wholly or partly in that year and consists of at least 365 days,

then, in charging tax under Case I of Schedule E on the amount of the emoluments from that employment attributable to that period, or to so much of it as falls in that year of assessment, there shall be allowed a deduction equal to the whole of that amount.

(2) In subsection (1) employment "as a seafarer" means an employment consisting of the performance of duties on a ship (or of such duties and others incidental to them).

(3) For the purposes of this section a "ship" does not include—

(a) any offshore installation within the meaning of the Mineral Workings (Offshore Installations) Act 1971, or

(b) what would be such an installation if the references in that Act to controlled waters were to any waters.

(4) Schedule 12 has effect for the purpose of supplementing this section.".

(3) The references in the Taxes Act 1988 to section 193(1) are amended as follows—

(a) in section 19(1), in Case I of Schedule E, omit the words from "and to section 193(1)" to the end;

(b) in paragraph 10 of Schedule 11, after "193(1)" insert "or 192A";

(c) in section 132(3) and paragraphs 1, 1A, 2(1), 3(1) and (3), 5 and 6 of Schedule 12, for "193(1)" substitute "192A".

(4) In Schedule 12 to that Act—

(a) in paragraph 3(2) (qualifying periods)—

(i) in paragraph (a) for "62" substitute "183", and

(ii) in paragraph (b) for "one-sixth" substitute "one-half";

(b) in paragraph 5 (duties treated as performed outside the United Kingdom)—

(i) for "vessel or aircraft" substitute "ship (within the meaning of section 192A)", and

(ii) in paragraphs (a) and (b) for "voyage or journey" substitute "voyage".

(5) Subsections (1) to (4) above have effect in relation to—

(a) emoluments attributable to qualifying periods beginning on or after 17th March 1998, and

(b) emoluments attributable to qualifying periods beginning before 17th March 1998 which are received on or after that date.

(6) Nothing in those subsections affects the question what deduction (if any) falls to be made under section 193(1) of the Taxes Act 1988 in the case of emoluments

attributable to a qualifying period beginning before 17th March 1998 and received before that date.

(7) For the purposes of subsections (5) and (6) above the question whether emoluments are attributable to a qualifying period beginning before 17th March 1998 shall be determined without reference to any arrangements entered into on or after that date.

PAYE: non-cash benefits etc.

64 Transitory provision relating to tradeable assets

(1) In relation to any asset provided on or after 2nd July 1997 and before 6th April 1998, section 203F of the Taxes Act 1988 (application of PAYE where payment is in the form of the provision of a tradeable asset) shall have effect with the following two modifications.

(2) The first modification is the insertion in subsection (2), before the word "and" at the end of paragraph (b), of the following paragraph—

"(ba) an asset not falling within paragraph (a) or (b) above which consists in the rights of an assignee, or any other rights, in respect of a trade debt that is or may become due to the employer;".

(3) The second modification is the insertion in subsection (3), before the word "and" at the end of paragraph (a), of the following paragraph—

"(aa) in the case of an asset falling within subsection (2)(ba) above, the amount of the debt;".

(4) The preceding provisions of this section shall be deemed, in accordance with subsections (5) and (6) below, to have come into force on 2nd July 1997.

(5) Subject to subsection (6) below, this section shall not be taken to have changed—

(a) the amounts which were deductible by any person under section 203 of the Taxes Act 1988 at any time on or before 17th March 1998; or

(b) the amounts which should have been accounted for to the Board under section 203J(3) of that Act at any time on or before 5th April 1998.

(6) Where, by virtue of this section, any employer would (but for subsection (5) above) be treated as having been under an obligation at any time on or before 17th March 1998 to make deductions from payments made by the employer of, or on account of, an employee's assessable income—

(a) sections 203 and 203J of the Taxes Act 1988, and

(b) the provisions of any regulations under section 203 of that Act,

shall have effect, and be deemed to have had effect, as if the employer had been obliged (subject to section 203J(3) of that Act) to make those deductions from any payments that were so made on or after 24th March 1998 and before 6th April 1998.

(7) Expressions used in subsection (6) above and in section 203J of the Taxes Act 1988 have the same meanings in that subsection as in that section.

65 Payment in the form of a readily convertible asset

(1) Section 203F of the Taxes Act 1988 (tradeable assets) shall be amended as follows.

(2) In subsection (1) (provision of tradeable asset to be treated as payment), for "a tradeable asset" there shall be substituted "a readily convertible asset".

(3) For subsections (2) and (3) (meaning of "tradeable asset" and amount of deemed payment) there shall be substituted the following subsections—

"(2) In this section "readily convertible asset" means—

(a) an asset capable of being sold or otherwise realised on a recognised investment exchange (within the meaning of the Financial Services Act 1986) or on the London Bullion Market;

(b) an asset capable of being sold or otherwise realised on a market for the time being specified in PAYE regulations;

(c) an asset consisting in the rights of an assignee, or any other rights, in respect of a money debt that is or may become due to the employer or any other person;

(d) an asset consisting in, or in any right in respect of, any property that is subject to a fiscal warehousing regime;

(e) an asset consisting in anything that is likely (without anything being done by the employee) to give rise to, or to become, a right enabling a person to obtain an amount or total amount of money which is likely to be similar to the expense incurred in the provision of the asset;

(f) an asset for which trading arrangements are in existence; or

(g) an asset for which trading arrangements are likely to come into existence in accordance with any arrangements of another description existing when the asset is provided or with any understanding existing at that time.

(3) The amount referred to is the amount which, on the basis of the best estimate that can be reasonably be made, is the amount of income likely to be chargeable to tax under Scheule E in respect of the provision of the asset.

(3A) For the purposes of this section trading arrangements for any asset provided to any person exist whenever there exist any arrangements the effect of which in relation to that asset is to enable that person, or a member of his family or household, to obtain an amount or total amount of money that is, or is likely to be, similar to the expense incurred in the provision of that asset.

(3B) References in this section to enabling a person to obtain an amount of money shall be construed—

(a) as references to enabling an amount to be obtained by that person by any means at all, including, in particular—

(i) by using any asset or other property as security for a loan or advance, or

(ii) by using any rights comprised in or attached to any asset or other property to obtain any asset for which trading arrangements exist;

and

(b) as including references to cases where a person is enabled to obtain an amount as a member of a class or description of persons, as well as where he is so enabled in his own right.

(3C) For the purposes of this section an amount is similar to the expense incurred in the provision of any asset if it is, or is an amount of money equivalent to—

(a) the amount of the expense so incurred; or

(b) a greater amount; or

(c) an amount that is less than that amount but not substantially so."

(4) In subsections (4) and (5) (meaning of "asset"), for the words "subsection (2) above", in each place where they occur, there shall be substituted "this section".

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

"(6) In this section—

"EEA State" means a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993;

"family or household" has the same meaning as it has, by virtue of section 168(4), in Chapter II of this Part;

"fiscal warehousing regime" means—

(a) a warehousing regime or fiscal warehousing regime (within the meaning of sections 18 to 18F of the Value Added Tax Act 1994); or

(b) any corresponding arrangements in an EEA State other than the United Kingdom;

"money" includes money expressed in a currency other than sterling or in the European currency unit (as for the time being defined in Council Regulation No. 3180/78/EEC or any Community instrument replacing it); and

"money debt" means any obligation which falls to be, or may be, settled—

(a) by the payment of money, or

(b) by the transfer of a right to settlement under an obligation which is itself a money debt."

(6) The preceding provisions of this section have effect in relation to any asset provided on or after 6th April 1998 and shall be deemed, in accordance with subsection (7) below, to have come into force on that date.

(7) This section shall not be taken to have changed—

(a) the amounts which were deductible by any person under section 203 of the Taxes Act 1988 at any time on or before the day on which this Act is passed; or

(b) the amounts which should have been accounted for to the Board under section 203J(3) of that Act at any time on or before the fifth of the month following that in which this Act is passed;

but, the amounts which (but for this subsection) would have been deductible, or would have been amounts for which any person should have accounted, shall be deducted or accounted for in accordance with any such provision as may be made by regulations under section 203 of the Taxes Act 1988.

66 Enhancing the value of an asset

(1) After section 203F of the Taxes Act 1988 there shall be inserted the following section—

"203FA PAYE: enhancing the value of an asset

(1) Where—

(a) any assessable income of an employee is provided in the form of anything enhancing the value of an asset in which the employee or a member of his family or household already has an interest, and

(b) that asset, with its value enhanced, would be treated as a readily convertible asset for the purposes of section 203F if assessable income were provided to the employee in the form of that asset at the time of the enhancement,

that section shall have effect (subject to subsection (2) below) as if the employee had been provided, at that time, with assessable income in the form of the asset (with its value enhanced), instead of with whatever enhanced its value.

(2) Where section 203F has effect in accordance with subsection (1) above, subsection (3) of that section shall apply as if the reference in subsection (3) of that section to the provision of the asset were a reference to the enhancement of its value.

(3) Subject to subsection (4) below, any reference in this section to enhancing the value of an asset is a reference to—

(a) the provision of any services by which that asset or any right or interest in it is improved or otherwise made more valuable,

(b) the provision of any property the addition of which to the asset in question improves it or otherwise increases its value, or

(c) the provision of any other enhancement by the application of money or property to the improvement of the asset in question or to securing an increase in its value or in the value of any right or interest in it.

(4) PAYE regulations may make provision excluding such matters as may be described in the regulations from the scope of what constitutes enhancing the value of an asset for the purposes of this section.

(5) Expressions used in this section and in section 203F have the same meanings in this section as in that section."

(2) The preceding provisions of this section have effect in relation to any assessable income provided on or after 6th April 1998 and shall be deemed, in accordance with subsection (3) below, to have come into force on that date.

(3) This section shall not be taken to have changed—

(a) the amounts which were deductible by any person under section 203 of the Taxes Act 1988 at any time on or before the day on which this Act is passed; or

(b) the amounts which should have been accounted for to the Board under section 203J(3) of that Act at any time on or before the fifth of the month following that in which this Act is passed;

but, the amounts which (but for this subsection) would have been deductible, or would have been amounts for which any person should have accounted, shall be deducted or accounted for in accordance with any such provision as may be made by regulations under section 203 of the Taxes Act 1988.

67 Gains from share options etc

(1) After the section 203FA of the Taxes Act 1988 that is inserted by section 66 above there shall be inserted the following section—

“**203FB PAYE: gains from share options etc**

(1) This section applies where an event occurs by virtue of which an amount is assessable on any person (“the relevant person”) by virtue of section 135, 140A(4) or 140D.

(2) If that event is the exercise of a right to acquire shares, section 203F shall have effect, subject to subsection (7) below, as if the relevant person were being provided—

(a) at the time he acquires the shares in exercise of that right, and

(b) in respect of the office or employment by reason of which he was granted the right,

with assessable income in the form of those shares.

(3) If that event is the assignment or release of a right to acquire shares, sections 203 to 203F shall have effect, subject to subsection (7) below—

(a) in so far as the consideration for the assignment or release takes the form of a payment, as if so much of that payment as does not exceed the amount assessable by virtue of section 135 were a payment of assessable income of the relevant person; and

(b) in so far as that consideration consists in the provision of an asset, as if the provision of that asset were the provision—

(i) to the relevant person, and

(ii) in respect of the office or employment by reason of which he was granted the right,

of assessable income in the form of that asset.

(4) If that event is an event falling within subsection (4)(a) or (b) of section 140A, sections 203 to 203F shall have effect, subject to subsection (7) below, as if—

(a) the provision to the relevant person of the employee’s interest in the shares included the provision to him at the time of the event of a further interest in those shares; and

(b) the further interest were not subject to any terms by virtue of which it would fall for the purposes of section 140A to be treated as only conditional.

(5) If that event is an event falling within subsection (3) of section 140D, sections 203 to 203F shall have effect, subject to subsection (7) below, as if the original provision to the relevant person of the convertible shares or securities included the provision to him at the time of the event of the shares or securities into which they are converted.

(6) Subsection (5) above shall apply in a case where the convertible shares or securities were themselves acquired by means of a taxable conversion (as defined in section 140D(7)), or by a series of such conversions, as if the reference to the original provision of the convertible shares or securities were a reference to the provision of the shares or securities which were converted by the earlier or earliest conversion.

(7) Where section 203F has effect in accordance with any of the preceding provisions of this section, subsection (3) of section 203F shall apply as if the reference in that subsection to the amount of income likely to be chargeable to tax under Schedule E in respect of the provision of the asset were a reference to the amount on which tax is likely to be chargeable by virtue of section 135, 140A or 140D in respect of the event in question.

(8) PAYE regulations may make provision for excluding payments from the scope of subsection (3)(a) above in such circumstances as may be specified in the regulations.

(9) In this section "asset" means—

(a) any asset within the meaning of section 203F; or

(b) any non-cash voucher, credit-token or cash voucher (as defined for the purposes of section 141, 142 or, as the case may be, 143).

(10) Expressions used in this section and in any of sections 135 and 140A to 140H have the same meanings in this section as in that section, and any reference in this section to—

(a) an event falling within subsection (4)(a) or (b) of section 140A, or

(b) an event falling within subsection (3) of section 140D,

includes a reference to an event which is treated for the purposes of that section as such an event by virtue of section 140A(8) or 140F(1)."

(2) The preceding provisions of this section have effect in relation to events occurring on or after 6th April 1998 and shall be deemed, in accordance with subsection (3) below, to have come into force on that date.

(3) This section shall not be taken to have changed—

(a) the amounts which were deductible by any person under section 203 of the Taxes Act 1988 at any time on or before the day on which this Act is passed; or

(b) the amounts which should have been accounted for to the Board under section 203J(3) of that Act at any time on or before the fifth of the month following that in which this Act is passed;

but, the amounts which (but for this subsection) would have been deductible, or would have been amounts for which any person should have accounted, shall be deducted or accounted for in accordance with any such provision as may be made by regulations under section 203 of the Taxes Act 1988.

68 Vouchers and credit-tokens

(1) For subsections (3) and (4) of section 203G of the Taxes Act 1988 (conditions for the receipt of a non-cash voucher to be treated as a payment for PAYE purposes) there shall be substituted the following subsections—

"(3) The first condition is fulfilled with respect to a non-cash voucher if it is capable of being exchanged for anything which, if provided to the employee at the time when the voucher is received, would fall to be regarded as a readily convertible asset for the purposes of section 203F.

(4) The second condition is fulfilled with respect to a non-cash voucher if (but for section 203F(4)(b)) it would itself fall to be regarded as a readily convertible asset for the purposes of section 203F.

(5) Subsection (5) of section 141 (time of receipt of voucher appropriated to employee) shall apply for the purposes of this section as it applies for the purposes of subsections (1) and (2) of that section."

(2) In subsection (1) of section 203H of that Act (use of credit tokens to be treated as payment for PAYE purposes), for paragraph (b) there shall be substituted—

"(b) anything which, if provided to the employee at the time when the credit-token is used, would fall to be regarded as a readily convertible asset for the purposes of section 203F,";

and subsection (2) of that section shall cease to have effect.

(3) In section 203I of that Act (cash vouchers), after subsection (2) there shall be inserted the following subsection—

"(3) Subsection (2) of section 143 (time of receipt of voucher appropriated to employee) shall apply for the purposes of this section as it applies for the purposes of subsections (1) and (5) of that section."

(4) The preceding provisions of this section have effect—

(a) in relation to non-cash vouchers or cash vouchers received on or after 6th April 1998, and

(b) in relation to any use of a credit-token on or after that date,

and shall be deemed, in accordance with subsection (5) below, to have come into force on that date.

(5) This section shall not be taken to have changed—

(a) the amounts which were deductible by any person under section 203 of the Taxes Act 1988 at any time on or before the day on which this Act is passed; or

(b) the amounts which should have been accounted for to the Board under section 203J(3) of that Act at any time on or before the fifth of the month following that in which this Act is passed;

but, the amounts which (but for this subsection) would have been deductible, or would have been amounts for which any person should have accounted, shall be deducted or accounted for in accordance with any such provision as may be made by regulations under section 203 of the Taxes Act 1988.

69 Intermediaries, non-UK employers, agencies etc

(1) In section 203C of the Taxes Act 1988 (application of PAYE to payments to employees of a non-UK employer working for another where payment made without deduction by the employer or his intermediary), in subsection (1)(b), (c) and (d), after "of the employer" there shall be inserted "or of the relevant person".

(2) In that section, the following subsections shall be inserted after subsection (3)—

"(3A) Where, by virtue of any of sections 203F to 203I, an employer would be treated for the purposes of PAYE regulations (if they applied to him) as making a payment of any amount to an employee, this section shall have effect—

(a) as if the employer were also to be treated for the purposes of this section as making an actual payment of that amount; and

(b) as if paragraph (a) of subsection (3) above were omitted.

(3B) References in this section to the making of any payment by an intermediary of the relevant person shall be construed in accordance with subsection (4) of section 203B as if references in that subsection to the employer were references to the relevant person."

(3) For subsections (1) and (2) of section 203L of that Act (interpretation) there shall be substituted the following subsections—

"(1) Subject to subsections (1A) and (1B) below and section 203J(2)(b), in sections 203B to 203J—

"employee" means a person who holds or has held any office or employment under or with another person; and

"employer"—

(a) in relation to an employee, means a person under or with whom that employee holds or has held an office or employment; and

(b) in relation to any assessable income of an employee, means the person who is the employer of that employee in relation to the office or employment in respect of which that income is or was provided or, as the case may be, by reference to which it falls to be regarded as assessable.

(1A) Subject to subsection (1B) below, where the remuneration receivable by an individual under or in consequence of any contract falls to be treated under section 134 (agency workers) as the emoluments of an office or employment, sections 203B to 203K (except section 203E) shall have effect as if that person held that office or employment under or with the agency.

(1B) Where—

(a) the remuneration receivable by an individual under or in consequence of any contract falls to be so treated under section 134, and

(b) a payment of, or on account of, assessable income of that individual is made by a person acting on behalf of the client and at the expense of the client or a person connected with the client,

section 203B and, in relation to any payment treated as made by the client under section 203B, section 203J shall have effect in relation to that payment as if the client and not the agency were the employer for the purposes of sections 203B to 203K.

(1C) In subsections (1A) and (1B) above "the agency" and "the client" have the same meanings as in section 134; and section 839 applies for the purposes of those subsections.

(2) In sections 203B to 203K and in this section "assessable" means assessable to income tax under Schedule E."

(4) In section 144A(2) of that Act (payments etc. received free of tax), after "employer" there shall be inserted ", in relation to any provision of sections 203B to 203J, is a reference to the person taken to be the employer for the purposes of that provision and".

(5) The preceding provisions of this section have effect in relation to payments made, assets provided and vouchers received at any time on or after 6th April 1998 and in relation to any use of a credit-token on or after that date.

(6) Nothing in this section shall be taken to have changed—

(a) the amounts which were deductible by any person under section 203 of the Taxes Act 1988 at any time on or before the day on which this Act is passed; or

(b) the amounts which should have been accounted for to the Board under section 203J(3) of that Act at any time on or before the fifth of the month following that in which this Act is passed;

but, the amounts which (but for this subsection) would have been deductible, or would have been amounts for which any person should have accounted, shall be deducted or accounted for in accordance with any such provision as may be made by regulations under section 203 of the Taxes Act 1988.

The enterprise investment scheme and venture capital trusts

70 Qualifying trades for EIS and VCTs

(1) Schedule 12 to this Act (which amends the definition of qualifying trade for the purposes of the enactments relating to the enterprise investment scheme and venture capital trusts) shall have effect.

(2) In section 298(4) of the Taxes Act 1988 (power to amend sections 297 and 298), for "section 297" there shall be substituted "sections 293 and 297".

(3) In paragraph 12(a) of Schedule 28B to that Act (power to amend paragraphs 4 and 5 of that Schedule), for "4 and 5" there shall be substituted "3 to 5".

(4) The power conferred by subsection (2) above shall not be exercisable in relation to any shares issued before 17th March 1998.

71 Pre-arranged exits from EIS

(1) After section 299A of the Taxes Act 1988 there shall be inserted the following section—

"**299B Pre-arranged exits**

(1) An individual is not eligible for relief in respect of any shares in a company if the relevant arrangements include—

(a) arrangements with a view to the subsequent repurchase, exchange or other disposal of those shares or of other shares in or securities of the same company;

(b) arrangements for or with a view to the cessation of any trade which is being or is to be or may be carried on by the company or a person connected with the company;

Status: *This is the original version (as it was originally enacted).*

(c) arrangements for the disposal of, or of a substantial amount of, the assets of the company or of a person connected with the company;

(d) 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 persons investing in shares in that company against what would otherwise be the risks attached to making the investment.

(2) The arrangements referred to in subsection (1)(a) above do not include any arrangements with a view to such an exchange of shares, or shares and securities, as is mentioned in section 304A(1).

(3) The arrangements referred to in subsection (1)(b) and (c) above do not include any arrangements applicable only on the winding up of a company except in a case where—

(a) the relevant arrangements include arrangements for the company to be wound up; or

(b) the company is wound up otherwise than for bona fide commercial reasons.

(4) The arrangements referred to in subsection (1)(d) above do not include any arrangements which are confined to the provision—

(a) for the company itself, or

(b) in the case of a company which is a parent company of a trading group, for the company itself, for the company itself and one or more of its subsidiaries or for one or more of its subsidiaries,

of any such protection against the risks arising in the course of carrying on its business as it might reasonably be expected so to provide in normal commercial circumstances.

(5) The reference in subsection (4) above to the parent company of a trading group shall be construed in accordance with the provision contained for the purposes of section 293 in that section.

(6) In this section "the relevant arrangements" means—

(a) the arrangements under which the shares are issued to the individual; and

(b) any arrangements made before the issue of the shares to him in relation to or in connection with that issue.

