



Finance Act 1976

1976 CHAPTER 40

PART I

CUSTOMS AND EXCISE

Duties on alcoholic beverages

1 Increase of duties on spirits, beer, wine and made-wine

- (1) in the Table in section 9 of the Finance (No. 2) Act 1975 (excise duty on spirits) for "22.0900" and "22.1650" there shall be substituted " 24.6300 " and " 24.7050 " respectively.
- (2) In section 10(1) of that Act (excise duty on beer) for "£13.6800" and "£0.4560" there shall be substituted " £15.8400 " and " £0.5280 " respectively.
- (3) For the provisions of Schedule 4 to that Act (rates of excise duty on wine) there shall be substituted the provisions of Schedule 1 to this Act.
- (4) For the provisions of Schedule 5 to that Act (rates of excise duty on made-wine) there shall be substituted the provisions of Schedule 2 to this Act.
- (5) This section shall be deemed to have come into force on 7th April 1976.

2 Excise duty on cider

- (1) As from 6th September 1976 there shall be charged on cider—
 - (a) imported into the United Kingdom ; or
 - (b) made in the United Kingdom by a person who is required by subsection (2) below to be registered as a maker of cider,a duty of excise at the rate of £0.22 a gallon.

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- (2) Subject to subsection (3) below, a person who, on any premises in the United Kingdom, makes cider for sale must be registered with the Commissioners in respect of those premises.
- (3) The Treasury may by order made by statutory instrument provide for exempting from subsection (2) above makers of cider whose production does not exceed such limit as is specified in the order and who comply with such other conditions as may be so specified; and any order under this subsection may be varied or revoked by a subsequent order.
- (4) If any person who is required by subsection (2) above to be registered in respect of any premises makes cider on those premises without being registered in respect of them, he shall be liable to a penalty of £500 and the cider and all vessels, utensils and materials for making cider found in his possession shall be liable to forfeiture.
- (5) The Commissioners may with a view to managing the duty imposed by this section on cider made in the United Kingdom make regulations—
 - (a) regulating the making of cider for sale and the registration and cancellation of registration of makers of cider;
 - (b) for determining the duty and the rate thereof and in that connection prescribing the method of charging the duty;
 - (c) for securing and collecting the duty ;
 - (d) for relieving cider from the duty in such circumstances and to such extent as may be prescribed in the regulations.
- (6) If any person fails to comply with any regulation made under subsection (5) above, he shall be liable to a penalty of £50 and any article in respect of which the offence was committed shall be liable to forfeiture.
- (7) As from 6th September 1976 the enactments mentioned in Schedule 3 to this Act shall have effect subject to the amendments there specified, being amendments consequential on this section.
- (8) In this section " cider" means cider (or perry) of a strength less than 8.7 per cent. of alcohol by volume (at a temperature of 20° C) obtained from the fermentation of apple or pear juice without the addition at any time of any alcoholic liquor or of any liquor or substance which communicates colour or flavour other than such as the Commissioners may allow as appearing to them to be necessary to make cider (or perry).

3 Relaxation of prohibition on retail sales at distilleries

- (1) Subsection (1) of section 105 of the Customs and Excise Act 1952 (restriction on carrying on of other trades by distillers and rectifiers) shall cease to apply to the trade of retailer of spirits ; and after that subsection there shall be inserted—

“(1A) Save with the permission of the Commissioners and subject to compliance with such conditions as they see fit to impose, a distiller or rectifier shall not—

 - (a) carry on upon his premises the trade of a retailer of spirits; or
 - (b) carry on the trade of a distiller or, as the case may be, rectifier on any premises communicating otherwise than by a public roadway with other premises on which the trade of retailer of spirits is carried on.”

(2) Subsection (1) of section 160 of that Act (which precludes a dealer in or retailer of spirits from carrying on his business on premises communicating otherwise than by a public roadway with premises entered or used by a distiller or rectifier) shall cease to apply to a retailer of spirits; and for subsection (2) of that section (which precludes a retailer of spirits from being concerned or interested in the business of a distiller or rectifier carried on within two miles of his premises) there shall be substituted—

“(2) Save with the permission of the Commissioners and subject to compliance with such conditions as they see fit to impose, a retailer of spirits shall not—

- (a) carry on his business on any premises which are entered or used by a distiller or rectifier or which communicate otherwise than by a public roadway with any such premises ; or
- (b) be concerned or interested in the business of a distiller or rectifier carried on upon any premises within two miles of any premises at which he sells spirits by retail.”