(7) In this section "arrangements" includes any scheme, agreement or understanding, whether or not legally enforceable."

(2) In section 307(6)(a) of that Act (interest on overdue tax where relief withdrawn), after "289(6)" there shall be inserted "or 299B(1)".

(3) In section 310 of that Act (information powers), in subsection (5), after "293(8)" there shall be inserted ", 299B(1)".

(4) For subsection (6) of that section there shall be substituted the following subsection—

"(6) For the purposes of subsection (5) above the persons who are persons concerned are—

(a) in relation to section 289(6), the claimant, the company and any person controlling the company;

(b) in relation to section 291B(5), the claimant;

(c) in relation to section 293(8) or 308(2)(e), the company and any person controlling the company; and

(d) in relation to section 299B(1), the claimant, the company and any person connected with the company;

and for those purposes references in this subsection to the claimant include references to any person to whom the claimant appears to have made a transfer such as is mentioned in section 304(1) of any of the shares in question."

(5) The preceding provisions of this section apply in relation to shares issued on or after 2nd July 1997.

72 Qualifying holdings for VCTs after 2nd July 1997

(1) After paragraph 10 of Schedule 28B to the Taxes Act 1988 there shall be inserted the following paragraph—

"Requirement that securities should not relate to a guaranteed loan

10A (1) The requirement of this paragraph is that there are no securities relating to a guaranteed loan in the relevant holding.

(2) For the purposes of this paragraph a security relates to a guaranteed loan if (and only if) there are arrangements for the trust company to be or become entitled, in the event of a failure by any person to comply with—

(a) the terms of the loan to which the security relates, or

(b) the terms of the security,

to receive anything (whether directly or indirectly) from a third party.

(3) For the purposes of sub-paragraph (2) above it shall be immaterial whether the arrangements apply in all cases of a failure to comply or only in certain such cases.

(4) For the purposes of this paragraph "third party" means any person except—

(a) the relevant company; and

(b) if the relevant company is the parent company of a trading group for the purposes of paragraph 3 above, the subsidiaries of the relevant company."

(2) After the paragraph 10A inserted by subsection (1) above there shall be inserted the following paragraph—

"Requirement that a proportion of the holding in each company must be eligible shares

10B (1) The requirement of this paragraph is that eligible shares represent at least 10 per cent. by value of the totality of the shares in or securities of the relevant company (including the relevant holding) which are held by the trust company.

(2) For the purposes of this paragraph the value at any time of any shares in or securities of a company shall be taken (subject to sub-paragraph (4) below) to be their value immediately after—

(a) any relevant event occurring at that time; or

(b) where no relevant event occurs at that time, the last relevant event to occur before that time.

(3) In sub-paragraph (2) above "relevant event", in relation to any shares in or securities of the relevant company, means—

(a) the acquisition by the trust company of those shares or securities;

(b) the acquisition by the trust company of any other shares in or securities of the relevant company which—

(i) are of the same description as those shares or securities, and

(ii) are acquired otherwise than by virtue of being allotted to the trust company without that company's becoming liable to give any consideration;

or

(c) the making of any such payment in discharge, in whole or in part, of any obligation attached to any shares in or securities of the relevant company held by the trust company as (by discharging that obligation) increases the value of any such shares or securities.

(4) If at any time the value of any shares or securities held by the trust company is less than the amount of the consideration given by the trust company for those shares or securities, it shall be assumed for the purposes of this paragraph that the value of those shares or securities at that time is equal to the amount of that consideration.

(5) In this paragraph "eligible shares" has the same meaning as in section 842AA."

(3) Subject to subsections (4) and (5) below, the preceding provisions of this section have effect in relation to accounting periods ending on or after 2nd July 1997.

(4) Subsection (1) above shall not have effect for the purpose of determining whether any shares or securities acquired by a company by means of the investment of—

(a) money raised by the issue before 2nd July 1997 of shares in or securities of the trust company, or

(b) money derived from the investment by that company of any such money,

constitute qualifying holdings of the trust company at any time.

(5) If at any time the requirement of paragraph 10B of Schedule 28B to the Taxes Act 1988—

(a) would be satisfied in relation to a relevant holding and a company if none of the old investments were held by the trust company at that time, but

(b) would not otherwise be satisfied,

that paragraph shall apply in relation to that holding as if the old investments were not held by the trust company at that time.

(6) In subsection (5) above, "old investments" means shares in or securities of the relevant company acquired by means of the investment of—
   (a) money raised by the issue before 2nd July 1997 of shares in or securities of the trust company; or
   (b) money derived from the investment of such money.

73 Other changes to requirements for VCTs

(1) In each of—
   (a) subsection (14) of section 842AA of the Taxes Act 1988, and
   (b) sub-paragraph (1) of paragraph 6 of Schedule 15B to that Act,

(which define "eligible shares" for the purposes of enactments relating to VCTs), the word "preferential", in the second place where it occurs in that subsection or sub-paragraph, shall be omitted.

(2) In paragraph 10(3) of Schedule 28B to that Act (subsidiary to be qualifying subsidiary if it is a 90 per cent subsidiary), for "90", wherever it occurs, there shall be substituted "75".

(3) In paragraph 3 of Schedule 28B to that Act, in sub-paragraph (3) (requirement in relation to qualifying trade of relevant company or qualifying subsidiary), for "qualifying subsidiary" there shall be substituted "relevant qualifying subsidiary"; and after paragraph (b) of that sub-paragraph there shall be inserted the following—

"and for the purposes of this sub-paragraph a company is a relevant qualifying subsidiary of another company at any time when it would be a qualifying subsidiary of that company if "90" were substituted for "75" in every place where "75" occurs in paragraph 10(3) below."

(4) In paragraph 6 of Schedule 28B to that Act, in sub-paragraphs (1)(b), (2A)(c) and (2B) (requirement as to use of money raised), for "qualifying subsidiary", wherever it occurs, there shall be substituted "relevant qualifying subsidiary"; and after sub-paragraph (4) of that paragraph there shall be inserted the following sub-paragraph—

"(5) For the purposes of this paragraph a company is a relevant qualifying subsidiary of another company at any time when it would be a qualifying subsidiary of that company if "90" were substituted for "75" in every place where "75" occurs in paragraph 10(3) below."

(5) In paragraph 8(1) of Schedule 28B to that Act (requirement as to capital of the relevant company), for "£10 million" and "£11 million" there shall be substituted, respectively, "£15 million" and "£16 million".

(6) Subsections (1) to (4) above have effect for the purpose of determining whether shares or securities are, as at any time on or after 6th April 1998, to be regarded as comprised in a company's qualifying holdings; and subsection (5) above has effect in relation to relevant holdings issued on or after that date.

74 Other changes to EIS etc

(1) Schedule 13 to this Act, which amends the provisions mentioned in subsection (2) below, shall have effect.

Status: *This is the original version (as it was originally enacted).*

(2) The provisions are—

(a) Chapter III of Part VII of the Taxes Act 1988 (EIS income tax relief);

(b) sections 150A and 150B of the Taxation of Chargeable Gains Act 1992 (EIS relief in respect of chargeable gains);

(c) Schedule 5B to that Act (EIS deferral of chargeable gains); and

(d) that Chapter as it has effect in relation to shares issued before 1st January 1994 (BES income tax relief) and section 150 of that Act (BES relief in respect of chargeable gains).

(3) Unless the contrary intention appears, the amendments made by that Schedule have effect in relation to shares issued on or after 6th April 1998.

Individual savings accounts etc.

75 Use of PEPs powers to provide for accounts

(1) After subsection (1) of section 333 of the Taxes Act 1988 (investment plans) there shall be inserted the following subsection—

"(1A) The plans for which provision may be made by the regulations include, in particular, a plan in the form of an account the subscriptions to which are to be invested in one or more of the ways authorised by the regulations; and, accordingly, references in this section, or in any other enactment, to a plan manager include references to the manager of such an account."

(2) In subsection (3)(b) of that section (which allows for the imposition of limits in relation to a plan), the words "and minimum periods for which investments are to be held" shall be omitted.

(3) In paragraph (b) of subsection (4) of that section (power to provide for persons to be liable to account for tax wrongly relieved)—

(a) after "Board" there shall be inserted "either—

(i)";

and

(b) after "it" there shall be inserted "or

(ii) for an amount determined in accordance with the regulations to be the amount which is to be taken to represent such tax;".

(4) In paragraph (c) of that subsection (adaptation and modification of enactments to secure tax accounted for), in sub-paragraph (iii) after "tax" there shall be inserted "and other amounts".

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

"(ca) adapting or modifying the provisions of Chapter II of Part XIII in relation to cases where—

(i) an investor ceases to be, and is treated as not having been, entitled to relief from tax in respect of investments; or

(ii) an investor who was not entitled to relief has been given relief on the basis that he was;

(cb) securing that plan managers (as well as investors) are liable to account for amounts becoming due from investors as a consequence of any regulations made by virtue of paragraph (ca) above;

(cc) that an investor under a plan or a plan manager is, in prescribed cases where relief has been given to which there was no entitlement, to be liable to a penalty of a prescribed amount, instead of to any obligation to account as mentioned in paragraph (b) or (cb) above;

(cd) that liabilities equivalent to any of those which, by virtue of any of the preceding paragraphs of this subsection, may be imposed in cases where relief has been given to which there was no entitlement are to arise (in place of the liabilities to tax otherwise arising) in other cases where, in relation to any plan—

(i) a prescribed contravention of, or failure to comply with, the regulations, or

(ii) the existence of such other circumstances as may be prescribed,

would have the effect (subject to the provision made by virtue of this paragraph) of excluding or limiting an entitlement to relief;".

(6) In section 151(2) of the Taxation of Chargeable Gains Act 1992 (application of subsections (2) to (5) of section 333 of the Taxes Act 1988 to relief from capital gains tax in respect of investments under plans), for "(2)" there shall be substituted "(1A)".

76 Tax credits for accounts and for PEPs

(1) Section 30 of the Finance (No. 2) Act 1997 (which provides, in relation to distributions on or after 6th April 1999, for the excess of tax credit over income tax liability to cease to be payable under section 231(3) of the Taxes Act 1988 to persons who are not companies resident in the United Kingdom) shall have effect in accordance with subsection (2) below in relation to any distribution if—

(a) it is a distribution made before 6th April 2004;

(b) it is received by an individual in respect of an investment made under a plan for which provision is made by regulations under section 333 of the Taxes Act 1988 (individual savings accounts and personal equity plans); and

(c) that investment is one in respect of which that individual is entitled to relief in accordance with such regulations.

(2) That section of that Act of 1997 shall have effect in relation to such a distribution as if—

(a) subsection (5) of that section did not make the substitution set out in paragraph (a) or the repeal set out in paragraph (b);

(b) subsections (6), (7) and (9) of that section were to be disregarded; and

(c) the words "Subject to section 231A," in section 231(3) of the Taxes Act 1988 were omitted.

(3) The Treasury may by regulations make provision for individuals who—

(a) are not resident in the United Kingdom, but

(b) have made investments under plans for which provision is made by regulations under section 333 of the Taxes Act 1988,

to be treated in relation to any such investments as if they were so resident for the purposes of any enactment conferring an entitlement to, or to the payment of, tax credits.

(4) Subsection (4) of section 231 of the Taxes Act 1988 (persons treated as in receipt of a tax credit) applies for the purposes of this section as it applies for the purposes of that section.

(5) Schedule 8 to the Finance (No. 2) Act 1997 (repeals), so far as it relates to the repeal made by section 30(5)(b) of that Act, shall have effect subject to the preceding provisions of this section.

77 The insurance element etc

(1) In Chapter IV of Part VII of the Taxes Act 1988, after section 333A there shall be inserted the following section—

"333B Involvement of insurance companies with plans and accounts

(1) The Treasury may make regulations providing exemption from tax for income from, and chargeable gains in respect of, investments and deposits of so much of an insurance company's long term business fund as is referable to section 333 business.

(2) The Treasury may by regulations modify the effect of section 30(4) of the Finance (No. 2) Act 1997 (which repeals section 231(2) of the Taxes Act 1988 with effect from 6th April 1999) in relation to distributions which—

(a) are made before 6th April 2004; and

(b) are received by an insurance company in respect of investments of so much of its long term business fund as is referable to section 333 business.

(3) Regulations under this section may make provision for insurance companies that are not resident in the United Kingdom to be treated, in relation to investments of so much of their long term business funds as are referable to section 333 business—

(a) as if they were so resident for the purposes of any enactment conferring an entitlement to, or to the payment of, tax credits in respect of investments; and

(b) as if such other conditions of any entitlement to, or to the payment of, tax credits were also satisfied.

(4) Regulations under section 333 or this section may include provision which, in relation to insurance companies that are not resident in the United Kingdom—

(a) requires a person to be appointed to be responsible for securing the discharge of any duties to which such an insurance company is subject under the regulations; and

(b) confers rights and powers, and imposes liabilities, on a person so appointed;

and, without prejudice to the generality of paragraphs (a) and (b) above, regulations made by virtue of this subsection may include any provision corresponding to any that, in relation to a European institution, may be made under section 333A.

(5) Regulations under this section may provide that an insurance company—

(a) shall comply with any notice served on it by the Board which requires it, within a prescribed period, to make available for the Board's inspection documents (of a prescribed kind) relating to, or to matters connected with, its past or present section 333 business; and

(b) shall, within a prescribed period of being required to do so by the Board, furnish to the Board information (of a prescribed kind) about its past or present section 333 business or any matters connected with it.

(6) Any power of the Treasury under this section to make provision by regulations in relation to insurance companies shall include power by regulations to make such corresponding provision in relation to friendly societies as the Treasury think fit.

(7) Regulations under this section may—

(a) for purposes connected with any exemption from tax conferred by virtue of subsection (1) above, apply or modify any provision made by or under the Tax Acts;

(b) make different provision for different cases;

(c) include such incidental, supplemental, consequential and transitional provision as the Treasury may consider appropriate.

(8) Without prejudice to the generality of the powers conferred by subsection (7) above, the provision that may be made in connection with an exemption from tax conferred by virtue of subsection (1) above shall include provision for section 436 to apply (with any such modifications as may be prescribed) in relation to section 333 business as it applies in relation to pension business.

(9) In this section—

"friendly society" has the same meaning as in Chapter II of Part XII;

"insurance company" means an insurance company within the meaning of the Insurance Companies Act 1982;

"long term business fund" has the same meaning as in Chapter I of Part XII;

"prescribed" means prescribed by regulations under this section;

"section 333 business", in relation to an insurance company, means the business of the company that is attributable to the making of investments with that company under plans for which provision is made by regulations under section 333."

(2) In each of the columns of the Table in section 98 of the Taxes Management Act 1970 (penalties for failure to comply with notice or to furnish information), after the entry relating to regulations under section 333 of the Taxes Act 1988 there shall be inserted the following entry—

"regulations under section 333B;".

78 Phasing out of TESSAs

In subsection (3) of section 326A of the Taxes Act 1988 (account must be opened on or after 1st January 1991), after "1991" there shall be inserted "and before 6th April 1999".

Relief for interest and losses etc.

79 Relief for loan to acquire interest in a close company

(1) At the end of subsection (3A) of section 360 of the Taxes Act 1988 (loan to buy interest in close company) there shall be inserted the words "or makes a claim in respect of them under Schedule 5B to the 1992 Act".

(2) This section has effect in relation to shares acquired on or after 6th April 1998.

80 Relief for losses on unlisted shares in trading companies

(1) At the beginning of subsection (1) of section 576 of the Taxes Act 1988 (provisions supplementary to sections 573 to 575) there shall be inserted the words "Subject to subsections (1A) and (1B) below,".

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

"(1A) Subsection (1B) below applies where the holding mentioned in subsection (1) above comprises any of the following, namely—

(a) shares issued before 1st January 1994 in respect of which relief has been given under Chapter III of Part VII and has not been withdrawn;

(b) shares issued on or after that date to which relief under that Chapter is attributable; and

(c) shares to which deferral relief (within the meaning of Schedule 5B to the 1992 Act) is attributable.

(1B) Any such question as is mentioned in subsection (1) above shall not be determined as provided by that subsection, but shall be determined instead—

(a) in the case of shares issued before 1st January 1994, as provided by subsections (3) to (4C) of section 299 as it has effect in relation to such shares; and

(b) in the case of shares issued on or after that date, as provided by subsections (6) to (6D) of that section as it has effect in relation to such shares."

(3) For subsection (4) of that section there shall be substituted the following subsections—

"(4) For the purposes of sections 573 to 575 and this section a qualifying trading company is a company which at all times in the relevant period has been an unquoted company (within the meaning given by section 312) and which—

(a) either—

(i) is an eligible trading company on the date of the disposal; or

(ii) has ceased to be an eligible trading company at a time which is not more than three years before that date and has not since that time been an excluded company, an investment company

or a trading company that is not an eligible trading company; and

(b) either—

(i) has been an eligible trading company for a continuous period of six years ending on that date or at that time; or

(ii) has been an eligible trading company for a shorter continuous period ending on that date or at that time and has not before the beginning of that period been an excluded company, an investment company or a trading company that is not an eligible trading company; and

(c) has carried on its business wholly or mainly in the United Kingdom throughout the relevant period.

(4A) A company is an eligible trading company for the purposes of subsection (4) above at any time when, or in any period throughout which, it would comply with the requirements of section 293 if—

(a) the provisions mentioned in subsection (4B) below were omitted;

(b) the references in subsection (6) of section 293 to dissolution were omitted and the condition in paragraph (b) of that subsection were a condition that the company continue to be a trading company within the meaning of subsection (5) below;

(c) the reference in section 293(6A) to the eligible shares were a reference to the shares in respect of which relief is claimed under section 573 or 574;

(d) any reference in section 293, 297 or 308 to the relevant period were a reference to the time that is relevant for the purposes of subsection (4)(a) above or, as the case may require, the continuous period that is relevant for the purposes of subsection (4)(b) above;

(e) the reference in section 304A(1)(e)(i) to eligible shares were a reference to shares in respect of which relief is claimed under section 573 or 574;

(f) references in section 304A(3) to an individual were references to a person;

(g) the reference in section 304A(4) to section 304 were a reference to section 574(3)(b); and

(h) the reference in section 304A(6) to the expressions "eligible shares" and "subscriber shares" were a reference to the expression "subscriber shares".

(4B) The provisions are—

(a) in section 293, the words "Subject to section 294," in subsection (1), the words "an unquoted company and be" in subsection (2), and subsections (8A) and (8B);

(b) sections 294 to 296;

(c) in section 298(5), the words "and section 312(1A)(b) shall apply to determine the relevant period for the purposes of that section";

(d) in section 304A, subsections (1)(e)(ii) and (2)(b), in subsection (3), the words "to which relief becomes so attributable" and paragraphs (c) and (d), in subsection (4), the words "to which relief becomes so attributable" and paragraphs (c) and (d), and subsection (5); and

(e) section 308(5A)."

(4) In subsection (5) of that section—

(a) in the definition of "excluded company", for the words "dealing in shares, securities, land, trades or commodity futures" there shall be substituted the words "dealing in land, in commodities or futures or in shares, securities or other financial instruments,";

(b) in the definition of "relevant period", for the words "subscribed for" there shall be substituted the word "issued";

(c) for the definition of "shares" there shall be substituted the following definition—

""shares"—

(a) except in subsections (1A) and (1B) above, includes stock; but

(b) except in the definition of "excluded company", does not include shares or stock not forming part of a company's ordinary share capital;"and

(d) in the definition of "trading group", the words "or not resident in the United Kingdom" shall cease to have effect.

(5) In this section—

(a) subsections (1) and (2) have effect in relation to disposals made on or after 6th April 1998; and

(b) subsections (3) and (4) have effect in relation to shares issued on or after that date.

81 Group relief: special rules for consortium cases

(1) Section 403C of the Taxes Act 1988 (which imposes limits, based on the former section 403(9), on the amounts which may be set off where the surrendering company or, as the case may be, the claimant company is a member of a consortium) shall be amended as follows.

(2) In subsection (1)(a) (case where the surrendering company is a member of the consortium) for "surrendering company" there shall be substituted "claimant company".

(3) In subsection (2)(a) (case where the claimant company is a member of the consortium) for "claimant company" there shall be substituted "surrendering company".

(4) In consequence of the amendments made by subsections (2) and (3) above, in subsection (3) (which defines "the relevant fraction" by reference to the member company's share in the consortium)—

(a) in paragraph (a) (meaning in a case falling within subsection (1)) for "surrendering company's" there shall be substituted "claimant company's"; and

(b) in paragraph (b) (meaning in a case falling within subsection (2)) for "claimant company's" there shall be substituted "surrendering company's".

(5) Section 403C of the Taxes Act 1988 and Schedule 7 to the Finance (No. 2) Act 1997 (which, among other things, inserted that section into the Taxes Act 1988) shall have effect, and be deemed always to have had effect, as if that section had been originally enacted in that Schedule with the amendments made by this section.

82 Carry forward of non-trading deficit on loan relationships

(1) In section 83 of the Finance Act 1996 (non-trading deficit on loan relationships), for subsections (3) and (4) substitute—

"(3) So much of the deficit for the deficit period as is not the subject of a claim under subsection (2) above shall be carried forward and treated as a deficit for the next accounting period.

(4) An amount carried forward to an accounting period under subsection (3) above—

(a) may be the subject of a claim under paragraph (d) of subsection (2) above, but not under any other paragraph of that subsection, and

(b) shall be disregarded for the purposes of any claim under that subsection relating to a deficit arising in that period.".

(2) Section 797 (limits on credit: corporation tax) and section 797A (foreign tax on interest brought into account as a non-trading credit) of the Taxes Act 1988 are amended as follows—

(a) in section 797(3B)(b), omit "or in accordance with subsection (3) of that section";

(b) in section 797A(5), at the end of paragraph (a) insert the word "and" and omit paragraph (c) and the word "and" preceding it;

(c) at the end of section 797A(5), insert—

"An amount carried forward to the applicable accounting period under section 83(3) of that Act shall not be treated as a non-trading deficit for that period for the purposes of paragraphs (a) and (b).";

(d) in section 797A(6), for "specified in subsection (5)(c) above" substitute "carried forward to the applicable accounting period in pursuance of a claim under section 83(2)(d) of that Act";

(e) at the end of section 797A(7) insert—

"An amount carried forward to the applicable accounting period under section 83(3) of the Finance Act 1996 shall be disregarded for the purposes of paragraphs (a) and (b).".

(3) The following amendments of Schedule 28A to the Taxes Act 1988 (change in ownership of investment company: deductions) are consequential on the amendment in subsection (1) above—

(a) in paragraph 6(da), after "period" insert "(other than one within sub-paragraph (dc) below)";

(b) in paragraph 6(db), omit "(dc) or";

(c) in paragraph 6(dc), for "debit given for that accounting period by" substitute "deficit carried forward to that accounting period under";

(d) in paragraph 7(1)(b), for "debit" substitute "deficit";

(e) in paragraph 11(2), omit paragraph (a);

(f) in paragraph 13(1)(ea), after "period" insert "(other than one within paragraph (ec) below)";

(g) in paragraph 13(1)(eb), omit "(ec) or";

(h) in paragraph 13(1)(ec), for "debit given for that accounting period by" substitute "deficit carried forward to that accounting period under";

Status: *This is the original version (as it was originally enacted).*

(i) in paragraph 16(1)(b), for "debit" substitute "deficit".

(4) The amendments made by this section shall be deemed always to have had effect.

Capital allowances

83 First-year allowances for investment in Northern Ireland

(1) In section 22 of the Capital Allowances Act 1990 (first-year allowances), after subsection (3C) there shall be inserted the following subsections—

"(3CA) Subject to the provisions of this Part, this section applies to—

(a) any expenditure incurred in the special relief period by a small company or a small business on the provision of machinery or plant for use primarily in Northern Ireland; and

(b) any additional VAT liability incurred in respect of expenditure to which this section applies by virtue of paragraph (a) above.

(3CB) For the purposes of subsection (3CA) above expenditure is incurred in the special relief period if, disregarding any effect of section 83(2) on the time at which it is to be treated as incurred, it is incurred in the period beginning with 12th May 1998 and ending with 11th May 2002.

(3CC) Expenditure is not expenditure to which this section applies by virtue of subsection (3CA) above in so far as it is—

(a) expenditure to which Chapter IVA applies; or

(b) expenditure on the provision of an aircraft or hovercraft."

(2) After subsection (6C) of that section there shall be inserted the following subsections—

"(6D) Expenditure incurred on the provision of machinery or plant shall not be taken to be expenditure to which this section applies by virtue of subsection (3CA) above if—

(a) at the time when the expenditure is incurred, the person incurring it intends the machinery or plant to be used partly outside Northern Ireland; and

(b) the main benefit, or one of the main benefits, which could reasonably be expected to arise from the relevant arrangements is the obtaining of a first-year allowance, or a greater first-year allowance, in respect of the part of the expenditure that is attributable to the intended outside use.

(6E) In subsection (6D) above—

(a) "the relevant arrangements" means the transaction under which the expenditure is incurred and any scheme or arrangements of which that transaction forms part;

(b) "the intended outside use" means so much of the use of the machinery or plant as (at the time mentioned in paragraph (a) of that subsection) the person intends will be use outside Northern Ireland; and

(c) the reference to the part of the expenditure that is attributable to that use is a reference to so much of the expenditure in question as is so attributable on a just and reasonable basis."

(3) In subsection (10) of that section after "this section—" there shall be inserted—

""hovercraft" has the same meaning as in the Hovercraft Act 1968."

(4) After section 22A of that Act there shall be inserted the following section—

"**22B Withdrawal of first-year allowance on change of use**

(1) Where (but for this section) section 22 would apply to any expenditure by virtue of subsection (3CA) of that section, that section shall be deemed never to have so applied to that expenditure if, at any relevant time—

(a) the primary use to which the machinery or plant is put is a use outside Northern Ireland; or

(b) the machinery or plant is held for use otherwise than primarily in Northern Ireland.

(2) In subsection (1) above "a relevant time", in relation to any expenditure, means a time which—

(a) falls in the period of two years beginning with the date of the incurring of that expenditure; and

(b) is a time when the machinery or plant belongs to the person who incurred the expenditure or to a person who (within the terms of section 839 of the principal Act) is, or at any time in that period has been, connected with the person who incurred the expenditure.

(3) All such assessments and adjustments of assessments shall be made as may be necessary in consequence of this section.

(4) Where a person who has made a return becomes aware that anything contained in that return has, after the making of the return, become incorrect by reason of the operation of this section, he shall, within three months of first becoming so aware, give notice to an officer of the Board of the amendments that are necessitated in his return in the light of the matter of which he has become aware."

(5) In the second column of the Table in section 98 of the Taxes Management Act 1970 (penalties in respect of certain information provisions), in the entry relating to provisions of the Capital Allowances Act 1990, after "Sections" there shall be inserted "22B(4),".

(6) Subject to subsection (7) below, the preceding provisions of this section have effect in relation to every chargeable period ending on or after 12th May 1998.

(7) No claim for an allowance falling to be made by virtue of subsection (1) above may be made at any time before such date as the Treasury may by order appoint; and where the period for making any such claim would (but for this subsection) have expired before the end of the period of twelve months beginning with that date, it shall expire, instead, at the end of that period of twelve months.

84 First-year allowances for small businesses etc

(1) In subsection (1) of section 22 of the Capital Allowances Act 1990 (which provides for first-year allowances at the rate, in the case of expenditure falling within subsection (3B), of 40 per cent.), after "(3B)" there shall be inserted "or (3D)".

(2) After the subsection (3CC) of that section inserted by section 83 above there shall be inserted the following subsection—

“(3D) This section applies to the following expenditure except in so far as it is expenditure to which Chapter IVA applies, that is to say—

(a) any expenditure which, disregarding any effect of section 83(2) on the time at which it is to be treated as incurred, is incurred by a small company or a small business in the period beginning with 2nd July 1998 and ending with 1st July 1999; and

(b) any additional VAT liability incurred in respect of expenditure to which this section applies by virtue of paragraph (a) above.”

(3) The preceding provisions of this section have effect in relation to every chargeable period ending on or after 2nd July 1998.

85 First-year allowances: consequential amendments etc

(1) In each of subsections (4), (6B) and (6C) of section 22 of the Capital Allowances Act 1990 (first-year allowances), for “subsection (3C)” there shall be substituted “one or more of subsections (3C), (3CA) and (3D)”.

(2) In section 22A of that Act (expenditure of a small company or small business)—

(a) in subsection (4), for the words “parent company”, wherever they occur, there shall be substituted “parent undertaking”; and

(b) in subsection (6), for ““parent company”” there shall be substituted ““parent undertaking””.

(3) In subsection (8) of that section, after paragraph (b) there shall be inserted—

“but for the purposes of this section each of those provisions shall be construed as if references, in relation to a group, to the parent company were references to the parent undertaking.”

(4) In sections 23(6), 42(9) and 50(3) and (4A) of that Act (which contain provisions relating to the temporary first-year allowances under section 22(3B) and (3C) of that Act), for the words “subsection (3B) or (3C)”, in each place where they occur, there shall be substituted “one or more of subsections (3B), (3C), (3CA) and (3D)”.

(5) In sections 44(5), 46(8) and 48(7) of that Act (which also contain provisions relating to the temporary first-year allowances under section 22(3B) and (3C) of that Act), for the words “or (3C)”, in each place where they occur, there shall be substituted “, (3C), (3CA) or (3D)”.

(6) In section 39(2)(a) of that Act (definition of qualifying purpose), for “subsections (2) to (3C)” there shall be substituted “subsections (2) to (3D)”.

(7) In section 43(5) of that Act (provisions relating to joint lessees in cases involving new expenditure), after “(3C)” there shall be inserted “, (3CA) or (3D)”.

(8) In section 76 of that Act (which modifies the effect of section 75 in cases where machinery or plant has not been used before a sale)—

(a) subsection (3) shall cease to have effect; and

(b) in subsection (4), for “, (2B) and (3)” there shall be substituted “and (2B)”.

(9) Subsections (1) and (4) to (8) above have effect in relation to every chargeable period ending on or after 12th May 1998.

(10) Subject to subsection (11) below, subsections (2) and (3) above have effect in relation to expenditure incurred on or after 12th May 1998.

(11) Subsections (2) and (3) above do not have effect—

(a) for the purpose of determining whether any expenditure is expenditure to which section 22 of that Act applies by virtue of subsection (3C) of that section; or

(b) for the purpose of determining whether any expenditure incurred in pursuance of a contract entered into before 12th May 1998 is expenditure to which that Act applies by virtue of subsection (3D) of that section.

Insurance, insurance companies and friendly societies

86 Life policies etc

Schedule 14 to this Act (which makes provision in relation to the taxation of life policies etc under Chapter II of Part XIII of the Taxes Act 1988) shall have effect.

87 Non-resident insurance companies: tax representatives

After section 552 of the Taxes Act 1988 (duty of insurers to provide certain information) there shall be inserted—

"552A Tax representatives

(1) This section has effect for the purpose of securing that, where it applies to an overseas insurer, another person is the overseas insurer's tax representative.

(2) In this section "overseas insurer" means a person who is not resident in the United Kingdom who carries on a business which consists of or includes the effecting and carrying out of—

(a) policies of life insurance;

(b) contracts for life annuities; or

(c) capital redemption policies.

(3) This section applies to an overseas insurer—

(a) if the condition in subsection (4) below is satisfied on the designated day; or

(b) where that condition is not satisfied on that day, if it has subsequently become satisfied.

(4) The condition mentioned in subsection (3) above is that—

(a) there are in force relevant insurances the obligations under which are obligations of the overseas insurer in question or of an overseas insurer connected with him; and

(b) the total amount or value of the gross premiums paid under those relevant insurances is £1 million or more.

(5) In this section "relevant insurance" means any policy of life insurance, contract for a life annuity or capital redemption policy in relation to which this Chapter has effect and in the case of which—

(a) the holder is resident in the United Kingdom;

(b) the obligations of the insurer are obligations of a person not resident in the United Kingdom; and

(c) those obligations are not attributable to a branch or agency of that person's in the United Kingdom.

(6) Before the expiration of the period of three months following the day on which this section first applies to an overseas insurer, the overseas insurer must nominate to the Board a person to be his tax representative.

(7) A person shall not be a tax representative unless—

(a) if he is an individual, he is resident in the United Kingdom and has a fixed place of residence there, or

(b) if he is not an individual, he has a business establishment in the United Kingdom,

and, in either case, he satisfies such other requirements (if any) as are prescribed in regulations made for the purpose by the Board.

(8) A person shall not be an overseas insurer's tax representative unless—

(a) his nomination by the overseas insurer has been approved by the Board; or

(b) he has been appointed by the Board.

(9) The Board may by regulations make provision supplementing this section; and the provision that may be made by any such regulations includes provision with respect to—

(a) the making of a nomination by an overseas insurer of a person to be his tax representative;

(b) the information which is to be provided in connection with such a nomination;

(c) the form in which such a nomination is to be made;

(d) the powers and duties of the Board in relation to such a nomination;

(e) the procedure for approving, or refusing to approve, such a nomination, and any time limits applicable to doing so;

(f) the termination, by the overseas insurer or the Board, of a person's appointment as a tax representative;

(g) the appointment by the Board of a person as the tax representative of an overseas insurer (including the circumstances in which such an appointment may be made);

(h) the nomination by the overseas insurer, or the appointment by the Board, of a person to be the tax representative of an overseas insurer in place of a person ceasing to be his tax representative;

(j) circumstances in which an overseas insurer to whom this section applies may, with the Board's agreement, be released (subject to any conditions imposed by the Board) from the requirement that there must be a tax representative;

(k) appeals to the Special Commissioners against decisions of the Board under this section or regulations under it.

(10) The provision that may be made by regulations under subsection (9) above also includes provision for or in connection with the making of other arrangements between the Board and an overseas insurer for the purpose of securing the discharge by or on behalf of the overseas insurer of the relevant duties, within the meaning of section 552B.

(11) Section 839 (connected persons) applies for the purposes of this section.

(12) In this section—

"the designated day" means such day as the Board may specify for the purpose in regulations;

"tax representative" means a tax representative under this section.

552B Duties of overseas insurers' tax representatives

(1) It shall be the duty of an overseas insurer's tax representative to secure (where appropriate by acting on the overseas insurer's behalf) that the relevant duties are discharged by or on behalf of the overseas insurer.

(2) For the purposes of this section "the relevant duties" are—

(a) the duties imposed by section 552,

(b) any duties imposed by regulations made under subsection (4A)(a) of that section, and

(c) any duties imposed by regulations made under subsection (4A)(b) of that section by virtue of subsection (4B) of that section,

so far as relating to relevant insurances under which the overseas insurer in question has any obligations.

(3) An overseas insurer's tax representative shall be personally liable—

(a) in respect of any failure to secure the discharge of the relevant duties, and

(b) in respect of anything done for purposes connected with acting on the overseas insurer's behalf,

as if the relevant duties were imposed jointly and severally on the tax representative and the overseas insurer.

(4) In the application of this section in relation to any particular tax representative, it is immaterial whether any particular relevant duty arose before or after his appointment.

(5) This section has effect in relation to relevant duties relating to chargeable events happening on or after the day by which section 552A(6) requires the nomination of the overseas insurer's first tax representative to be made.

(6) Expressions used in this section and in section 552A have the same meaning in this section as they have in that section."

88 Overseas life assurance business

(1) After section 553 of the Taxes Act 1988 (non-resident policies and off-shore capital redemption policies) there shall be inserted—

"553A Overseas life assurance business: life policies

(1) A policy of life insurance which, immediately before the happening of a chargeable event or a relevant event—

(a) is an overseas policy, but

(b) is not a new non-resident policy,

shall, in relation to that event, be treated for the purposes of this Chapter as if it were a new non-resident policy.

(2) A policy of life insurance which, immediately before the happening of a relevant event—

(a) is an overseas policy, and

(b) is a new non-resident policy,

shall, in relation to that event, be taken for the purposes of this Chapter not to be a qualifying policy.

(3) Where a chargeable event happens in relation to a new non-resident policy, section 553(7) shall not have effect in relation to the gain treated as arising in connection with the policy on the happening of the chargeable event.

(4) In this section—

"new non-resident policy" means a new non-resident policy as defined in paragraph 24 of Schedule 15 (and in subsections (2) and (3) above includes a policy treated as such by virtue of subsection (1) above);

"overseas policy" means a policy of life insurance which, by virtue of section 431D(1)(a), forms part of the overseas life assurance business of an insurance company or friendly society;

"relevant event", in relation to a policy of life insurance, means an event which would be a chargeable event in relation to that policy if the policy were assumed not to be a qualifying policy.

(5) This section applies in relation to chargeable events and relevant events happening on or after 17th March 1998 in relation to policies of life insurance issued in respect of insurances made on or after that date.

(6) A policy of life insurance issued in respect of an insurance made before 17th March 1998 shall be treated for the purposes of this section as issued in respect of one made on or after that date if it is varied on or after that date so as to increase the benefits secured or to extend the term of the insurance; and any exercise of rights conferred by the policy shall be regarded for this purpose as a variation."

(2) After section 553A of the Taxes Act 1988 there shall be inserted—

"**553B Overseas life assurance business: capital redemption policies**

(1) A capital redemption policy which immediately before the happening of a chargeable event—

(a) is an overseas policy, but

(b) is not a new offshore capital redemption policy,

shall, in relation to that event, be treated for the purposes of this Chapter as if it were a new offshore capital redemption policy.

(2) In this section—

"new offshore capital redemption policy" has the same meaning as in section 553;

"overseas policy" means a capital redemption policy which, by virtue of section 431D(1)(a), forms part of the overseas life assurance business of an insurance company.

(3) This section applies in relation to capital redemption policies where the contract is made after the coming into force of the first regulations under section 458A in consequence of which capital redemption business forms part of the overseas life assurance business of an insurance company."

89 Personal portfolio bonds

In Chapter II of Part XIII of the Taxes Act 1988 (life policies, life annuities and capital redemption policies) after section 553B (which is inserted by section 88 above) there shall be inserted—

"**553C Personal portfolio bonds**

(1) The Treasury may by regulations make provision imposing a yearly charge to tax in relation to personal portfolio bonds ("yearly" being construed for this purpose by reference to years as defined in section 546(4)).

(2) Subject to any provision to the contrary made by the regulations, any charge to tax under this section is in addition to any other charge to tax under this Chapter.

(3) The regulations may make provision with respect to or in connection with all or any of the following—

(a) the method by which the charge to tax, or any relief, allowance or deduction against or in respect of the tax, is to be imposed or given effect;

(b) the person who is to be liable for the tax;

(c) the periods for or in respect of which the tax is to be charged;

(d) the amounts in respect of which, or by reference to which, the tax is to be charged;

(e) the period or periods by reference to which those amounts are to be determined;

(f) the rate or rates at which the tax is to be charged;

(g) any reliefs, allowances or deductions which are to be given or made against or in respect of the tax;

Status: *This is the original version (as it was originally enacted).*

(h) the administration of the tax.

(4) The provision that may be made by the regulations includes provision for imposing the charge to tax by a method which involves—

(a) treating an event described in the regulations as if it were a chargeable event;

(b) treating an amount determined in accordance with the regulations as if it were a gain treated as arising on the happening of a chargeable event;

(c) deeming an amount determined in accordance with the regulations to be income of a person or body of persons (or to be part of the aggregate income of the estate of a deceased person); or

(d) applying section 740, with or without modification, in relation to an amount determined in accordance with the regulations.

(5) The provision that may be made in the regulations includes provision for the amount or amounts in respect of which, or by reference to which, the tax is to be charged for periods beginning after the coming into force of the regulations to be determined in whole or in part by reference to periods beginning or ending, premiums paid, or events happening, before, on or after the day on which the Finance Act 1998 is passed.

(6) The regulations may make provision excluding, or applying (with or without modification), other provisions of this Chapter in relation to policies or contracts which are also personal portfolio bonds.

(7) In this section, "personal portfolio bond" means a policy of life insurance, contract for a life annuity or capital redemption policy under whose terms—

(a) some or all of the benefits are determined by reference to the value of, or the income from, property of any description (whether or not specified in the policy or contract) or fluctuations in, or in an index of, the value of property of any description (whether or not so specified); and

(b) some or all of the property, or such an index, may be selected by, or by a person acting on behalf of, the holder of the policy or contract or a person connected with him (or the holder of the policy or contract and a person connected with him);

but a policy or contract is not a personal portfolio bond if the only property or index which may be so selected is of a description prescribed for this purpose in the regulations.

(8) The regulations may prescribe additional conditions which must be satisfied if a policy or contract is to be a personal portfolio bond.

(9) The regulations—

(a) may make different provision for different cases, different circumstances or different periods; and

(b) may make incidental, consequential, supplemental or transitional provision.

(10) In this section, "holder", in the case of a policy or contract held by two or more persons, includes a reference to any of those persons.

(11) Section 839 (connected persons) applies for the purposes of this section."

90 Distributions to friendly societies

(1) The repeal by section 30(4) of the Finance (No. 2) Act 1997 of section 231(2) of the Taxes Act 1988 (payment of tax credit to a company resident in the UK) shall not have effect in relation to any distribution made to a friendly society before 6th April 2004 which is—

(a) a distribution to a friendly society all of whose profits are exempt from corporation tax by virtue of section 460(1) of the Taxes Act 1988 (life or endowment business of friendly society); or

(b) a distribution not falling within paragraph (a) above in relation to which exemption is given under section 460(1) of that Act.

(2) In relation to any distribution falling within paragraph (a) or (b) of subsection (1) above—

(a) paragraph 3 of Schedule 4 to the Finance (No. 2) Act 1997 (which, from 6th April 1999, repeals certain provisions about claims for tax credits for accounting periods to which self-assessment applies) shall have effect as if the reference in sub-paragraph (2) of that paragraph to 6th April 1999 were a reference to 6th April 2004; and

(b) paragraph 2 of that Schedule (which repeals certain provisions about claims for tax credits for earlier periods) shall have no effect.

(3) In the case of any distribution falling within paragraph (b) of subsection (1) above, paragraph 12 of Schedule 3 to the Finance (No. 2) Act 1997 (which defers the coming into force of paragraphs 10 and 11 in relation to friendly societies) shall have effect as if the reference in sub-paragraph (2) of that paragraph to 6th April 1999 were a reference to 6th April 2004.

(4) Schedule 8 to the Finance (No. 2) Act 1997 (repeals), so far as it relates to any repeal referred to in the preceding provisions of this section, shall have effect subject to those provisions.

91 Provisional repayments in connection with pension business

(1) In Schedule 19AB to the Taxes Act 1988 (provisional repayments with respect to pension business) in paragraph 3 (recovery of excessive repayments) after sub-paragraph (1) there shall be inserted—

"(1ZA) In its application by sub-paragraph (1) above, section 30 of the Management Act shall have effect as if, instead of the provision made by subsection (5), it provided that an assessment under that section by virtue of sub-paragraph (1) above is not out of time under section 34 of that Act if it is made no later than the end of the accounting period following that in which the assessment mentioned in paragraph (a) of that sub-paragraph is finally determined."

(2) The amendment made by subsection (1) above has effect in relation to accounting periods beginning at any time after 1st October 1992 and ending before the day appointed under section 199 of the Finance Act 1994.