(3) In subsection (3) of the said section 160 (penalties) after the words " provisions of this section " there shall be inserted the words " or any condition imposed thereunder ".

Tobacco products duty

4 Charge and administration

(1) As from 10th May 1976 there shall be charged on tobacco products imported into or manufactured in the United Kingdom a duty of excise at the rates shown in the following Table—

TABLE

1. Cigarettes	An amount equal to 20 per cent. of the retail price.
2. Cigars	£2.765 per pound.
3. Hand-rolling tobacco	£2.400 per pound.
4. Other smoking tobacco and chewing tobacco.	£1.550 per pound.

(2) Subject to such conditions as they see fit to impose, the Commissioners shall remit or repay the duty charged by this section where it is shown to their satisfaction that the products in question have been—

- (a) exported or shipped as stores ; or
- (b) used solely for the purposes of research or experiment;

and the Commissioners may by regulations provide for the remission or repayment of the duty in such other cases as may be specified in the regulations and subject to such conditions as they see fit to impose.

(3) The Commissioners may with a view to managing the duty charged by this section make regulations—

- (a) prescribing the method of charging the duty and for securing and collecting the duty ;

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- (b) for the registration of premises for the safe storage of tobacco products and for requiring the deposit of such products in, and regulating their treatment in and removal from, premises so registered ;
 - (c) for requiring the keeping and preservation of such records, and the making of such returns, as may be specified in the regulations; and
 - (d) for the inspection of goods, documents and premises.
- (4) If any person fails to comply with any regulation made under this section he shall be liable to a penalty of £200 and any article in respect of which, or found on premises in respect of which, the offence was committed shall be liable to forfeiture.
- (5) In subsection (1) above " hand-rolling tobacco" means tobacco—
- (a) which is sold or advertised by the importer or manufacturer as suitable for making into cigarettes; or
 - (b) of which more than 25 per cent. by weight of the tobacco particles have a width of less than 0.6 mm.
- (6) In this section and the other provisions of this Part of this Act relating to tobacco " tobacco products " means any of the products mentioned in the Table in subsection (1) above which are manufactured wholly or partly from tobacco or any substance used as a substitute for tobacco but does not include products commonly known as herbal cigarettes or herbal smoking mixtures.

5 Retail price of cigarettes

- (1) For the purposes of the duty chargeable at any time under section 4 above in respect of cigarettes of any description, the retail price of the cigarettes shall be taken to be—
- (a) in a case in which paragraph (b) below does not apply, the highest price at which cigarettes of that description are normally sold by retail at that time in the United Kingdom;
 - (b) in any case where—
 - (i) there is a price recommended by the importer or manufacturer for the sale by retail at that time in the United Kingdom of cigarettes of that description ; and
 - (ii) duty is tendered and accepted by reference to that price,the price so recommended.
- (2) The duty in respect of any number of cigarettes shall be charged by reference to the price which, in accordance with subsection (1) above, is applicable to cigarettes sold in packets of twenty or of such other number as the Commissioners may determine in relation to cigarettes of the description in question ; and the whole of the price of a packet shall be regarded as referable to the cigarettes it contains notwithstanding that it also contains a coupon, token, card or other additional item.
- (3) In any case in which duty is chargeable in accordance with paragraph (a) of subsection (1) above—
- (a) the question as to what price is applicable under that paragraph shall, subject to subsection (4) below, be determined by the Commissioners ; and
 - (b) the Commissioners may require security (by deposit of money or otherwise to their satisfaction) for the payment of duty to be given pending their determination.

- (4) Any person who has paid duty in accordance with a determination of the Commissioners under subsection (3)(a) above and is dissatisfied with their determination may require the question of what price was applicable under subsection (1)(a) above to be referred to the arbitration of a referee appointed by the Lord Chancellor, not being an official of any government department; and if the referee determines that the price was lower than that determined by the Commissioners, they shall repay the duty overpaid, together with interest thereon from the date of the overpayment at such rate as the referee may determine.
- (5) The procedure on any reference to a referee under subsection (4) above shall be such as may be determined by the referee; and the referee's decision on any such reference shall be final and conclusive.