Pensions

92 Approved retirement benefit schemes etc

Schedule 15 to this Act (which makes provision in relation to cases where a scheme has been approved for the purposes of Chapter I of Part XIV of the Taxes Act 1988 or an approval for those purposes has ceased to have effect) shall have effect.

93 Benefits received under non-approved retirement benefits scheme

(1) In section 596A(4) of the Taxes Act 1988 (charge to tax on benefits under non-approved schemes: amount charged to tax), for paragraph (b) substitute—

“(b) in the case of a non-cash benefit, whichever is the greater of—

(i) the amount which would be chargeable to tax under section 19(1) if the benefit were taxable as an emolument of the employment under Case I of Schedule E, or

(ii) the cash equivalent of the benefit determined in accordance with section 596B.”.

(2) In section 596B(9) of that Act (supplementary provisions: person by whom expenditure incurred on improvement of living accommodation), for paragraph (b) substitute—

“(b) the employer or former employer; or

(c) any person, other than the recipient, who is connected with a person falling within paragraph (a) or (b) above.”.

(3) After section 596B of that Act insert—

“596C Notional interest treated as paid if amount charged in respect of beneficial loan

(1) This section applies where a person is chargeable to tax under section 596A in any year of assessment on an amount which consists of or includes an amount representing the cash equivalent of the benefit of a loan determined (by virtue of section 596B(1)(a)) in accordance with Part II of Schedule 7.

(2) Where this section applies, the person chargeable is treated as having paid interest on the loan of the same amount as the cash equivalent so determined.

(3) The interest is treated as paid for all the purposes of the Tax Acts (other than those relating to the charge under section 596A) but not so as to make it—

(a) income of the person making the loan, or

(b) relevant loan interest to which section 369 applies (mortgage interest payable under deduction of tax).

(4) The interest is treated as accruing during and paid at the end of the year of assessment or, if different, the period in that year during which the loan is outstanding.”.

(4) This section applies to benefits received in the year 1998-99 and subsequent years of assessment.

94 Approval of personal pension schemes

(1) After section 638 of the Taxes Act 1988 there shall be inserted the following section—

"638A Power to prescribe restrictions on approval

(1) The Board—

(a) may by regulations restrict their discretion to approve a personal pension scheme; and

(b) shall not approve any such scheme if to do so would be inconsistent with any regulations under this section.

(2) The restrictions that may be imposed by regulations under this section may be imposed by reference to any one or more of the following, that is to say—

(a) the benefits for which the scheme provides;

(b) the investments held for the purposes of the scheme;

(c) the manner in which the scheme is administered;

(d) any other circumstances whatever.

(3) The following provisions of this section apply where—

(a) any regulations are made under this section imposing a restriction ("the new restriction") on the Board's discretion to approve a personal pension scheme;

(b) the new restriction did not exist immediately before the making of the regulations; and

(c) that restriction is one imposed by reference to circumstances other than the benefits for which the scheme provides.

(4) Subject to subsections (5) and (6) below, a personal pension scheme which is an approved scheme immediately before the day on which the regulations imposing the new restriction come into force shall cease to be approved at the end of the period of 36 months beginning with that day if, at the end of that period, the scheme—

(a) contains a provision of a prohibited description, or

(b) does not contain every provision which is a provision of a required description.

(5) The Board may by regulations provide that subsection (4) above is not to apply in the case of the inclusion of such provisions of a prohibited description, or in the case of the omission of such provisions of a required description, as may be specified in the regulations.

(6) For the purposes of subsection (4) above—

(a) a provision contained in a scheme shall not be treated as being of a prohibited description to the extent that it authorises the retention of an investment held immediately before the day of the making of the new regulations; and

(b) so much of any provision contained in a scheme as authorises the retention of an investment held immediately before that day shall be disregarded in determining if any provision of the scheme is of a required description.

(7) In this section—

(a) references to a provision of a prohibited description are references to a provision of a description which, by virtue of the new restriction, is a description of provision which, if contained in a personal pension scheme, would prevent the Board from approving it; and

(b) references to a provision of a required description are references to a provision of a description which, by virtue of the new restriction, is a description of provision which must be contained in a personal pension scheme before the Board may approve it."

(2) Accordingly, in section 631(2) of that Act (power to approve schemes), for "638" there shall be substituted "638A".

95 Personal pensions: charge on withdrawal of approval

(1) After section 650 of the Taxes Act 1988 (withdrawal of approval) there shall be inserted the following section—

"650A Charge on withdrawal of approval from arrangements

(1) Where any personal pension arrangements cease to be approved arrangements by virtue of the exercise by the Board of their power under section 650(2), tax shall be charged in accordance with this section.

(2) The tax shall be charged under Case VI of Schedule D at the rate of 40 per cent. on an amount equal to the value (taking that value at the relevant time) of the appropriate part of the assets held at that time for the purposes of the relevant scheme.

(3) In subsection (2) above—

"the appropriate part", in relation to the value of any assets, is so much of those assets as is properly attributable, in accordance with the provisions of the scheme and any just and reasonable apportionment, to the arrangements in question; and

"the relevant time" means the time immediately before the date from which the Board's approval is withdrawn.

(4) Subject to subsection (5) below, the person liable for the tax charged under this section shall be the scheme administrator for the relevant scheme.

(5) If, in any case where an amount of tax has been charged under this section and has not been paid—

(a) there is at any time no person who, as the scheme administrator for the relevant scheme, may be assessed to that amount of tax, or is liable to pay it,

(b) the scheme administrator for that scheme cannot for the time being be traced,

(c) there has been such a failure by the scheme administrator for that scheme to meet a liability to pay that amount as the Board consider to be a failure of a serious nature, or

(d) it appears to the Board that a liability of the scheme administrator for that scheme to pay that amount of tax is a liability that he will be, or (were there an assessment) would be, unable to meet out of

assets held in accordance with the scheme for the purposes of those arrangements,

the Board shall be entitled to assess the unpaid tax on the person who made the arrangements in question as if the tax charged under this section, to the extent that it is unpaid, were assessable under this section on that person, instead of on the scheme administrator.

(6) An assessment to tax made by virtue of subsection (5)(c) above shall not be out of time if it is made within three years after the date on which the tax which the scheme administrator has failed to pay first became due from him.

(7) For the purposes of this section the value of an asset is, subject to subsection (8) below, its market value, construing "market value" in accordance with section 272 of the 1992 Act.

(8) Where an asset held for the purposes of a scheme is a right or interest in respect of any money lent (directly or indirectly) to any person mentioned in subsection (9) below, the value of the asset shall be treated as being the amount owing (including any unpaid interest) on the money lent.

(9) Those persons are—

(a) the person who (whether or not before the making of the loan) made the arrangements in relation to which the Board's approval has been withdrawn;

(b) any other person who has at any time (whether or not before the making of the loan) made contributions under those arrangements; and

(c) any person connected, at the time of the making of the loan or subsequently, with a person falling within paragraph (a) or (b) above.

(10) In this section "the relevant scheme", in relation to any personal pension arrangements, means the scheme in accordance with which those arrangements were made.

(11) Section 839 shall apply for the purposes of this section."

(2) In section 650 of that Act (withdrawal of approval), the following subsection shall be inserted after subsection (5)—

"(6) The power of the Board under this section to withdraw their approval in relation to any arrangements made under a personal pension scheme shall be exercisable for the purposes of section 650A notwithstanding that the time from which the approval is withdrawn is a time from which, by virtue of section 631(4) or 638A(4), the whole scheme ceases to be an approved scheme."

(3) After section 239A of the Taxation of Chargeable Gains Act 1992 there shall be inserted—

"Personal pension schemes

239B Withdrawal of approval of approved arrangements

(1) This section applies where tax is charged in accordance with section 650A of the Taxes Act (tax charged on the withdrawal of the Board's approval in relation to approved personal pension arrangements).

(2) For the purposes of this Act the appropriate part of the assets which at the relevant time are held for the purposes of the relevant scheme—

(a) shall be deemed to be acquired at that time for a consideration equal to the amount on which tax is charged by virtue of section 650A(2) of the Taxes Act; but

(b) shall not be deemed to be disposed of by any person at that time.

(3) The person who shall be deemed in accordance with subsection (2)(a) above to have acquired the appropriate part of the assets shall be the person who would be chargeable in respect of a chargeable gain accruing on a disposal of the assets at the relevant time.

(4) In this section—

"the appropriate part" and "the relevant time" have the meanings given by subsection (3) of section 650A of the Taxes Act for the purposes of subsection (2) of that section; and

"the relevant scheme" has the same meaning as in that section."

(4) This section has effect in relation to any case in which the date from which the Board's approval is withdrawn is a date on or after 17th March 1998, except a case where the notice under section 650(2) of the Taxes Act 1988 was given before that date.

96 Information relating to personal pension schemes etc

(1) After section 651 of the Taxes Act 1988 there shall be inserted the following section—

"651A Information powers

(1) The Board may by regulations make any of the following provisions—

(a) provision requiring prescribed persons to furnish to the Board, at prescribed times, information relating to any of the matters mentioned in subsection (2) below;

(b) provision enabling the Board to serve a notice requiring prescribed persons to furnish to the Board, within a prescribed time, particulars relating to any of those matters;

(c) provision enabling the Board to serve a notice requiring prescribed persons to produce to the Board, within a prescribed time, documents relating to any of those matters;

(d) provision enabling the Board to serve a notice requiring prescribed persons to make available for inspection on behalf of the Board books, documents and other records, being books, documents and records which relate to any of those matters;

(e) provision requiring prescribed persons to preserve for a prescribed time books, documents and other records, being books, documents and records which relate to any of those matters.

(2) The matters referred to in subsection (1) above are—

(a) any personal pension scheme which is or has been approved; and

(b) any personal pension arrangements which are or have been approved.

(3) A person who fails to comply with regulations made under subsection (1)(e) above shall be liable to a penalty not exceeding £3,000.

(4) Regulations under this section may make different provision for different descriptions of case.

(5) In this section "prescribed" means prescribed by regulations made under this section."

(2) Section 652 of the Taxes Act 1988 (information about payments) shall cease to have effect.

(3) In the Table in section 98 of the Taxes Management Act 1970 (penalties for failure to provide information etc.)—

(a) in the first column, after the entry relating to regulations under section 639 of the Taxes Act 1988 there shall be inserted the following entry—

"regulations under section 651A(1)(b) to (d);";

(b) in that column, the entry relating to section 652 of the Taxes Act 1988 shall be omitted; and

(c) in the second column, after the entry relating to regulations under section 639 of the Taxes Act 1988 there shall be inserted the following entry—

"regulations under section 651A(1)(a);".

(4) Subsections (2) and (3)(b) above shall come into force on such day as the Treasury may by order appoint.

97 Notices to be given to scheme administrator

(1) After section 653 of the Taxes Act 1988 there shall be inserted the following section—

"653A Notices to be given to scheme administrator

(1) Where—

(a) the Board, or any officer of the Board, is authorised or required by or in consequence of any provision of this Chapter to give a notice to the person who is the scheme administrator of a personal pension scheme, but

(b) there is for the time being no scheme administrator for that scheme or the person who is the scheme administrator for that scheme cannot be traced,

that power or duty may be exercised or performed by giving that notice, instead, to the person specified in subsection (2) below.

Status: This is the original version (as it was originally enacted).

(2) That person is—

(a) the person who established the scheme; or

(b) any person by whom that person has been directly or indirectly succeeded in relation to the provision of benefits under the scheme.

(3) The giving of a notice in accordance with this section shall have the same effect as the giving of that notice to the scheme administrator and, without prejudice to section 650A(5), shall not impose an additional obligation or liability on the person to whom the notice is actually given.”

(2) This section has effect in relation to the giving of notices at any time on or after the day on which this Act is passed.

98 Assessments on scheme administrators

(1) Part XIV of the Taxes Act 1988 (pension schemes etc.) shall have effect, and shall be deemed always to have had effect, with the following section inserted as the first section of Chapter VI of that Part—

“**658A Charges and assessments on administrators**

(1) Tax charged under Chapter I or IV of this Part on the administrator of a scheme—

(a) shall be treated as charged on every relevant person and be assessable by the Board in the name of the administrator of the scheme, but

(b) shall not be assessable on any relevant person who, at the time of the assessment, is no longer either the administrator of the scheme or included in the persons who are the administrator of the scheme.

(2) For the purposes of subsection (1) above a person is a relevant person in relation to any charge to tax on the administrator of a scheme if he is a person who at the time when the charge is treated as arising or any subsequent time is, or is included in the persons who are, the administrator of the scheme.

(3) Where tax charged under Chapter I of this Part on the administrator of a scheme is assessable by virtue of section 606 or 606A on a person who is not a relevant person for the purposes of subsection (1) above, the assessment shall be made by the Board.

(4) In this section “administrator”, in relation to a scheme, means the person who is—

(a) the administrator of the scheme within the meaning given by section 611AA; or

(b) the scheme administrator, as defined in section 630.

(5) This section is without prejudice to section 591D(4).”

(2) In section 9 of the Taxes Management Act 1970 (self-assessment), in subsection (1), for “subsection (2)” there shall be substituted “subsections (1A) and (2)”; and after that subsection there shall be inserted the following subsection—

“(1A) The tax to be assessed on a person by a self-assessment shall not include any tax which, under Chapter I or IV of Part XIV of the principal Act, is charged

on the administrator of a scheme (within the meaning of section 658A of that Act) and is assessable by the Board in accordance with that section.”

(3) Subsection (2) above shall have effect for the year 1998-99 and subsequent years of assessment and shall be deemed to have had effect for the years 1996-97 and 1997-98.

Futures and options

99 Extension of provisions relating to guaranteed returns

(1) In Schedule 5AA to the Taxes Act 1988 (guaranteed returns on transactions in futures and options), the following paragraph shall be inserted after paragraph 4—

“Futures running to delivery and options exercised

4A (1) This paragraph applies where for the purposes of this Schedule—

(a) there are or, apart from section 144(2) or (3) of the 1992 Act, would be two or more related transactions;

(b) one of those transactions is or would be the creation or acquisition (by the making or receiving of a grant or otherwise) of a future or option;

(c) the other transaction, or one of the other transactions, is or would be the running of the future to delivery or the exercise of the option; and

(d) the transaction mentioned in paragraph (c) above is not treated for those purposes as a disposal of a future or option.

(2) This Schedule shall have effect in relation to the parties to the future or option as if the transaction specified in sub-paragraph (3) below—

(a) were a transaction for which the scheme or arrangements by reference to which the transactions are related transactions provided; and

(b) were a transaction which in fact takes place at the time (“the relevant time”) immediately before the future runs to delivery or, as the case may be, the option is exercised.

(3) That transaction is a disposal of the future or option which—

(a) in the case of a person whose rights and entitlements under the future or option have a market value at the relevant time, consists in a disposal for a consideration equal to that market value; and

(b) in the case of any other party to the future or option, consists in a disposal which—

(i) is made for a nil consideration; and

(ii) involves that person in incurring costs equal to the amount specified in sub-paragraph (4) below.

(4) That amount is the amount which that party to the future or option might reasonably have been expected to pay, in a transaction at arm’s length entered into at the relevant time, for the release of his obligations and liabilities under the future or option.

(5) Where, in a case in which a transaction is deemed to take place by virtue of sub-paragraph (2)(b) above ("the deemed transaction")—

(a) any profits or gains arising from the deemed transaction are chargeable to tax under Case VI of Schedule D in accordance with paragraph 1(1) above, or

(b) any loss arising in the deemed transaction is brought into account for the purposes of section 392 or 396 in accordance with paragraph 1(5) above,

amounts taken into account or allowable as deductions in computing those profits or gains, or that loss, shall not be excluded by virtue of section 37 or 39 of the 1992 Act (exclusion of amounts taken into account or allowable for the purposes of the taxation of income and profits) from any computation made for the purposes of that Act, but paragraph 1(6) above shall be given effect to in relation to the 1992 Act in accordance with sub-paragraphs (6) to (10) below.

(6) Where there are profits or gains arising to any person ("the taxpayer") from the deemed transaction, an increase equal to the amount of those profits or gains shall be made in the amount that would otherwise be taken for the purposes of the 1992 Act to be—

(a) the amount of the consideration for the acquisition of any asset acquired by the taxpayer by means of the future running to delivery or, as the case may be, by the exercise of the option; or

(b) the amount of the consideration for the acquisition by him of any asset disposed of by him by means of the future running to delivery or, as the case may be, in consequence of the exercise of the option;

but any increase made by virtue of paragraph (b) above in the amount of any consideration shall be disregarded in computing the amount of any indexation allowance.

(7) Where there is a loss for any person ("the taxpayer") in the deemed transaction—

(a) a reduction equal to the smaller of the amount of the loss and the amount to be reduced shall be made in the amount that would otherwise be taken for the purposes of the 1992 Act to be the amount of the consideration mentioned in sub-paragraph (6)(a) or (b) above; and

(b) the amount (if any) by which the amount of the loss exceeds the amount to be reduced shall be deemed to be a chargeable gain accruing to the taxpayer on the occasion specified in sub-paragraph (8) below.

(8) That occasion is—

(a) in a case where the consideration mentioned in paragraph (a) of sub-paragraph (6) above has been reduced to nil, the first occasion after the acquisition mentioned in that paragraph when there is a disposal of the asset in question; and

(b) in a case where it is the consideration mentioned in sub-paragraph (6)(b) above that has been reduced to nil, the occasion of the disposal made by the taxpayer by means of the future

running to delivery or, as the case may be, in consequence of the exercise of the option.

(9) For the purposes of sub-paragraphs (6) and (7) above, where in any case there is a deemed disposal of an option by the person who granted it, any determination—

(a) of the profits arising to the grantor of the option from that disposal, or

(b) of the losses for the grantor in that disposal,

shall be made as if that disposal and the disposal by which the option was granted were a single transaction.

(10) In sub-paragraph (8) above—

(a) the reference in paragraph (a) to a disposal of the asset in question includes a reference to anything that would be such a disposal but for the provisions of section 116(10) or 127 of the 1992 Act; and

(b) the references in each of paragraphs (a) and (b) to a disposal include references to a disposal which, in accordance with the 1992 Act, would (apart from sub-paragraph (7)(b) above) be a disposal on which neither a gain nor a loss accrues.

(11) In this paragraph—

"future" and "option" have the same meanings as in paragraph 4 above;

"market value" has the same meaning as in the 1992 Act;

"party", in relation to a future or option, means one of the persons who has any right or entitlement comprised in or arising under the future or option or who is subject to any obligation or liability so comprised or arising;

and references in this paragraph to a future running to delivery are references to the discharge by performance of the obligations owed under the commodity or financial futures contract in question to the party to the future whose rights are in relation to its underlying subject matter.

(12) Sub-paragraph (3) of paragraph 3 above applies for the purposes of sub-paragraph (11) above as it applies for the purposes of that paragraph."

(2) In paragraph 9 of that Schedule (insurance companies), for the words from the beginning to "this Schedule" there shall be substituted—

"9 (1) This paragraph applies where—

(a) any determination falls to be made under section 432A of the category of business to which any income or losses is or are referable; and

(b) that income or those losses would all be chargeable or relievable by virtue of this Schedule but for the exemptions from tax and exclusions from the provisions of this Schedule that are applicable in respect of the category of business to which it or they are determined to be referable.

(2) Section 432A shall have effect".

(3) In that paragraph, after the sub-paragraph (2) created by virtue of subsection (2) above there shall be inserted the following sub-paragraphs—

"(3) Subject to sub-paragraphs (4) and (5) below, paragraph 4A above shall have effect as if the references in sub-paragraph (5) of that paragraph to—

(a) profits or gains arising from the deemed transaction that are chargeable to tax under Case VI of Schedule D in accordance with paragraph 1(1) above, or

(b) any loss arising in the deemed transaction that is brought into account for the purposes of section 392 or 396 in accordance with paragraph 1(5) above,

were references to all the income or losses in relation to which the determination mentioned in sub-paragraph (1) above falls to be made.

(4) Sub-paragraph (6) of paragraph 4A above shall not apply in relation to the amount of the consideration for the acquisition of any asset acquired by the taxpayer by means of the future running to delivery or, as the case may be, by the exercise of the option if—

(a) immediately before the time of the deemed transaction, the future or option is an asset within one of the categories set out in section 440(4); and

(b) immediately after its acquisition, the asset acquired is within another of those categories.

(5) Sub-paragraph (6) of paragraph 4A above shall not apply in relation to the amount of the consideration for the acquisition of any asset disposed of by the taxpayer by means of the future running to delivery or, as the case may be, by the exercise of the option if—

(a) immediately before the time of the deemed transaction, the future or option is an asset within one of the categories set out in section 440(4); and

(b) immediately before its disposal, the asset disposed of is within another of those categories.

(6) Where any future or option would not fall (apart from this sub-paragraph) to be treated as an asset for the purposes of section 440, any question for the purposes of this paragraph whether it is an asset within any of the categories set out in subsection (4) of that section shall be determined as if it were an asset.

(7) Expressions used in this paragraph and in paragraph 4A above have the same meanings in this paragraph as in that paragraph."

(4) In paragraph 4(6) of that Schedule, in the definition of "option", after paragraph (b) there shall be inserted—

"and includes any liability or entitlement under an option."

(5) This section applies where the transaction consisting in the future running to delivery or the exercise of the option takes place on or after 6th February 1998.

Securities

100 Accrued income scheme

(1) In subsection (1) of section 1A of the Taxes Act 1988 (rate of income tax applicable to income from savings and distributions), for "and 686," there shall be substituted ", 686 and 720(5),".

(2) In subsection (2) of that section, after paragraph (a) there shall be inserted the following paragraph—

"(aa) any amount chargeable to tax under Case VI of Schedule D by virtue of section 714, 716 or 723;"

(3) Subsections (1) and (2) above apply for the year 1998-99 and subsequent years of assessment.

101 Dealers in securities etc

(1) Section 471 of the Taxes Act 1988 (exchange of securities in connection with conversion operations, nationalisation etc.) shall cease to have effect.

(2) Section 472 of that Act (distribution of securities issued in connection with nationalisation etc.) shall cease to have effect.

(3) Subsection (1) above applies in relation to exchanges made after the day on which this Act is passed.

(4) Subsection (2) above applies in relation to issues of securities occurring after that day.

102 Manufactured dividends

(1) In section 231 of the Taxes Act 1988 (tax credits for certain recipients of qualifying distributions) in subsection (1), after "Subject to sections" there shall be inserted "231AA," and after that section there shall be inserted—

"231AA No tax credit for borrower under stock lending arrangement or interim holder under repurchase agreement

(1) A person shall not be entitled to a tax credit under section 231 in respect of a qualifying distribution if—

(a) he is the borrower under a stock lending arrangement or the interim holder under a repurchase agreement;

(b) the qualifying distribution is, or is a payment representative of, a distribution in respect of securities to which the arrangement or agreement relates; and

(c) a manufactured dividend representative of that distribution is paid by that person in respect of securities to which the arrangement or agreement relates.

(2) In this section "stock lending arrangement" has the same meaning as in section 263B of the 1992 Act and, in relation to any such arrangement, any reference to the borrower, or the securities to which the arrangement relates, shall be construed accordingly.

(3) For the purposes of this section the cases where there is a repurchase agreement are the following—

(a) any case falling within subsection (1) of section 730A; and

(b) any case which would fall within that subsection if the sale price and the repurchase price were different;

and, in any such case, any reference to the interim holder, or the securities to which the agreement relates, shall be construed accordingly.

(4) For the purposes of this section "manufactured dividend" has the same meaning as in paragraph 2 of Schedule 23A (and any reference to a manufactured dividend being paid accordingly includes a reference to a payment falling by virtue of section 736B(2) or 737A(5) to be treated for the purposes of Schedule 23A as if it were made)."

(2) In section 231 of the Taxes Act 1988, in subsection (1), after "231AA," there shall be inserted "231AB," and after section 231AA of that Act there shall be inserted—

"**231AB No tax credit for original owner under repurchase agreement in respect of certain manufactured dividends**

(1) A person shall not be entitled to a tax credit under section 231 in respect of a qualifying distribution if—

(a) he is the original owner under a repurchase agreement;

(b) the qualifying distribution is a manufactured dividend paid to that person by the interim holder under the repurchase agreement in respect of securities to which the agreement relates; and

(c) the repurchase agreement is not such that the actual dividend which the manufactured dividend represents is receivable otherwise than by the original owner.

(2) For the purposes of this section the cases where there is a repurchase agreement are the following—

(a) any case falling within subsection (1) of section 730A; and

(b) any case which would fall within that subsection if the sale price and the repurchase price were different;

and, in any such case, any reference to the original owner, the interim holder, or the securities to which the agreement relates, shall be construed accordingly.

(3) Subsection (4) of section 231AA applies for the purposes of this section as it applies for the purposes of that section."

(3) In section 737D of the Taxes Act 1988 (power by regulations to provide for manufactured payments to be eligible for relief) in subsection (2) (which defines manufactured payment as any manufactured dividend etc) the words "manufactured dividend" shall cease to have effect.

(4) Schedule 23A to the Taxes Act 1988 (manufactured dividends and interest) shall be amended in accordance with subsections (5) to (8) below.

(5) In paragraph 2 (UK equities) for sub-paragraph (2) there shall be substituted—

"(2) Where a manufactured dividend is paid by a dividend manufacturer who is a company resident in the United Kingdom, the Tax Acts shall have effect—

(a) in relation to the recipient, and persons claiming title through or under him, as if the manufactured dividend were a dividend on the UK equities in question; and

(b) in relation to the dividend manufacturer, as if the amount paid were a dividend of his."

(6) In paragraph 2(3) (manufactured dividends to which paragraph 2(2) does not apply) paragraph (a) (duty to account for notional ACT) shall cease to have effect.

(7) In paragraph 2(6) (written statement in respect of certain manufactured dividends) in paragraph (a), after "a dividend manufacturer pays a manufactured dividend" there shall be inserted "to which sub-paragraph (3) above applies".

(8) In consequence of subsection (6) above, the following provisions shall also cease to have effect—

(a) in paragraph 2, sub-paragraphs (4) and (5) and, in sub-paragraph (6), paragraph (b) and the word "and" immediately preceding it; and

(b) in paragraph 2A (deductibility of manufactured payment in the case of the manufacturer) in sub-paragraph (1), the words "together with an amount equal to the notional ACT" and sub-paragraph (3).

(9) Subsection (1) above has effect in relation to qualifying distributions made on or after 8th April 1998 if the manufactured dividend representative of the distribution is paid (or treated for the purposes of Schedule 23A to the Taxes Act 1988 as paid) on or after 6th April 1999.

(10) Subsections (2) to (8) above have effect in relation to manufactured dividends paid (or treated for the purposes of Schedule 23A to the Taxes Act 1988 as paid) on or after 6th April 1999.

Double taxation relief

103 Restriction of relief on certain interest and dividends

(1) For section 798 of the Taxes Act 1988 there shall be substituted the following section—

"798 Restriction of relief on certain interest and dividends

(1) This section applies where—

(a) in any chargeable period the profits of a trade carried on by a qualifying taxpayer include an amount computed in accordance with section 795 in respect of foreign interest or foreign dividends;

(b) the taxpayer is entitled in accordance with this Chapter to credit for foreign tax on the foreign interest or foreign dividends; and

(c) in the case of foreign dividends, the foreign tax mentioned in paragraph (b) above is or includes underlying tax.

(2) The amount of the credit for foreign tax referred to in subsection (1)(b) above which, in accordance with this Chapter, is to be allowed against income tax or corporation tax—

(a) shall be limited by treating the amount of the foreign interest or foreign dividends (as increased or reduced under section 798A) as reduced (or further reduced) for the purposes of this Chapter by an amount equal to the taxpayer's financial expenditure in relation to the interest or dividends (as determined in accordance with section 798B); and

(b) so far as the credit relates to foreign tax on interest or foreign tax on dividends which is not underlying tax, shall not exceed 15 per cent. of the interest or dividends, computed without regard to paragraph (a) above or to any increase or reduction under section 798A.

(3) In this section and sections 798A and 798B—

"interest", in relation to a loan, includes any introductory or other fee or charge which is payable in accordance with the terms on which the loan is made or is otherwise payable in connection with the making of the loan;

"foreign dividends" means dividends payable out of or in respect of the stocks, funds, shares or securities of a body of persons not resident in the United Kingdom;

"foreign interest" means interest payable by a person not resident in the United Kingdom or by a government or public or local authority in a country outside the United Kingdom.

(4) In this section and section 798B "qualifying taxpayer" means, subject to subsection (5) below, a person carrying on a trade which includes the receipt of interest or dividends and is not an insurance business.

(5) Where a company which is connected or associated with a qualifying taxpayer is acting in accordance with a scheme or arrangement the purpose, or one of the main purposes, of which is to prevent or restrict the application of this section to the taxpayer—

(a) the company shall be treated for the purposes of this section as a qualifying taxpayer; and

(b) any foreign interest or foreign dividends received in pursuance of the scheme or arrangement shall be treated for those purposes as profits of a trade carried on by the company.

(6) For the purposes of this section and section 798B—

(a) section 839 applies; and

(b) subsection (10) of section 783 applies as it applies for the purposes of that section."

(2) This section and sections 104 and 105 do not have effect in relation to foreign interest or foreign dividends paid before 1st January 1999 in pursuance of arrangements which were entered into before, and are not altered on or after, 17th March 1998.

(3) Subject to subsection (2) above, this section and sections 104 and 105 have effect in relation to foreign interest or foreign dividends paid on or after 17th March 1998.

104 Adjustments of interest and dividends for spared tax etc

After section 798 of the Taxes Act 1988 there shall be inserted the following section—

"798A Adjustments of interest and dividends for spared tax etc

(1) In a case where section 798 applies—

(a) subsection (2) below applies if the foreign tax referred to in subsection (1)(b) of that section is or includes an amount of spared tax; and

(b) subsection (3) below applies if the foreign tax so referred to is or includes an amount of tax which is not spared tax.

(2) For the purposes of income tax or corporation tax, the amount which apart from this subsection would be the amount of the foreign interest or foreign dividends shall be treated as increased by so much of the spared tax as does not exceed—

(a) the amount of the spared tax for which, in accordance with any arrangements applicable to the case in question, credit falls to be given as mentioned in section 798(1)(b); or

(b) if it is less, 15 per cent. of the interest or dividends, computed without regard to any increase under this subsection.

(3) If the amount of tax which is not spared tax exceeds—

(a) the amount of the credit which, by virtue of this Chapter (but disregarding subsection (2) of section 798), is allowed for that tax against income tax or corporation tax; or

(b) if it is less in the case of tax on foreign interest, 15 per cent. of the interest, computed without regard to any increase or reduction under this section or that subsection,

then, for the purposes of income tax or corporation tax, the amount which, apart from this subsection, would be the amount of the foreign interest or foreign dividends shall be treated as reduced by a sum equal to the excess.

(4) Subsection (2) above has 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 II of Part IV of that Act).

(5) Nothing in subsection (2) above prejudices the operation of section 795 in relation to foreign tax which is not spared tax.

(6) In this section "spared tax" means foreign tax which although not payable falls to be taken into account for the purposes of credit by virtue of section 788(5)."

105 Meaning of "financial expenditure"

After section 798A of the Taxes Act 1988 there shall be inserted the following section—

Status: *This is the original version (as it was originally enacted).*

"798B Meaning of "financial expenditure"

(1) For the purposes of section 798 "financial expenditure", in relation to a qualifying taxpayer and any interest or dividends is, subject to the provisions of this section, the aggregate of—

(a) so much of the financial expenses (consisting of interest, discounts or similar sums or qualifying losses) incurred by the taxpayer or a person connected or associated with him as—

(i) is properly attributable to the earning of the interest or dividends; and

(ii) falls to be taken into account in computing the taxpayer's or person's liability to income tax or corporation tax; and

(b) so much of any other sum paid by the taxpayer or a person connected or associated with him which—

(i) falls to be taken into account as mentioned in paragraph (a) above; and

(ii) would not, apart from this paragraph, be taken into account in determining the amount of the interest or dividends,

as it is reasonable to regard as attributable to the earning of the interest or dividends (whether or not it would fall, in accordance with normal accountancy practice, to be so treated).

(2) There shall be deducted from the aggregate given by subsection (1) above so much of the qualifying gains and profits accruing to the qualifying taxpayer or a person connected or associated with him as—

(a) is properly attributable to the earning of the interest or dividends; and

(b) falls to be taken into account in computing the taxpayer's or person's liability to income tax or corporation tax.

(3) In a case where the amount of a qualifying taxpayer's financial expenditure in relation to the earning of the interest or dividends is not readily ascertainable—

(a) that amount shall be taken, subject to subsection (4) below, to be such sum as it is just and reasonable to attribute to the earning of the interest or dividends; and

(b) in the case of interest, regard shall be had in particular to any market rates of interest by reference to which the rate of the interest is determined.

(4) The Board may by regulations supplement subsection (3) above—

(a) by specifying matters to be taken into account in determining such a just and reasonable attribution as is referred to in paragraph (a); and

(b) by making provision with respect to the determination of market rates of interest for the purposes of paragraph (b);

and any such regulations may make different provision for different cases.

(5) In this section "qualifying losses" means—

(a) losses falling to be brought into account for the purposes of Chapter II of Part II of the Finance Act 1993 (exchange gains and losses) in accordance with sections 125 to 127 of that Act; and

(b) losses falling to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1994 (interest rate and currency contracts) in accordance with sections 155 to 158 of that Act;

and "qualifying gains" and "qualifying profits" shall be construed accordingly."

106 Underlying tax reflecting interest or dividends

(1) Section 803 of the Taxes Act 1988 (underlying tax reflecting interest on loans) shall be amended as follows.

(2) In subsection (1)—

(a) in paragraph (b), after the words "a dividend" there shall be inserted the words "("the overseas dividend")";

(b) in paragraph (c), for the words "interest on a loan made" there shall be substituted the words "interest or dividends earned or received"; and

(c) for paragraph (d) there shall be substituted the following paragraph—

"(d) if the company which received the interest or dividends ("the company") had been resident in the United Kingdom, section 798 would apply in relation to that company."

(3) In subsection (3), for the words from "on so much" to the end there shall be substituted the words "on so much of the interest or dividends as exceeds the amount of the company's relevant expenditure which is properly attributable to the earning of the interest or dividends".

(4) In subsection (4)—

(a) in paragraph (a), for the words "section 798(2)" there shall be substituted the words "section 798(3)";

(b) for paragraph (b) there shall be substituted the following paragraph—

"(b) "the company"s relevant expenditure' means the amount which, if the company referred to in subsection (1)(d) above were resident in the United Kingdom and were a qualifying taxpayer for the purposes of section 798, would be its financial expenditure in relation to the earning of the interest or dividends, as determined in accordance with section 798B."

(5) In subsection (5)—

(a) for the words "the dividend", in both places where they occur, there shall be substituted the words "the overseas dividend"; and

(b) for the words "the interest" there shall be substituted the words "the interest or dividends".

(6) In subsection (6)—

(a) for the words "the dividend" there shall be substituted the words "the overseas dividend"; and

(b) for the words "the permitted amount" there shall be substituted the following paragraphs—

"(a) the amount of the spared tax which under any arrangements is to be taken into account for the purpose of allowing credit against corporation tax in respect of the overseas dividend; or

(b) if it is less, 15 per cent. of the interest or dividends;".

(7) For subsection (7) there shall be substituted the following subsection—

"(7) In this section "spared tax" has the same meaning as in section 798A."

(8) In subsection (8)—

(a) after the words "amount of tax which" there shall be inserted the words "is referable to interest and"; and

(b) for the words "the dividend" there shall be substituted the words "the overseas dividend".

(9) In subsection (9)—

(a) for the words "the interest", in both places where they occur, there shall be substituted the words "the interest or dividends"; and

(b) for the words "the dividend" there shall be substituted the words "the overseas dividend".

(10) For subsections (10) and (11) there shall be substituted the following subsection—

"(10) In subsection (1) above "bank" means a company carrying on, in the United Kingdom or elsewhere, any trade which includes the receipt of interest or dividends, and section 839 applies for the purposes of that subsection."

(11) This section does not apply where the overseas dividend is paid before 1st January 1999 in pursuance of arrangements which were entered into before, and are not altered on or after, 17th March 1998.

(12) Subject to subsection (11) above, this section applies where the overseas dividend is paid on or after 17th March 1998.

107 Notification of foreign tax adjustment

(1) In section 806 of the Taxes Act 1988 (supplemental provision with respect to double taxation relief), after subsection (2) there shall be inserted the following subsections—

"(3) Subject to subsection (5) below, where—

(a) any credit for foreign tax has been allowed to a person under any arrangements, and

(b) the amount of that credit is subsequently rendered excessive by reason of an adjustment of the amount of any tax payable under the laws of a territory outside the United Kingdom,

that person shall give notice in writing to an officer of the Board that an adjustment has been made that has rendered the amount of the credit excessive.

(4) A notice under subsection (3) above must be given within one year from the time of the making of the adjustment.

(5) Subsections (3) and (4) above do not apply where the adjustment is one the consequences of which in relation to the credit fall to be given effect to in accordance with regulations made under—

(a) section 182(1) of the Finance Act 1993 (regulations relating to individual members of Lloyd's); or

(b) section 229 of the Finance Act 1994 (regulations relating to corporate members of Lloyd's).

(6) A person who fails to comply with the requirements imposed on him by subsections (3) and (4) above in relation to any adjustment shall be liable to a penalty of an amount not exceeding the amount by which the credit allowed has been rendered excessive by reason of the adjustment."

(2) This section shall be deemed to have come into force on 17th March 1998 in relation to adjustments made on or after that date.

Transfer pricing, FOREX and financial instruments

108 New regime for transfer pricing etc

(1) For sections 770 to 773 of the Taxes Act 1988 (transfer pricing provisions) there shall be substituted the following section—

"770A Provision not at arm's length

Schedule 28AA (which deals with provision made or imposed otherwise than at arm's length) shall have effect."

(2) After Schedule 28A to that Act there shall be inserted, as Schedule 28AA to that Act, the Schedule set out in Schedule 16 to this Act.

(3) In the Finance Act 1993—

(a) in sections 136(7) and (8) and 136A(5) (application of arm's length test in computing foreign exchange gains and losses), for the words "has been treated under section 770 of", in each place where they occur, there shall be substituted "falls to be treated in accordance with Schedule 28AA to"; and

(b) in section 136A(6), for "has at any time in that accrual period been treated under section 770 of" there shall be substituted "falls in relation to any time in that accrual period to be treated in accordance with Schedule 28AA to".

(4) In the Finance Act 1996—

(a) in section 100(3) (imputed interest on loan relationships), for the words from "which, in" to "of those sections" there shall be substituted "which, in pursuance of Schedule 28AA to the Taxes Act 1988 (provision not at arm's length), falls to be treated"; and

(b) in paragraph 16 of Schedule 9 (imputed interest)—

(i) in sub-paragraph (1), for the words from "sections 770" to "that Act" there shall be substituted "Schedule 28AA to the Taxes Act 1988 (provision not at arm's length)"; and

(ii) in sub-paragraph (2), for "Those sections" there shall be substituted "That Schedule".

(5) Subject to subsection (6) below, this section and Schedule 16 to this Act have effect (in relation to provision made or imposed at any time)—

(a) for the purposes of corporation tax, as respects accounting periods ending on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions); and

(b) for the purposes of income tax, as respects any year of assessment ending on or after that day.

(6) The Schedule 28AA to the Taxes Act 1988 that is inserted by subsection (2) above shall not, in the case of any potentially advantaged person, apply as respects the consequences at any time of the difference between the actual provision and the arm's length provision if—

(a) that time falls before 17th March 2001;

(b) the actual provision is a provision made or imposed by means of contractual arrangements entered into by that person before 17th March 1998;

(c) the requirements of paragraph 1(1)(b) of Schedule 28AA to that Act (control requirements) are satisfied in the case of the actual provision and that person by reference only to paragraph 4(2)(b) of that Schedule (joint ventures etc.);

(d) the rights and obligations of that person by virtue of the actual provision are not ones that have been varied or continued in pursuance of any transaction entered into by that person in the period between 17th March 1998 and that time; and

(e) that person is not a party, and has not been a party, to any transaction by virtue of which he could during that period have secured the variation or termination of those rights and obligations.

(7) Expressions used in subsection (6) above and in Schedule 28AA to the Taxes Act 1988 have the same meanings in that subsection as in that Schedule.

109 Abolition of requirements for direction

(1) The following provisions of Chapter II of Part II of the Finance Act 1993 (exchange gains and losses) shall cease to have effect—

(a) in section 135(1), paragraph (d) (which makes the giving of a direction a condition of disregarding an exchange loss where it is the main benefit), and the word "and" immediately preceding that paragraph;

(b) in section 136, the following provisions (which make the giving of a direction by the Board a condition of disregarding or reducing an exchange loss where there is a transaction that is not on arm's length terms)—

(i) paragraph (d) of subsection (1) and the word "and" immediately preceding that paragraph; and

(ii) in each of subsections (5) and (9), the words after paragraph (b);

(c) in each of subsections (3) and (7) of section 136A, the words after paragraph (b) (which make the giving of a direction by the Board a condition of reducing an initial exchange loss where there is a transaction that is not on arm's length terms); and

(d) in section 137(1), paragraph (d) (which makes the giving of a direction a condition of disregarding an exchange loss on a currency contract which is not on arm's length terms), and the word "and" immediately preceding that paragraph.

(2) Accordingly, the word "and" shall be inserted—

(a) at the end of section 135(1)(b) of the Finance Act 1993;

(b) at the end of section 136(1)(b) of that Act; and

(c) at the end of section 137(1)(b) of that Act.

(3) In section 167(2) of the Finance Act 1994, paragraph (b) (which makes the giving of a direction by the Board a condition of adjusting the amounts brought into account

in respect of a relevant transaction which is not on arm's length terms), and the word "and" immediately preceding that paragraph, shall cease to have effect.

(4) The preceding provisions of this section shall have effect (in relation to transactions entered into at any time) as respects accounting periods ending on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions).

(5) Where a direction given on or after 17th March 1998 under—

(a) section 135(1)(d), 136(1)(d), (5) or (9), 136A(3) or (7) or 137(1)(d) of the Finance Act 1993, or

(b) section 167(2)(b) of the Finance Act 1994,

relates to any accounting period ending before the day appointed as mentioned in subsection (4) above, all such adjustments shall be made, whether by assessment, repayment of tax or otherwise, as are necessary to give effect to that direction.

110 Determinations requiring the sanction of the Board

(1) This section has effect where a determination requiring the Board's sanction is made for any of the following purposes, that is to say—

(a) the giving of a closure notice;

(b) the giving of a notice under section 30B(1) of the Taxes Management Act 1970 amending a partnership statement; or

(c) the making of a discovery assessment.

(2) If the closure notice, the notice under section 30B(1) of the Taxes Management Act 1970 or, as the case may be, a notice of the discovery assessment is given to any person—

(a) without the determination, so far as it is taken into account in the notice or assessment, having been approved by the Board, or

(b) without a copy of the Board's approval having been served on that person at or before the time of the giving of the notice,

the closure notice, notice under section 30B(1) of that Act or, as the case may be, the discovery assessment shall be deemed to have been given or made (and in the case of an assessment notified) in the terms (if any) in which it would have been given or made had that determination not been taken into account.