6 Alteration of rates of duty

- (1) The Treasury may by order increase or decrease any of the rates of duty for the time being in force under the Table in section 4(1) above by such percentage thereof, not exceeding ten per cent., as may be specified in the order, but any such order shall cease to be in force at the expiration of a period of one year from the date on which it takes effect unless continued in force by a further order under this section.
- (2) Any order under this section may be varied or revoked by a subsequent order ; and in relation to any order to continue, vary or replace a previous order, the reference in subsection (1) above to the rate for the time being in force is a reference to the rate that would be in force if no order under this section had been made.
- (3) The power to make orders under this section shall be exercisable by statutory instrument.
- (4) Any order under this section increasing the rate in force at the time of making an order shall be laid before the House of Commons after being made; and unless it is approved by that House before the expiration of twenty-eight days beginning with the date on which it was made, it shall cease to have effect on the expiration of that period, but without prejudice to anything previously done thereunder or to the making of a new order.

In reckoning any such period no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the House of Commons is adjourned for more than four days.
- (5) Any order under this section to which subsection (4) above does not apply shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (6) Section 9 of the Finance Act 1961 (surcharges and rebates in respect of revenue duties) shall not apply to duty charged under section 4 above.

7 Charge in cases of default

- (1) Where the records or returns kept or made by any person in pursuance of regulations under section 4 above show that any tobacco products or materials for their manufacture are or have been in his possession or under his control, the Commissioners may from time to time require him to account for those products or materials and unless he proves—

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- (a) that duty has been paid or secured under that section in respect of the products or, as the case may be, products manufactured from the materials; or
- (b) that the products or materials are being or have been otherwise dealt with in accordance with the regulations,

the Commissioners may require him to pay duty under that section in respect of those products or, as the case may be, in respect of such products as in their opinion might reasonably be expected to be manufactured from those materials.

- (2) Where a person has failed to keep or make any records or returns required by regulations under section 4 above or it appears to the Commissioners that any such records or returns are inaccurate or incomplete they may require him to pay any duty under that section which they consider would have been shown to be due if proper records or returns had been kept or made.

Existing tobacco duties

8 Reduction of tobacco duties

- (1) As from 10th May 1976 the rates of the duties of customs and excise chargeable on tobacco under the provisions mentioned in subsection (2) below shall each be reduced by £1.855 per pound ; and as respects tobacco on which there have been paid duties of customs and excise at the said reduced rates, the rates of drawback allowable under those provisions shall each be reduced by the like amount per pound.
- (2) The provisions mentioned in subsection (1) above are the provisions of—
 - (a) section 4 of the Finance Act 1964, Schedule 5 to the Finance Act 1973, section 1(6) of the Finance Act 1974 and section 1(6) of the Finance (No. 2) Act 1975 ; and
 - (b) any order made before the said 10th May under section 1(4) of the said Act of 1973.
- (3) In section 1(4) of the said Act of 1973 for paragraphs (a) and (b) there shall be substituted the words " the rates of the duty of customs and of drawback in respect of tobacco " ; and subsection (1) above is without prejudice to the powers conferred on the Treasury by the said section 1(4).
- (4) The Commissioners may make regulations for the repayment of any amounts of duty paid, and the recovery of any amounts of drawback allowed, in the period beginning with the said 10th May and ending with the passing of this Act which would not have been payable or allowable if this Act had been passed on that date ; and the regulations may provide for setting off against any such repayment any amount due for that period by way of duty under section 4 above.
- (5) If it is shown to the satisfaction of the Commissioners that any tobacco which has borne duty before the said 10th May under the provisions mentioned in subsection (2) above has been or will be used in the manufacture of tobacco products chargeable with duty under section 4 above, they shall make a repayment at the rate of £1.855 per pound in respect of the duty borne by that tobacco as aforesaid; and the rate per pound at which drawback is allowable on tobacco in respect of which a repayment has been made under this subsection shall be reduced by £1.855.