(3) For the purposes of this section the Board's approval of a determination requiring their sanction—

(a) must be given specifically in relation to the case in question and must apply to the amount determined; but

(b) subject to that, may be given by the Board (either before or after the making of the determination) in any such form or manner as they may determine.

(4) In this section references to a determination requiring the Board's sanction are references (subject to subsection (5) below) to any of the following determinations, that is to say—

(a) a determination of an amount falling to be brought into account for tax purposes in respect of any assumption made by virtue of paragraph 1(2) of Schedule 28AA to the Taxes Act 1988 (provision not at arm's length);

(b) a determination of the amount of any adjustment falling to be made for tax purposes in respect of the disregarding or reduction, in accordance with

section 135, 136, 136A or 137 of the Finance Act 1993 (main benefit and arm's length tests in relation to foreign exchange gains and losses), of any exchange loss, or of any exchange gain;

(c) a determination of the amount of any adjustment falling to be made for tax purposes in respect of any deduction from, or addition to, any amount in accordance with section 167 of the Finance Act 1994 (arm's length test in relation to financial instruments).

(5) For the purposes of this section a determination shall be taken, in relation to a closure notice, a notice under section 30B(1) of the Taxes Management Act 1970 or a discovery assessment, not to be a determination requiring the Board's sanction if—

(a) an agreement about the matters to which the determination relates has been made between an officer of the Board and the person in whose case it is made;

(b) that agreement is in force at the time of the giving of the notice or, as the case may be, of any notice of the assessment; and

(c) the matters to which the agreement relates include the amount determined.

(6) For the purposes of subsection (5) above an agreement made between an officer of the Board and any person ("the taxpayer") in relation to any matter shall be taken to be in force at any time if, and only if—

(a) the agreement is one which has been made or confirmed in writing;

(b) that time is after the end of the period of thirty days beginning—

(i) in the case of an agreement made in writing, with the day of the making of the agreement, and

(ii) in any other case, with the day of the agreement's confirmation in writing;

and

(c) the taxpayer has not, before the end of that period of thirty days, served a notice on an officer of the Board stating that he is repudiating or resiling from the agreement.

(7) The references in subsection (6) above to the confirmation in writing of an agreement are references to the service on the taxpayer by an officer of the Board of a notice in writing—

(a) stating that the agreement has been made; and

(b) setting out the terms of the agreement.

(8) The matters that may be questioned on so much of any appeal by virtue of any provision of the Taxes Management Act 1970 or Schedule 18 to this Act as relates to a determination the making of which has been approved by the Board for the purposes of this section shall not include the Board's approval, except to the extent that the grounds for questioning the approval are the same as the grounds for questioning the determination itself.

(9) In this section—

"closure notice" means—

(a) a notice under section 28A(5) or 28B(5) of the Taxes Management Act 1970 stating the conclusions of an officer of the Board in relation to any self-assessment, partnership statement, claim or election; or

(b) a closure notice under paragraph 32 of Schedule 18 to this Act in relation to an enquiry into a company tax return;

"discovery assessment" means—

(a) an assessment under section 29 of the Taxes Management Act 1970; or

(b) a discovery assessment or discovery determination under paragraph 41 of Schedule 18 to this Act (including an assessment by virtue of paragraph 52 of that Schedule).

(10) This section has effect—

(a) for the purposes of corporation tax, as respects accounting periods ending on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions); and

(b) for the purposes of income tax, as respects any year of assessment ending on or after that day.

111 Notice to potential claimants

(1) Where—

(a) a relevant notice is given to any person,

(b) that notice, or anything contained in it, takes account of a determination of an amount falling to be brought into account for tax purposes in respect of any assumption made by virtue of paragraph 1(2) of Schedule 28AA to the Taxes Act 1988 (provision not at arm's length), and

(c) it appears to an officer of the Board that there is a person who is or may be a disadvantaged person by reference to the subject-matter of that determination,

the officer shall give a notice under this section to the person who so appears to him.

(2) A notice under this section is a notice containing particulars of the determination by reference to which the person to whom the notice is given appears to an officer of the Board to be a person who is or may be a disadvantaged person.

(3) Where, in any case, there is a contravention of subsection (1) above or the notice required by that subsection is given after the giving of the relevant notice, the Board—

(a) shall consider whether, as a result of the contravention, any person has been prejudiced with respect to the making or amendment of a claim for the purposes of paragraph 6 of Schedule 28AA to the Taxes Act 1988 (claim for relief by party disadvantaged by transfer pricing adjustment), and

(b) may, if they think fit, treat the period for the making or amendment of such a claim in that case as extended by such further period as appears to them to be appropriate.

(4) Where, in a case in which a relevant notice is given to any person, there is a contravention of this section, that contravention shall not affect the validity of that notice or of any determination to which that notice relates.

(5) For the purposes of this section a person is a disadvantaged person by reference to the subject-matter of a determination such as is mentioned in subsection (1)(b) above if, and only if—

(a) he is entitled, in consequence of the making of the determination, to make a claim for the purposes of paragraph 6 of Schedule 28AA to the Taxes Act 1988;

(b) he is entitled, in consequence of the making of the determination, to amend such a claim; or

(c) he will be entitled, by virtue of paragraph 12(3) of that Schedule, to appear and be heard by the Special Commissioners in any proceedings on an appeal relating to that determination.

(6) In this section "relevant notice" means any of the following, that is to say—

(a) a notice under section 28A(5) or 28B(5) of the Taxes Management Act 1970 stating the conclusions of an officer of the Board in relation to any self-assessment, partnership statement, claim or election;

(b) a closure notice under paragraph 32 of Schedule 18 to this Act in relation to an enquiry into a company tax return;

(c) a notice of assessment under section 29 of that Act of 1970;

(d) a notice of any discovery assessment or discovery determination under paragraph 41 of Schedule 18 to this Act (including any notice of an assessment by virtue of paragraph 52 of that Schedule);

(e) a notice under section 30B(1) of that Act of 1970 amending a partnership statement.

(7) This section applies to notices given at any time after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions).

Controlled foreign companies

112 Exempt activities

(1) Part II of Schedule 25 to the Taxes Act 1988 (exempt activities) shall be amended as follows.

(2) In paragraph 9 (activities which constitute investment business) for sub-paragraph (1A) (definition of "intellectual property") there shall be substituted—

"(1A) In sub-paragraph (1)(a) above "intellectual property" includes (in particular)—

(a) any industrial, commercial or scientific information, knowledge or expertise;

(b) any patent, trade mark, registered design, copyright or design right;

(c) any licence or other right in respect of intellectual property;

(d) any rights under the law of a country outside the United Kingdom which correspond or are similar to those falling within paragraph (b) or (c) above."

(3) In paragraph 11(1) (activities which constitute wholesale, distributive or financial business) for paragraph (c) (banking or any similar business involving the receipt of deposits, loans or both and the making of loans or investments) there shall be substituted—

"(c) banking, deposit-taking, money-lending or debt-factoring, or any business similar to banking, deposit-taking, money-lending or debt-factoring;".

(4) In consequence of subsection (3) above—

(a) in paragraph 9(3), for "banking or any similar business" there shall be substituted "business";

(b) in paragraph 11(3), for "banking or other business" there shall be substituted "business".

(5) This section has effect in relation to accounting periods of a controlled foreign company, within the meaning of Chapter IV of Part XVII of the Taxes Act 1988, beginning on or after 17th March 1998.

113 Miscellaneous amendments

Schedule 17 to this Act (which makes provision in relation to controlled foreign companies) shall have effect.

Changes in company ownership

114 Postponed corporation tax

(1) After section 767A of the Taxes Act 1988 there shall be inserted the following section—

"767AA Change in company ownership: postponed corporation tax

(1) Where it appears to the Board that—

(a) there has been a change in the ownership of a company ("the transferred company"),

(b) any corporation tax relating to an accounting period ending on or after the change has been assessed on the transferred company or an associated company,

(c) that tax remains unpaid at any time more than six months after it was assessed, and

(d) the condition set out in subsection (2) below is fulfilled,

any person mentioned in subsection (4) below may be assessed by the Board and charged to an amount of corporation tax not exceeding the amount remaining unpaid.

(2) The condition is that it would be reasonable (apart from this section) to infer, from either or both of—

(a) the terms of any transactions entered into in connection with the change, and

(b) the other circumstances of the change and of any such transactions,

that at least one of those transactions was entered into by one or more of its parties on the assumption, as regards a potential tax liability, that that liability would be unlikely to be met, or met in full, if it were to arise.

(3) In subsection (2) above the reference to a potential tax liability is a reference to a liability to pay corporation tax which—

(a) in circumstances which were reasonably foreseeable at the time of the change in ownership, or

(b) in circumstances the occurrence of which is something of which there was at that time a reasonably foreseeable risk,

would or might arise from an assessment made, after the change in ownership, on the transferred company or an associated company (whether or not a particular associated company).

(4) The persons mentioned in subsection (1) above are—

(a) any person who at any time during the relevant period had control of the transferred company;

(b) any company of which the person mentioned in paragraph (a) above has at any time had control within the period of three years before the change in the ownership of the transferred company.

(5) In subsection (4) above, "the relevant period" means—

(a) the period of three years before the change in the ownership of the transferred company; or

(b) if during the period of three years before that change ("the later change") there was a change in the ownership of the transferred company ("the earlier change"), the period elapsing between the earlier change and the later change.

(6) For the purposes of this section a transaction is entered into in connection with a change in the ownership of a company if—

(a) it is the transaction, or one of the transactions, by which that change is effected; or

(b) it is entered into as part of a series of transactions, or scheme, of which transactions effecting the change in ownership have formed or will form a part.

(7) For the purposes of this section—

(a) references to a scheme are references to any scheme, arrangements or understanding of any kind whatever, whether or not legally enforceable, involving a single transaction or two or more transactions;

(b) it shall be immaterial in determining whether any transactions have formed or will form part of a series of transactions or scheme that the parties to any of the transactions are different from the parties to another of the transactions; and

(c) the cases in which any two or more transactions are to be taken as forming part of a series of transactions or scheme shall include any case in which it would be reasonable to assume that one or more of them—

(i) would not have been entered into independently of the other or others; or

(ii) if entered into independently of the other or others, would not have taken the same form or been on the same terms.

(8) In this section references, in relation to the transferred company and an assessment to tax, to an associated company are references to any compnay (whenever formed) which, at the time of the assessment or at an earlier time after the change in ownership—

(a) has control of the transferred company;

(b) is a company of which the transferred company has control; or

(c) is a company under the control of the same person or persons as the transferred company.

(9) A person assessed and charged to tax under this section shall be assessed and charged in the name of the company by whom the tax to which the assessment relates remains unpaid.

(10) Any assessment made under this section shall not be out of time if made within three years from the date of the final determination of the liability of the company by whom the tax remains unpaid to corporation tax for the accounting period for which that tax was assessed."

(2) Subsection (1) above has effect in relation to changes in ownership occurring on or after 2nd July 1997 other than any change occurring in pursuance of a contract entered into before 2nd July 1997.

115 Information powers where ownership changes

(1) After section 767B of the Taxes Act 1988, there shall be inserted the following section—

"767C Change in company ownership: information

(1) This section applies where it appears to the Board that—

(a) there has been a change in the ownership of a company ("the subject company"); and

(b) in connection with that change a person ("the seller") may be or become liable to be assessed and charged to corporation tax under section 767A or 767AA.

(2) The Board may by notice require any person to supply to them—

(a) any document in the person's possession or power which appears to the Board to be relevant for determining any one or more of the matters referred to in subsection (3) below; or

(b) any particulars which appear to them to be so relevant.

(3) Those matters are—

(a) whether the seller is or may become liable as mentioned in subsection (1) above and the extent of the liability or potential liability; and

(b) whether the subject company or an associated company is or may become liable to be assessed to any tax in respect of which the seller is or could become liable as mentioned in subsection (1) above, and the extent of the liability or potential liability of the subject company or associated company.

(4) Without prejudice to the following provisions of this section, the references in subsection (2) above to documents and particulars are references to the documents and particulars specified or described in the notice.

(5) A notice under subsection (2) above must specify the period, which must not be less than 30 days, within which the notice must be complied with.

(6) Any person to whom any documents are supplied under this section may take copies of them or of any extracts from them.

(7) A notice under subsection (2) above shall not oblige a person to supply any documents or particulars relating to the conduct of any pending appeal relating to tax.

(8) In relation to any notice under subsection (2) above—

(a) subsection (4) of section 20B of the Taxes Management Act 1970 (rules relating to copies of documents) shall apply as it applies in relation to a notice under section 20(1) of that Act; and

(b) subsections (8) to (14) of section 20B of that Act (rules about obtaining documents etc. from professional advisers) shall apply as they apply in relation to a notice under section 20(3) of that Act but as if any reference to an inspector were a reference to the Board;

and subsection (8C) of section 20 of that Act (exclusion of personal records and journalistic material) shall apply for the purposes of this section as it applies for the purposes of that section.

(9) In this section references, in relation to the subject company and an assessment to tax, to an associated company are references to any company which, at the time of the assessment or at an earlier time after the change in ownership—

(a) has control of the subject company;

(b) is a company of which the subject company has control; or

(c) is a company under the control of the same person or persons as the subject company.

(10) In this section "document" means anything in which information of any description is recorded."

(2) In the Table in section 98 of the Taxes Management Act 1970 (penalties in respect of certain information provisions), after the entry in the first column relating to section 765A of the Taxes Act 1988, there shall be inserted the following entry—

"section 767C;".

(3) The preceding provisions of this section have effect in relation to changes in ownership occurring on or after 2nd July 1997 other than any change occurring in pursuance of a contract entered into before 2nd July 1997.

116 Provisions supplemental to sections 114 and 115

(1) After subsection (1) of section 767B of the Taxes Act 1988 (supplementary provision about changes of company ownership), there shall be inserted the following subsection—

"(1A) In relation to corporation tax assessed under section 767AA, section 87A of the Management Act shall have effect as if the references to the date when the tax becomes due and payable were references to the date when the tax became due and payable by the transferred company or the associated company (as the case may be)."

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

(a) after "767A" there shall be inserted "or 767AA"; and
(b) at the end there shall be added "or the transferred company or associated company (as the case may be)".

(3) In subsection (4) of that section, for "section 767A" there shall be substituted "sections 767A, 767AA and 767C".

(4) In subsection (10) of that section, for "section 767A" there shall be substituted "sections 767A and 767AA".

(5) In section 769 of that Act (rules for ascertaining change in ownership of a company)—
(a) in subsections (1) and (5), after "767A," there shall be inserted "767AA, 767C,";
(b) in subsection (2)(d), after "767A," there shall be inserted "767AA,"; and
(c) in subsections (2A) and (9), after "767A" there shall be inserted ", 767AA or 767C".

(6) The preceding provisions of this section have effect in relation to changes in ownership occurring on or after 2nd July 1997 other than any change occurring in pursuance of a contract entered into before 2nd July 1997.

Corporation tax self-assessment

117 Company tax returns, assessments and related matters

(1) The provisions of Schedule 18 to this Act have effect in place of—
(a) the provisions of Parts II and IV of the Taxes Management Act 1970 (returns, assessment and claims), so far as they relate to corporation tax,
(b) certain related provisions of Part X of that Act (penalties),
(c) Schedule 17A to the Taxes Act 1988 (group relief: claims), and
(d) Schedule A1 to the Capital Allowances Act 1990 (corporation tax allowances: claims).

(2) Schedule 18 to this Act, the Taxes Management Act 1970 and the Tax Acts shall be construed and have effect as if that Schedule were contained in that Act.

(3) The enactments mentioned in Schedule 19 to this Act have effect with the amendments specified there, which are minor amendments and amendments consequential on Schedule 18.

(4) Except as otherwise provided, the provisions of Schedules 18 and 19 to this Act have effect in relation to accounting periods ending on or after the self-assessment appointed day.

(5) In this section "the self-assessment appointed day" means the day appointed by the Treasury under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (corporation tax self-assessment).

Telephone claims etc.

118 Claims for income tax purposes

(1) Subject to the following provisions of this section, the Board may, by publishing them in such manner as they think fit, give such general directions for the purposes of income tax as they consider appropriate with respect to—

(a) the circumstances in which, and

(b) the conditions subject to which,

claims under the Tax Acts may be made by individuals by the use of a telecommunication system (within the meaning of the Telecommunications Act 1984) or otherwise without producing a claim in writing.

(2) If directions of the Board under this section are for the time being in force with respect to the making to the Board or an officer of the Board of claims of any description, then, notwithstanding any enactment or subordinate legislation requiring claims of that description to be made in writing or by notice, claims of that description may be made to the Board or, as the case may be, an officer of the Board in any manner authorised by the directions.

(3) Where directions of the Board under this section are for the time being in force with respect to the making of claims of any description, claims of that description that are made without producing the claim in writing must be made in accordance with the directions.

(4) The power of the Board to give directions under this section—

(a) shall not be exercisable in relation to the making of any claim by an individual in his capacity as a trustee, partner or personal representative; but

(b) subject to that, shall be exercisable in relation to claims made by an individual through another person acting on his behalf.

(5) The Board shall not give directions under this section with respect to—

(a) the making of any claim to which Schedule 1B to the Taxes Management Act 1970 applies; or

(b) the making of any claim under any provision of the Capital Allowances Act 1990.

(6) Directions under this section—

(a) shall not be capable of modifying any requirement by or under any enactment as to the period within which any claim is to be made or as to the contents of any claim; but

(b) may include provision as to how any requirement as to the contents of a claim is to be fulfilled when the claim is not produced in writing.

(7) Different provision may be made by directions under this section with respect to the making of claims of different descriptions; and a direction under this section may revoke or vary any previous direction given under this section.

(8) References in the preceding provisions of this section to the making of a claim include references to any of the following—

(a) the making of an election,

(b) the giving of a notification or notice,

(c) the amendment of any return, claim, election, notification or notice,

(d) the withdrawal of any claim, election, notification or notice,

and references in those provisions to a claim shall be construed accordingly.

(9) In this section—

"return" includes any statement or declaration under the Income Tax Acts;

"subordinate legislation" has the same meaning as in the Interpretation Act 1978.

(10) In section 832(1) of the Taxes Act 1988 (interpretation), in the definition of "notice", after "writing" there shall be inserted "or in a form authorised (in relation to the case in question) by directions under section 118 of the Finance Act 1998".

119 Evidential provisions in PAYE regulations

In section 203 of the Taxes Act 1988 (PAYE regulations), after subsection (9) there shall be inserted the following subsection—

"(10) Without prejudice to the generality of the powers conferred by the preceding provisions of this section, regulations under this section may include provision as to the manner of proving any of the matters for which the regulations provide and, in particular, of proving the contents or transmission of anything that, by virtue of the regulations, takes an electronic form or is transmitted to any person by electronic means."

CHAPTER II

TAXATION OF CHARGEABLE GAINS

Rate for trustees

120 Rate of CGT for trustees etc

(1) In section 4 of the Taxation of Chargeable Gains Act 1992 (rates of capital gains tax), after subsection (1) there shall be inserted the following subsection—

"(1AA) The rate of capital gains tax in respect of gains accruing to—

(a) the trustees of a settlement, or

(b) the personal representatives of a deceased person,

in a year of assessment shall be equivalent to the rate which for that year is applicable to trusts under section 686(1) of the Taxes Act."

(2) Subsection (1) above applies for the year 1998-99 and subsequent years of assessment.

Taper relief and indexation allowance

121 Taper relief for CGT

(1) The following section shall be inserted after section 2 of the Taxation of Chargeable Gains Act 1992—

"**2A Taper relief**

(1) This section applies where, for any year of assessment—

(a) there is, in any person's case, an excess of the total amount referred to in subsection (2) of section 2 over the amounts falling to be deducted from that amount in accordance with that subsection; and

(b) the excess is or includes an amount representing the whole or a part of any chargeable gain that is eligible for taper relief.

(2) The amount on which capital gains tax is taken to be charged by virtue of section 2(2) shall be reduced to the amount computed by—

(a) applying taper relief to so much of every chargeable gain eligible for that relief as is represented in the excess;

(b) aggregating the results; and

(c) adding to the aggregate of the results so much of every chargeable gain not eligible for taper relief as is represented in the excess.

(3) Subject to the following provisions of this Act, a chargeable gain is eligible for taper relief if—

(a) it is a gain on the disposal of a business asset with a qualifying holding period of at least one year; or

(b) it is a gain on the disposal of a non-business asset with a qualifying holding period of at least three years.

(4) Where taper relief falls to be applied to the whole or any part of a gain on the disposal of a business or non-business asset, that relief shall be applied by multiplying the amount of that gain or part of a gain by the percentage given by the table in subsection (5) below for the number of whole years in the qualifying holding period of that asset.

(5) That table is as follows—

Gains on disposals of business assets		*Gains on disposals of non-business assets*	
Number of whole years in qualifying holding period	*Percentage of gain chargeable*	*Number of whole years in qualifying holding period*	*Percentage of gain chargeable*
1	92.5	—	—
2	85	—	—
3	77.5	3	95
4	70	4	90
5	62.5	5	85
6	55	6	80
7	47.5	7	75
8	40	8	70

Gains on disposals of business assets		*Gains on disposals of non-business assets*	
Number of whole years in qualifying holding period	*Percentage of gain chargeable*	*Number of whole years in qualifying holding period*	*Percentage of gain chargeable*
9	32.5	9	65
10 or more	25	10 or more	60

(6) The extent to which the whole or any part of a gain on the disposal of a business or non-business asset is to be treated as represented in the excess mentioned in subsection (1) above shall be determined by treating deductions made in accordance with section 2(2)(a) and (b) as set against chargeable gains in such order as results in the largest reduction under this section of the amount charged to capital gains tax under section 2.

(7) Schedule A1 shall have effect for the purposes of this section.

(8) Subject to paragraph 2(4) of that Schedule, references in this section to the qualifying holding period of an asset are references—

(a) except in the case of an asset falling within subsection (9) below, to the period after 5th April 1998 for which that asset had been held at the time of its disposal; and

(b) in the case of an asset falling within that subsection, to the period mentioned in paragraph (a) above plus one year.

(9) An asset falls within this subsection if—

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

(b) there is no period which in the case of that asset is a period which by virtue of paragraph 11 or 12 of that Schedule does not count for the purposes of taper relief."

(2) Before Schedule 1 to the Taxation of Chargeable Gains Act 1992 there shall be inserted, as Schedule A1 to that Act, the Schedule set out in Schedule 20 to this Act.

(3) Schedule 21 to this Act (which makes incidental and consequential provision in connection with the introduction of taper relief) shall have effect.

(4) This section and those two Schedules have effect for the year 1998-99 and subsequent years of assessment.

122 Freezing of indexation allowance for CGT

(1) In section 53 of the Taxation of Chargeable Gains Act 1992 (indexation allowance), after subsection (1) there shall be inserted the following subsection—

"(1A) Indexation allowance in respect of changes shown by the retail prices indices for months after April 1998 shall be allowed only for the purposes of corporation tax."

(2) In subsection (1) of section 54 of that Act (calculation of indexation allowance), in the definition of "RD", for "the month in which the disposal occurs" there shall be substituted "the relevant month".

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

"(1A) In subsection (1) above—

(a) the references to an item of relevant allowable expenditure shall not, except for the purposes of corporation tax, include any item of expenditure incurred on or after 1st April 1998; and

(b) the reference to the relevant month is a reference—

(i) where that subsection has effect for the purposes of capital gains tax, to April 1998; and

(ii) where that subsection has effect for the purposes of corporation tax, to the month in which the disposal occurs."

(4) In section 13 of that Act (attribution of gains to non-resident companies), the following subsection shall be inserted after subsection (11)—

"(11A) For the purposes of this section the amount of the gain or loss accruing at any time to a company that is not resident in the United Kingdom shall be computed (where it is not the case) as if that company were within the charge to corporation tax on capital gains."

(5) In section 145 of that Act (call options: indexation allowance), in subsection (1), after the word "applies", in the first place where it occurs, there shall be inserted "(subject to subsection (1A) below)"; and after that subsection there shall be inserted the following subsection—

"(1A) In a case where the whole of the expenditure comprised in the option consideration was incurred on or after 1st April 1998, this section applies for the purposes of corporation tax only."

(6) Subject to subsection (7) below, the preceding provisions of this section have effect in relation to disposals on or after 6th April 1998.

(7) This section does not affect the computation of the amount of so much of any gain as—

(a) is treated for the purposes of the taxation of chargeable gains as having accrued on a disposal on or after 6th April 1998; but

(b) is taken for those purposes to be equal to the whole or any part of a gain that—

(i) would (but for any enactment relating to the taxation of chargeable gains) have accrued on an actual disposal made before that date, or

(ii) would have accrued on a disposal assumed under any such enactment to have been made before that date.

Pooling and identification of shares etc.

123 Abolition of pooling for CGT

(1) In subsection (2) of section 104 of the Taxation of Chargeable Gains Act 1992 (cases where share pooling does not apply), before the word "and" at the end of paragraph (a) there shall be inserted—

"(aa) does not apply, except for the purposes of corporation tax, to any securities acquired on or after 6th April 1998;".

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

"(2A) Subsection (2)(aa) above shall not prevent the application of subsection (1) above to any securities that would be treated as acquired on or after 6th April 1998 but for their falling by virtue of section 127 to be treated as the same as securities acquired before that date."

(3) In subsection (3) of that section (interpretation), for "“a new holding” is" there shall be substituted "“a section 104 holding” is".

(4) For subsection (4) of that section there shall be substituted the following subsection—

"(4) For the purposes of this Chapter securities of a company which are held—

(a) by a person who acquired them as an employee of the company or of any other person, and

(b) on terms which for the time being restrict his right to dispose of them,

shall (notwithstanding that they would otherwise fall to be treated as of the same class) be treated as of a different class from any securities acquired by him otherwise than as an employee of the company or of any other person and also from any shares that are not held subject to restrictions, or the same restrictions, on disposal or in the case of which the restrictions are no longer in force."

(5) In the following enactments for the words "new holding", wherever they occur, there shall be substituted "section 104 holding", namely—

(a) in section 440A of the Taxes Act 1988 (securities held by insurance companies); and

(b) in sections 104(6), 107 and 110 of the Taxation of Chargeable Gains Act 1992.

(6) The preceding provisions of this section have effect in relation to any disposal on or after 6th April 1998 of any securities (whenever acquired).

(7) The powers of the Treasury to make provision by regulations under one or both of—

(a) section 333 of the Taxes Act 1988 (regulations providing for exemptions in respect of investment plans), and

(a) section 151 of the Taxation of Chargeable Gains Act 1992 (capital gains tax and investment plans),

shall include power to provide, to such extent as appears to them to be appropriate for purposes connected with the enactment of this section and section 124 below, for any provision contained in any such regulations to have effect retrospectively in relation to such times falling on or after 17th March 1998 as may be specified in the regulations.

124 New identification rules for CGT

(1) After section 106 of the Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

Status: *This is the original version (as it was originally enacted).*

"106A Identification of securities: general rules for capital gains tax

(1) This section has effect for the purposes of capital gains tax (but not corporation tax) where any securities are disposed of by any person.

(2) The securities disposed of shall be identified in accordance with the following provisions of this section with securities of the same class that have been acquired by the person making the disposal.

(3) The provisions of this section 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;

but where a person disposes of securities in one capacity, they shall not be identified under those provisions with any securities which he holds, or can dispose of, only in some other capacity.

(4) Securities disposed of on an earlier date shall be identified before securities disposed of on a later date; and, accordingly, securities disposed of by a later disposal shall not be identified with securities already identified as disposed of by an earlier disposal.

(5) Subject to subsection (4) above, if within the period of thirty days after the disposal the person making it acquires securities of the same class, the securities disposed of shall be identified—

(a) with securities acquired by him within that period, rather than with other securities; and

(b) with securities acquired at an earlier time within that period, rather than with securities acquired at a later time within that period.

(6) Subject to subsections (4) and (5) above, securities disposed of shall be identified with securities acquired at a later time, rather than with securities acquired at an earlier time.

(7) Subsection (6) above shall not require securities to be identified with particular securities comprised in a section 104 holding or a 1982 holding.

(8) Accordingly, that subsection shall have effect for determining whether, and to what extent, any securities should be identified with the whole or any part of a section 104 holding or a 1982 holding—

(a) as if the time of the acquisition of a section 104 holding were the time when it first came into being; and

(b) as if 31st March 1982 were the time of the acquisition of a 1982 holding.

(9) The identification rules set out in the preceding provisions of this section have effect subject to subsection (1) of section 105, and securities disposed of shall not be identified with securities acquired after the disposal except in accordance with that section or subsection (5) above.

(10) In this section—

"1982 holding" has the same meaning as in section 109;

"securities" means any securities within the meaning of section 104 or any relevant securities within the meaning of section 108.

(11) For the purposes of this section securities of 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."

(2) In subsection (1) of section 105 of that Act (disposal and acquisition on the same day), for "The following provisions" there shall be substituted "Paragraphs (a) and (b) below"; and for subsection (2) of that section there shall be substituted the following subsection—

"(2) Where the quantity of securities disposed of by any person exceeds the aggregate quantity of—

(a) the securities (if any) which are required by subsection (1) above to be identified with securities acquired on the day of the disposal,

(b) the securities (if any) which are required by any of the provisions of section 106 or 106A(5) to be identified with securities acquired after the day of the disposal, and

(c) the securities (if any) which are required by any of the provisions of sections 104, 106, 106A or 107, or of Schedule 2, to be identified with securities acquired before the day of the disposal,

the disposal shall be treated as diminishing a quantity of securities subsequently acquired, and as so diminishing any quantity so acquired at an earlier date, rather than one so acquired at a later date."

(3) In section 107 of that Act (general identification rules) for subsections (1) and (2) there shall be substituted the following subsections—

"(1) This section has effect for the purposes of corporation tax where any securities are disposed of by a company.

(1A) The securities disposed of shall be identified in accordance with the following provisions of this section with securities of the same class that have been acquired by the company making the disposal and could be comprised in that disposal.

(2) The provisions of this section 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;

but where a company disposes of securities in one capacity, they shall not be identified with securities which it holds, or can dispose of, only in some other capacity."

(4) In section 108 of that Act (relevant securities), at the beginning there shall be inserted the following subsection—

"(A1) This section has effect for the purposes of corporation tax where any relevant securities are disposed of by a company."

(5) In that section—

(a) in subsections (2) and (7), for "person", in each place where it occurs, there shall be substituted "company"; and
(b) in subsection (2), for "him" and "he" there shall be substituted, respectively, "the company" and "it".

(6) In each of section 151B(1) and (7) of that Act and paragraph 4(2) of Schedule 5C to that Act (disapplication of share pooling and identification rules in relation to shares in a VCT), for "107" there shall be substituted "106A".

(7) Subject to subsection (8) below, the preceding provisions of this section have effect in relation to any disposal on or after 6th April 1998.

(8) For the purposes of capital gains tax for the year 1997-98 (but not for the purposes of corporation tax), the following provisions have effect in relation to any disposal of securities made on or after 17th March 1998 and before 6th April 1998, that is to say—
(a) the identification rule in subsection (5) of the section 106A of the Taxation of Chargeable Gains Act 1992 set out in subsection (1) above shall apply in accordance with subsections (3) and (4) of that section;
(b) that rule shall have priority over any other rule, except the one in section 105(1) of that Act; and
(c) section 104(1) of that Act shall not apply to any securities identified by virtue of this subsection with the securities disposed of.

(9) In subsection (8) above "securities" means any securities within the meaning of section 104 of the Taxation of Chargeable Gains Act 1992 or any relevant securities within the meaning of section 108 of that Act.

125 Indexation and share pooling etc

(1) In subsection (1) of section 110 of the Taxation of Chargeable Gains Act 1992 (indexation allowance for section 104 holdings), for "This" there shall be substituted "For the purposes of corporation tax this".

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

"110A Indexation for section 104 holdings: capital gains tax

(1) For the purposes of capital gains tax (but not corporation tax) where—
(a) there is a disposal on or after 6th April 1998 of a section 104 holding, and
(b) any of the relevant allowable expenditure was incurred before 6th April 1998,

this section applies, in place of section 54 and subject to section 105, for computing the indexation allowance.

(2) There shall be an indexed pool of expenditure and subsection (2) or, as the case may be, subsection (3) of section 110 shall apply by reference to that pool in relation to the disposal as it would apply (by reference to the pool for which that section provides) for the purposes of corporation tax.

(3) The amount at any time of the indexed pool of expenditure shall be determined by—

(a) taking the amount which would, under section 110 and section 114, have been the amount of the indexed pool of expenditure for the purposes of a disposal of the whole of the holding at the end of 5th April 1998; and

(b) making any adjustments by way of increase or reduction that would be required to be made by virtue of subsection (8) of section 110 on the assumptions set out in subsection (4) below.

(4) Those assumptions are—

(a) that the indexed pool of expenditure is an indexed pool of expenditure for the purposes of section 110;

(b) that no increase or reduction is to be made except for an operative event on or after 6th April 1998; and

(c) that paragraph (a) of section 110(8) and section 114 are to be disregarded.

(5) For the purposes of making any adjustment in accordance with subsection (3)(b) above, subsection (9) of section 110 shall be assumed to provide only that, where the operative event is a disposal, the calculation of the indexation allowance under subsection (2) of that section, as applied by subsection (2) above, is to be made before the reduction under subsection (8)(c) of that section."

(3) In each of sections 53(4) and 104(3) and (5) of that Act (which refer to section 110), after "110" there shall be inserted ", 110A".

(4) Subject to subsection (5) below, the preceding provisions of this section have effect in relation to disposals on or after 6th April 1998.

(5) This section does not affect the computation of the amount of so much of any gain as—

(a) is treated for the purposes of the taxation of chargeable gains as having accrued on a disposal on or after 6th April 1998; but

(b) is taken for those purposes to be equal to the whole or any part of a gain that—

(i) would (but for any enactment relating to the taxation of chargeable gains) have accrued on an actual disposal made before that date, or

(ii) would have accrued on a disposal assumed under any such enactment to have been made before that date.

Stock dividends

126 Capital gains on stock dividends

(1) For sections 141 and 142 of the Taxation of Chargeable Gains Act 1992 (stock dividends) there shall be substituted the following section—

"**142 Capital gains on stock dividends**

(1) This section applies where any share capital to which section 249 of the Taxes Act applies is issued as mentioned in subsection (4), (5) or (6) of that section in respect of shares in the company held by any person.

(2) The case shall not constitute a reorganisation of the company's share capital for the purposes of sections 126 to 128.

(3) The person who acquires the share capital by means of its issue shall (notwithstanding section 17(1)) be treated for the purposes of section 38(1)(a) as having acquired that asset for a consideration equal to the appropriate amount in cash (within the meaning of section 251(2) to (4) of the Taxes Act)."

(2) This section applies to any share capital issued on or after 6th April 1998.

Non-residents etc.

127 Charge to CGT on temporary non-residents

(1) After section 10 of the Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

"10A Temporary non-residents

(1) This section applies in the case of any individual ("the taxpayer") if—

(a) he satisfies the residence requirements for any year of assessment ("the year of return");

(b) he did not satisfy those requirements for one or more years of assessment immediately preceding the year of return but there are years of assessment before that year for which he did satisfy those requirements;

(c) there are fewer than five years of assessment falling between the year of departure and the year of return; and

(d) four out of the seven years of assessment immediately preceding the year of departure are also years of assessment for each of which he satisfied those requirements.

(2) Subject to the following provisions of this section and section 86A, the taxpayer shall be chargeable to capital gains tax as if—

(a) all the chargeable gains and losses which (apart from this subsection) would have accrued to him in an intervening year,

(b) all the chargeable gains which under section 13 or 86 would be treated as having accrued to him in an intervening year if he had been resident in the United Kingdom throughout that intervening year, and

(c) any losses which by virtue of section 13(8) would have been allowable in his case in any intervening year if he had been resident in the United Kingdom throughout that intervening year,

were gains or, as the case may be, losses accruing to the taxpayer in the year of return.

(3) Subject to subsection (4) below, the gains and losses which by virtue of subsection (2) above are to be treated as accruing to the taxpayer in the year of return shall not include any gain or loss accruing on the disposal by the taxpayer of any asset if—

(a) that asset was acquired by the taxpayer at a time in the year of departure or any intervening year when he was neither resident nor ordinarily resident in the United Kingdom;

(b) that asset was so acquired otherwise than by means of a relevant disposal which by virtue of section 58, 73 or 258(4) is treated as having been a disposal on which neither a gain nor a loss accrued;

(c) that asset is not an interest created by or arising under a settlement; and

(d) the amount or value of the consideration for the acquisition of that asset by the taxpayer does not fall, by reference to any relevant disposal, to be treated as reduced under section 23(4)(b) or (5)(b), 152(1)(b), 162(3)(b) or 247(2)(b) or (3)(b).

(4) Where—

(a) any chargeable gain that has accrued or would have accrued on the disposal of any asset ("the first asset") is a gain falling (apart from this section) to be treated by virtue of section 116(10) or (11), 134 or 154(2) or (4) as accruing on the disposal of the whole or any part of another asset, and

(b) the other asset is an asset falling within paragraphs (a) to (d) of subsection (3) above but the first asset is not,

subsection (3) above shall not exclude that gain from the gains which by virtue of subsection (2) above are to be treated as accruing to the taxpayer in the year of return.

(5) The gains and losses which by virtue of subsection (2) above are to be treated as accruing to the taxpayer in the year of return shall not include any chargeable gain or allowable loss accruing to the taxpayer in an intervening year which, in the taxpayer's case, has fallen to be brought into account for that year by virtue of section 10 or 16(3).

(6) The reference in subsection (2)(c) above to losses allowable in an individual's case in an intervening year is a reference to only so much of the aggregate of the losses that would have been available in accordance with subsection (8) of section 13 for reducing gains accruing by virtue of that section to that individual in that year as does not exceed the amount of the gains that would have accrued to him in that year if it had been a year throughout which he was resident in the United Kingdom.

(7) Where this section applies in the case of any individual, nothing in any enactment imposing any limit on the time within which an assessment to capital gains tax may be made shall prevent any such assessment for the year of departure from being made in the taxpayer's case at any time before the end of two years after the 31st January next following the year of return.

(8) In this section—

"intervening year" means any year of assessment which, in a case where the conditions in paragraphs (a) to (d) of subsection (1) above are satisfied, falls between the year of departure and the year of return;

"relevant disposal", means a disposal of an asset acquired by the person making the disposal at a time when that person was resident or ordinarily resident in the United Kingdom; and

"the year of departure" means the last year of assessment before the year of return for which the taxpayer satisfied the residence requirements.

(9) For the purposes of this section an individual satisfies the residence requirements for a year of assessment if that year of assessment is one during any part of which he is resident in the United Kingdom or during which he is ordinarily resident in the United Kingdom.

(10) This section is without prejudice to any right to claim relief in accordance with any double taxation relief arrangements."

(2) In section 9(3) of that Act (exclusion from charge of persons temporarily resident), for "section 10(1)" there shall be substituted "sections 10(1) and 10A".

(3) In section 96 of that Act (payments by and to companies), after subsection (9) there shall be inserted the following subsections—

"(9A) For the purposes of this section an individual shall be deemed to have been resident in the United Kingdom at any time in any year of assessment which in his case is an intervening year for the purposes of section 10A.

(9B) If—

(a) it appears after the end of any year of assessment that any individual is to be treated by virtue of subsection (9A) above as having been resident in the United Kingdom at any time in that year, and

(b) as a consequence, any adjustments fall to be made to the amounts of tax taken to have been chargeable by virtue of this section on any person,

nothing in any enactment limiting the time for the making of any claim or assessment shall prevent the making of those adjustments (whether by means of an assessment, an amendment of an assessment, a repayment of tax or otherwise)."

(4) This section has effect—

(a) in any case in which the year of departure is the year 1998-99 or a subsequent year of assessment; and

(b) in any case in which the year of departure is the year 1997-98 and the taxpayer was resident or ordinarily resident in the United Kingdom at a time in that year on or after 17th March 1998.

128 Disposal of interests in a settlement

(1) In section 76 of the Taxation of Chargeable Gains Act 1992 (disposal of interests in settled property)—

(a) in subsection (1), at the beginning there shall be inserted "Subject to subsection (1A) below";

(b) after that subsection there shall be inserted the subsections set out in subsection (2) below; and

(c) after subsection (2) there shall be inserted the subsection set out in subsection (3) below.

(2) The subsections inserted after subsection (1) are as follows—

"(1A) Subject to subsection (3) below, subsection (1) above does not apply if—

(a) the settlement falls within subsection (1B) below; or

(b) the property comprised in the settlement is or includes property deriving directly or indirectly from a settlement falling within that subsection.

(1B) A settlement falls within this subsection if there has been a time when the trustees of that settlement—

(a) were not resident or ordinarily resident in the United Kingdom; or

(b) fell to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom."

(3) The subsection inserted after subsection (2) is as follows—

"(3) Subsection (1A) above shall not prevent subsection (1) above from applying where the disposal in question is a disposal in consideration of obtaining settled property that is treated as made under subsection (2) above."

(4) This section has effect in relation to any disposal on or after 6th March 1998.

129 Attribution of gains to settlor in section 10A cases

(1) After section 86 of the Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

"86A Attribution of gains to settlor in section 10A cases

(1) Subsection (2) below applies in the case of a person who is a settlor in relation to any settlement ("the relevant settlement") where—

(a) by virtue of section 10A, amounts falling within section 86(1)(e) for any intervening year or years would (apart from this section) be treated as accruing to the settlor in the year of return; and

(b) there is an excess of the relevant chargeable amounts for the non-residence period over the amount of the section 87 pool at the end of the year of departure.

(2) Only so much (if any) of—

(a) the amount falling within section 86(1)(e) for the intervening year, or

(b) if there is more than one intervening year, the aggregate of the amounts falling within section 86(1)(e) for those years,

as exceeds the amount of the excess mentioned in subsection (1)(b) above shall fall in accordance with section 10A to be attributed to the settlor for the year of return.

(3) In subsection (1) above, the reference to the relevant chargeable amounts for the non-residence period is (subject to subsection (5) below) a reference to the aggregate of the amounts on which beneficiaries of the relevant settlement are charged to tax under section 87 or 89(2) for the intervening year or years in respect of any capital payments received by them.

(4) In subsection (1) above, the reference to the section 87 pool at the end of the year of departure is (subject to subsection (5) below) a reference to the amount (if any) which, in accordance with subsection (2) of that section, fell in relation

to the relevant settlement to be carried forward from the year of departure to be included in the amount of the trust gains for the year of assessment immediately following the year of departure.

(5) Where the property comprised in the relevant settlement has at any time included property not originating from the settlor, only so much (if any) of any capital payment or amount carried forward in accordance with section 87(2) as, on a just and reasonable apportionment, is properly referable to property originating from the settlor shall be taken into account for the purposes of subsections (3) and (4) above.

(6) Where any reduction falls to be made by virtue of subsection (2) above in any amount to be attributed in accordance with section 10A to any settlor for any year of assessment, the reduction to be treated as made for that year in accordance with section 87(3) in the case of the settlement in question shall not be made until—

(a) the reduction (if any) falling to be made by virtue of that subsection has been made in the case of every settlor to whom any amount is so attributed; and

(b) effect has been given to any reduction required to be made under subsection (7) below.

(7) Where in the case of any settlement there is (after the making of any reduction or reductions in accordance with subsection (2) above) any amount or amounts falling in accordance with section 10A to be attributed for any year of assessment to settlors of the settlement, the amount or (as the case may be) aggregate amount falling in accordance with that section to be so attributed shall be applied in reducing the amount carried forward to that year in accordance with section 87(2).

(8) Where an amount or aggregate amount has been applied, in accordance with subsection (7) above, in reducing the amount which in the case of any settlement is carried forward to any year in accordance with section 87(2), that amount (or, as the case may be, so much of it as does not exceed the amount which it is applied in reducing) shall be deducted from the amount used for that year for making the reduction under section 87(3) in the case of that settlement.

(9) Expressions used in this section and section 10A have the same meanings in this section as in that section; and paragraph 8 of Schedule 5 shall apply for the construction of the references in subsection (5) above to property originating from the settlor as it applies for the purposes of that Schedule."

(2) In section 97(1) to (5), (7) and (8) of that Act (interpretation of sections 87 to 96), for the words "sections 87", wherever occurring, there shall be substituted "sections 86A".

(3) This section has effect where the year of departure is the year 1997-98 or any subsequent year of assessment.

130 Charge on beneficiaries of settlements with non-resident settlors

(1) In subsection (1) of section 87 of the Taxation of Chargeable Gains Act 1992 (charge on beneficiaries of a non-resident settlement if the settlor is or has been domiciled and resident in the United Kingdom), the words from "if the settlor" to the end of the subsection shall be omitted.

(2) In subsection (1) of section 88 of that Act (charge on beneficiaries of a settlement treated as resident outside the United Kingdom if the settlor is or has been domiciled and resident in the United Kingdom)—

(a) the word "and" shall be inserted at the end of paragraph (a); and

(b) paragraph (c) and the word "and" immediately preceding it shall be omitted.

(3) Subject to subsection (4) below, the preceding provisions of this section apply for the year 1998-99 and subsequent years of assessment and shall be deemed to have applied for the year 1997-98.

(4) Where section 87 of that Act applies for any year of assessment in relation to any settlement in relation to which it would not have applied for that year but for subsection (1) or (2) above—

(a) gains and losses accruing to the trustees of the settlement before 17th March 1998, and

(b) capital payments received before that date,

shall be disregarded for the purposes of that section.

131 Charge on settlors of settlements for grandchildren

(1) In paragraph 2 of Schedule 5 to the Taxation of Chargeable Gains Act 1992 (test whether settlor has interest)—

(a) after sub-paragraph (3)(d) there shall be inserted the following paragraphs—

"(da) any grandchild of the settlor or of the settlor's spouse;

(db) the spouse of any such grandchild;"

(b) in sub-paragraph (3)(e), for "(d)" there shall be substituted "(db)".

(2) For sub-paragraph (7) of that paragraph, there shall be substituted the following sub-paragraph—

"(7) In this paragraph—

"child" includes a stepchild; and

"grandchild" means a child of a child."

(3) Schedule 22 to this Act (which makes transitional provision and consequential amendments in connection with the provisions of this section) shall have effect.

(4) The preceding provisions of this section and Schedule 22 to this Act apply for the year 1998-99 and subsequent years of assessment and shall be deemed to have applied for the year 1997-98.

132 Charge on settlors of pre-19th March 1991 settlements

(1) In paragraph 9 of Schedule 5 to the Taxation of Chargeable Gains Act 1992 (which sets out when a settlement is a qualifying settlement for the purposes of the attribution of gains to the settlor), after sub-paragraph (1) there shall be inserted the following sub-paragraphs—

"(1A) Subject to sub-paragraph (1B) below, a settlement created before 19th March 1991 is a qualifying settlement for the purposes of section 86 and this Schedule in—

(a) the year 1999-00, and

(b) subsequent years of assessment.

(1B) Where a settlement created before 19th March 1991 is a protected settlement immediately after the beginning of 6th April 1999, that settlement shall be treated as a qualifying settlement for the purposes of section 86 and this Schedule in a year of assessment mentioned in sub-paragraph (1A)(a) or (b) above only if—

(a) any of the five conditions set out in subsections (3) to (6A) below becomes fulfilled as regards the settlement in that year; or

(b) any of those five conditions became so fulfilled in any previous year of assessment ending after 19th March 1991."

(2) Sub-paragraph (2) of that paragraph shall not have effect for the purpose of determining whether any settlement is a qualifying settlement in the year 1999-00 or any subsequent year of assessment.

(3) After sub-paragraph (6) of that paragraph there shall be inserted the following sub-paragraph—

"(6A) The fifth condition is that the settlement ceases to be a protected settlement at any time on or after 6th April 1999."

(4) After sub-paragraph (10) of that paragraph there shall be inserted the following sub-paragraphs—

"(10A) Subject to sub-paragraph (10B) below, a settlement is a protected settlement at any time in a year of assessment if at that time the beneficiaries of that settlement are confined to persons falling within some or all of the following descriptions, that is to say—

(a) children of a settlor or of a spouse of a settlor who are under the age of eighteen at that time or who were under that age at the end of the immediately preceding year of assessment;

(b) unborn children of a settlor, of a spouse of a settlor, or of a future spouse of a settlor;

(c) future spouses of any children or future children of a settlor, a spouse of a settlor or any future spouse of a settlor;

(d) a future spouse of a settlor;

(e) persons outside the defined categories.

(10B) For the purposes of sub-paragraph (10A) above a person is outside the defined categories at any time if, and only if, there is no settlor by reference to whom he is at that time a defined person in relation to the settlement for the purposes of paragraph 2(1) above.

(10C) For the purposes of sub-paragraph (10A) above a person is a beneficiary of a settlement if—

(a) there are any circumstances whatever in which relevant property which is or may become comprised in the settlement is or will or may become applicable for his benefit or payable to him;

(b) there are any circumstances whatever in which relevant income which arises or may arise under the settlement is or will or may become applicable for his benefit or payable to him;

(c) he enjoys a benefit directly or indirectly from any relevant property comprised in the settlement or any relevant income arising under the settlement.

(10D) In sub-paragraph (10C) above—

"relevant property" means property originating from a settlor; and

"relevant income" means income originating from a settlor."

(5) In construing section 86(1)(e) of the Taxation of Chargeable Gains Act 1992 (which specifies the amount by reference to which a charge arises under that section) as regards a particular year of assessment and in relation to a settlement created before 19th March 1991 which—

(a) is a qualifying settlement in the year 1999-00, but

(b) was not a qualifying settlement in any earlier year of assessment,

no account shall be taken of disposals made before 6th April 1999 (whether for the purpose of arriving at gains or for the purpose of arriving at losses).

(6) Schedule 23 (which makes transitional provision in connection with the coming into force of this section) shall have effect.

Groups of companies etc.

133 Transfer within group to investment trust

(1) After section 101 of the Taxation of Chargeable Gains Act 1992, there shall be inserted the following section—

"101A Transfer within group to investment trust

(1) This section applies where—

(a) an asset has been disposed of to a company (the "acquiring company") and the disposal has been treated by virtue of section 171(1) as giving rise to neither a gain nor a loss,

(b) at the time of the disposal the acquiring company was not an investment trust, and

(c) the conditions set out in subsection (2) below are satisfied by the acquiring company.

(2) Those conditions are satisfied by the acquiring company if—

(a) it becomes an investment trust for an accounting period beginning not more than 6 years after the time of the disposal,

(b) at the beginning of that accounting period, it owns, otherwise than as trading stock—

(i) the asset, or

(ii) property to which a chargeable gain has been carried forward from the asset on a replacement of business assets,

(c) it has not been an investment trust for any earlier accounting period beginning after the time of the disposal, and

(d) at the time at which it becomes an investment trust, there has not been an event by virtue of which it falls by virtue of section 179(3)

Status: *This is the original version (as it was originally enacted).*

or 101C(3) to be treated as having sold, and immediately reacquired, the asset at the time specified in subsection (3) below.

(3) The acquiring company shall be treated for all the purposes of this Act as if immediately after the disposal it had sold, and immediately reacquired, the asset at its market value at that time.

(4) Any chargeable gain or allowable loss which, apart from this subsection, would accrue to the acquiring company on the sale referred to in subsection (3) above shall be treated as accruing to it immediately before the end of the last accounting period to end before the beginning of the accounting period for which the acquiring company becomes an investment trust.

(5) For the purposes of this section a chargeable gain is carried forward from an asset to other property on a replacement of business assets if—

(a) by one or more claims under sections 152 to 158, the chargeable gain accruing on a disposal of the asset is reduced, and

(b) as a result an amount falls to be deducted from the expenditure allowable in computing a gain accruing on the disposal of the other property.

(6) For the purposes of this section an asset acquired by the acquiring company shall be treated as the same as an asset owned by it at a later time if the value of the second asset is derived in whole or in part from the first asset; and, in particular, assets shall be so treated where—

(a) the second asset is a freehold and the first asset was a leasehold; and

(b) the lessee has acquired the reversion.

(7) Where under this section a company is to be treated as having disposed of and reacquired an asset—

(a) all such recomputations of liability in respect of other disposals, and

(b) all such adjustments of tax, whether by way of assessment or by way of discharge or repayment of tax,

as may be required in consequence of the provisions of this section shall be carried out.

(8) Notwithstanding any limitation on the time for making assessments, any assessment to corporation tax chargeable in consequence of this section may be made at any time within 6 years after the end of the accounting period referred to in subsection (2)(a) above."

(2) In section 179 of that Act (company ceasing to be a member of a group), after subsection (2B) there shall be inserted the following subsection—

"(2C) This section shall not have effect as respects any asset if, before the time when the chargeable company ceases to be a member of the group or, as the case may be, the second group, an event has already occurred by virtue of which the company falls by virtue of section 101A(3) to be treated as having sold and immediately reacquired the asset at the time specified in subsection (3) below."

(3) Subsections (1) and (2) above apply to any company which becomes an investment trust for an accounting period beginning on or after 17th March 1998.

134 Transfer of company's assets to venture capital trust

(1) In subsection (4) of section 139 of the Taxation of Chargeable Gains Act 1992 (reconstruction or amalgamation involving transfer of a business), after "investment trust" there shall be inserted "or a venture capital trust."

(2) After the section 101A of that Act inserted by section 133 above there shall be inserted the following section—

"**101B Transfer of company's assets to venture capital trust**

(1) Where section 139 has applied on the transfer of a company's business (in whole or in part) to a company which at the time of the transfer was not a venture capital trust, then if—

(a) at any time after the transfer the company becomes a venture capital trust by virtue of an approval for the purposes of section 842AA of the Taxes Act; and

(b) at the time as from which the approval has effect the company still owns any of the assets of the business transferred,

the company shall be treated for all the purposes of this Act as if immediately after the transfer it had sold, and immediately reacquired, the assets referred to in paragraph (b) above at their market value at that time.

(2) Any chargeable gain or allowable loss which, apart from this subsection, would accrue to the company on the sale referred to in subsection (1) above shall be treated as accruing to the company immediately before the time mentioned in subsection (1)(b) above.

(3) This section does not apply if at the time mentioned in subsection (1)(b) above there has been an event by virtue of which the company falls by virtue of section 101(1) to be treated as having sold, and immediately reacquired, the assets immediately after the transfer referred to in subsection (1) above.

(4) Notwithstanding any limitation on the time for making assessments, any assessment to corporation tax chargeable in consequence of this section may, in a case in which the approval mentioned in subsection (1)(a) above has effect as from the beginning of an accounting period, be made at any time within 6 years after the end of that accounting period.

(5) Where under this section a company is to be treated as having disposed of, and reacquired, an asset of a business, all such recomputations of liability in respect of other disposals and all such adjustments of tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the provisions of this section shall be carried out."

(3) After subsection (1A) of section 101 of that Act there shall be inserted the following subsection—

"(1B) This section does not apply if at the time at which the company becomes an investment trust there has been an event by virtue of which it falls by virtue of section 101B(1) to be treated as having sold, and immediately reacquired, the assets immediately after the transfer referred to in subsection (1) above."

(4) Subsection (1) above applies to transfers made on or after 17th March 1998.

(5) Subsections (2) and (3) above apply to a company in respect of which an approval for the purposes of section 842AA of the Taxes Act 1988 (venture capital trusts) has effect as from a time falling on or after 17th March 1998.

135 Transfer within group to venture capital trust

(1) In section 171 of the Taxation of Chargeable Gains Act 1992 (transfers within a group), after the word "or" at the end of paragraph (c) of subsection (2) there shall be inserted the following paragraph—

"(cc) a disposal by or to a venture capital trust; or"

(2) After the section 101B of that Act inserted by section 134 above there shall be inserted the following section—

"101C Transfer within group to venture capital trust

(1) This section applies where—

(a) an asset has been disposed of to a company (the "acquiring company") and the disposal has been treated by virtue of section 171(1) as giving rise to neither a gain nor a loss,

(b) at the time of the disposal the acquiring company was not a venture capital trust, and

(c) the conditions set out in subsection (2) below are satisfied by the acquiring company.

(2) Those conditions are satisfied by the acquiring company if—

(a) it becomes a venture capital trust by virtue of an approval having effect as from a time (the "time of approval") not more than 6 years after the time of the disposal,

(b) at the time of approval the company owns, otherwise than as trading stock—

(i) the asset, or

(ii) property to which a chargeable gain has been carried forward from the asset on a replacement of business assets,

(c) it has not been a venture capital trust at any earlier time since the time of the disposal, and

(d) at the time of approval, there has not been an event by virtue of which it falls by virtue of section 179(3) or 101A(3) to be treated as having sold, and immediately reacquired, the asset at the time specified in subsection (3) below.

(3) The acquiring company shall be treated for all the purposes of this Act as if immediately after the disposal it had sold, and immediately reacquired, the asset at its market value at that time.

(4) Any chargeable gain or allowable loss which, apart from this subsection, would accrue to the acquiring company on the sale referred to in subsection (3) above shall be treated as accruing to it immediately before the time of approval.

(5) Subsections (5) to (7) of section 101A apply for the purposes of this section as they apply for the purposes of that section.

(6) Notwithstanding any limitation on the time for making assessments, any assessment to corporation tax chargeable in consequence of this section may, in a case in which the time of approval is the time at which an accounting period of the company begins, be made at any time within 6 years after the end of that accounting period.

(7) Any reference in this section to an approval is a reference to an approval for the purposes of section 842AA of the Taxes Act."

(3) In section 179 of that Act (company ceasing to be a member of a group), after the subsection (2C) inserted by section 133 above there shall be inserted the following subsection—

"(2D) This section shall not have effect as respects any asset if, before the time when the chargeable company ceases to be a member of the group or, as the case may be, the second group, an event has already occurred by virtue of which the company falls by virtue of section 101C(3) to be treated as having sold and immediately reacquired the asset at the time specified in subsection (3) below."

(4) Subsection (1) above applies to disposals made on or after 17th March 1998.

(5) Subsections (2) and (3) above apply to a company in respect of which an approval for the purposes of section 842AA of the Taxes Act 1988 (venture capital trusts) has effect as from a time falling on or after 17th March 1998.

136 Incorporated friendly societies

(1) In section 170(9) of the Taxation of Chargeable Gains Act 1992 (meaning of "company" in sections 170 to 181), after the word "and" at the end of paragraph (c) there shall be inserted the following paragraph—

"(cc) an incorporated friendly society within the meaning of the Friendly Societies Act 1992; and".

(2) In subsection (2) of section 171 of that Act (transfers within a group), after the word "or" at the end of the paragraph (cc) inserted by section 135 above there shall be inserted the following paragraph—

"(cd) a disposal by or to a qualifying friendly society; or"

(3) After subsection (4) of that section there shall be inserted the following subsection—

"(5) In subsection (2)(cd) above "qualifying friendly society" means a company which is a qualifying society for the purposes of section 461B of the Taxes Act (incorporated friendly societies entitled to exemption from income tax and corporation tax on certain profits)."

(4) Subsection (1) above applies for the purpose of determining, in relation to times on and after 17th March 1998, whether a friendly society is a company within the meaning of the provisions of sections 170 to 181 of the Taxation of Chargeable Gains Act 1992.

(5) Subsections (2) and (3) above apply in relation to disposals made on or after 17th March 1998.

137 Pre-entry gains

(1) In the Taxation of Chargeable Gains Act 1992, after section 177A (pre-entry losses) there shall be inserted the following section—

"Pre-entry gains

177B Restrictions on setting losses against pre-entry gains

Schedule 7AA to this Act (which makes provision restricting the losses that may be set against the chargeable gains accruing to a company in the accounting period in which it joins a group of companies) shall have effect."

(2) After Schedule 7A to that Act there shall be inserted, as Schedule 7AA to that Act, the Schedule set out in Schedule 24 to this Act.

(3) In subsection (3) of section 213 of that Act (carry back of losses in respect of deemed annual disposal by insurance companies)—

(a) at the beginning there shall be inserted "Subject to subsection (3A) below,"; and

(b) for the "and" at the end of paragraph (c) there shall be substituted—

"(ca) none of the intervening accounting periods is an accounting period in which the company joined a group of companies, and".

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

"(3A) Subsection (3) above shall have effect where the company in question joins a group of companies in the later period as if a claim could not be made in respect of the net amount for that period except to the extent (if any) that the net amount is an amount which, assuming there to be gains accruing to the company immediately after the beginning of that period, would fall to be treated under paragraph 4 of Schedule 7AA as a qualifying loss in relation to those gains.

(3B) References in subsections (3) and (3A) above to a company joining a group of companies shall be construed in accordance with paragraph 1 of Schedule 7AA as if those references were contained in that Schedule."

(5) Subsections (1) and (2) above and Schedule 24 to this Act have effect in relation to any accounting period ending on or after 17th March 1998.

(6) Subsection (3) above has effect in relation to any intervening period ending on or after 17th March 1998.

(7) Subsection (4) above has effect in any case where the earlier accounting period is one ending on or after 17th March 1998.

138 Pre-entry losses

(1) In paragraph 9(6) of Schedule 7A to the Taxation of Chargeable Gains Act 1992 (separate application of provisions relating to pre-entry losses in relation to different groups), for "for the purposes of this paragraph as the same group if" there shall be substituted "in relation to any company that is or has become a member of the second

group ("the relevant company") as the same group for the purposes of this paragraph if—

(a) the time at which the relevant company became a member of the first group is a time in the same accounting period as that in which the principal company of the first group became a member of the second group; or

(b)".

(2) This section has effect in relation to any accounting period ending on or after 17th March 1998.

139 De-grouping charges

(1) In section 179(2B) of the Taxation of Chargeable Gains Act 1992 (cases where there is a connection between groups successively left by a company)—

(a) in paragraph (b), for the words from "company which" to "its" there shall be substituted "person or persons who control the company mentioned in paragraph (a) above or who have had it under their";

(b) in paragraph (c), for the words from "company which has" to "its" there shall be substituted "person or persons who have, at any time in that period, had under their"; and

(c) in that paragraph, for "fallen", wherever it occurs, there shall be substituted "been a person falling".

(2) Subsection (1) above has effect in relation to a company in any case in which the time of the company's ceasing to be a member of the second group is on or after 17th March 1998.

Abolition of reliefs

140 Phasing out of retirement relief

(1) In Schedule 6 to the Taxation of Chargeable Gains Act 1992 (retirement relief etc.), paragraph 13(1) (amount available for relief: basic rule) shall have effect, in relation to qualifying disposals in a year of assessment specified in the first column of the following Table, as if—

(a) for the references to £250,000 there were substituted references to the amount specified in the second column of that Table; and

(b) for the reference to £1 million there were substituted a reference to the amount specified in the third column of that Table.

TABLE

Year	*£250,000*	*£1 million*
1999-00	£200,000	£800,000
2000-01	£150,000	£600,000
2001-02	£100,000	£400,000
2002-03	£50,000	£200,000

(2) The following provisions, namely—

(a) section 163 of that Act (relief for disposals by individuals on retirement from family business),

(b) section 164 of that Act (other retirement relief), and

(c) Schedule 6 to that Act,

shall cease to have effect in relation to disposals in the year 2003-04 and subsequent years of assessment.

(3) In section 157 of that Act (trade carried on by family company), for the words "within the meaning of Schedule 6" there shall be substituted the words "that is to say, a company the voting rights in which are exercisable, as to not less than 5 per cent., by him".

(4) In subsection (8) of section 165 of that Act (relief for gifts of business assets), for paragraph (a) there shall be substituted the following paragraphs—

"(a) "personal company", in relation to an individual, means a company the voting rights in which are exercisable, as to not less than 5 per cent., by that individual;

(aa) "holding company", "trading company" and "trading group" have the meanings given by paragraph 22 of Schedule A1; and".

(5) In the following provisions, namely—

(a) subsection (8) of section 228 of that Act (conditions for roll-over relief: supplementary), and

(b) subsection (14)(b) of section 253 of that Act (relief for loans to traders),

for the words "paragraph 1 of Schedule 6" there shall be substituted the words "paragraph 22 of Schedule A1".

(6) Subsections (3) to (5) above have effect in relation to the year 2003-04 and subsequent years of assessment.

141 Abolition of certain other CGT reliefs

(1) The following provisions of the Taxation of Chargeable Gains Act 1992 shall cease to have effect, namely—

(a) Chapter IA of Part V (roll-over relief on re-investment); and

(b) sections 254 and 255 (relief for debts on qualifying corporate bonds).

(2) In subsection (1) above—

(a) paragraph (a) has effect in relation to acquisitions made on or after 6th April 1998; and

(b) paragraph (b) has effect in relation to loans made on or after 17th March 1998.