Hydrocarbon oil duty

9 Increase of duty on hydrocarbon oil etc.

- (1) In section 11 of the Finance (No. 2) Act 1975 (excise duty on hydrocarbon oil etc.) for the words " £0.2250 a gallon " there shall be substituted the words " £0.3000 a gallon ".
- (2) This section shall be deemed to have come into force at 6 o'clock in the evening of 9th April 1976.

10 Use of rebated heavy oil

- (1) In paragraphs 2(b) and 3(b) of Schedule 1 to the Hydrocarbon Oil (Customs & Excise) Act 1971 (vehicles in which heavy oil may be used without repayment of rebate) for the words " or mowing machine " there shall be substituted the words " , mowing machine or fisherman's tractor ".
- (2) In paragraphs 3 and 5 of that Schedule (which contain references to provisions of the Vehicles (Excise) Act (Northern Ireland) 1954 now consolidated in the Vehicles (Excise) Act (Northern Ireland) 1972), for "section 7(1)(h)", "section 7(5)", "section 4(2)(a), (b), (c), or (d) of ", " section 20 " and " 1954 " wherever it occurs there shall be substituted " section 4(1)(h) " , " section 7(1) " , " Schedule 3 to " , " section 23 " and " 1972 " respectively.

Vehicles excise duty

11 Information about goods vehicles and registration of trailers

- (1) The power to make regulations under the Vehicles (Excise) Act 1971 as to the declaration to be made and particulars to be furnished by a person applying for a licence under that Act shall, in the case of applications for licences for goods vehicles, include power to require the declaration and particulars to extend to any matter specified in subsection (2) below as to which the Secretary of State may require information with a view to an alteration in the basis on which duty is chargeable under that Act in respect of such vehicles.
- (2) The matters referred to in subsection (1) above are—
 - (a) the construction of the vehicle ;
 - (b) the plated weights of the vehicle under Part II of the Road Traffic Act 1972 ;
 - (c) if the vehicle has no such plated weights, the weight, when laden with the maximum load which it is constructed or adapted to carry, of the vehicle or, if it falls within paragraph 6 of Schedule 4 to the said Act of 1971, of the single vehicle of which it is treated as forming part;
 - (d) the use to which the vehicle has been or is likely to be put.
- (3) In section 23(d) of the said Act of 1971 (and subsection (3) of the section 23 set out in paragraph 20 of Part I of Schedule 7 to that Act) references to mechanically propelled vehicles in respect of which duty is not chargeable under that Act shall include references to trailers.
- (4) In this section " goods vehicle " and " trailer " have the same meaning as in Schedule 4 to the said Act of 1971.

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- (5) This section shall apply to Northern Ireland with the substitution for references to the said Act of 1971 of references to the Vehicles (Excise) Act (Northern Ireland) 1972 (and, in subsection (3), for the reference to Schedule 7 of a reference to Schedule 9) and with the substitution for the reference to Part II of the Road Traffic Act 1972 of a reference to any corresponding provisions for the time being in force in Northern Ireland.

12 Charges on request for registration number

- (1) Regulations under the Vehicles (Excise) Act 1971 may provide for a prescribed charge to be made in cases where by request a particular registration mark is assigned to a vehicle (whether on its first registration or later), having previously been assigned to another vehicle.
- (2) The regulations may—
- (a) require the vehicle to which a mark is requested to be assigned, and also in prescribed cases the other vehicle, to be made available for inspection either at a place designated by or under the regulations, or elsewhere;
 - (b) provide for a prescribed charge to be made for the inspection, and for the whole or part of this charge to be retained whether or not the mark is assigned as requested.
- (3) Charges prescribed for the purposes of this section may be of any amount approved by the Treasury, and need not be related to the costs of making the assignment or (as the case may be) of arranging for any vehicle to be inspected.
- (4) The first regulations under the Vehicles (Excise) Act 1971 prescribing the amount of any charge by virtue of this section shall not be made unless a draft of a statutory instrument containing them has been laid before Parliament and approved by a resolution of each House; and those regulations shall not then be subject to annulment as otherwise provided for regulations under the Act.
- (5) The Vehicles (Excise) Act 1971 and this section shall be construed as if this section (without this subsection) were contained in that Act; and this section shall apply to Northern Ireland with the substitution for references to that Act of references to the Vehicles (Excise) Act (Northern Ireland) 1972.

13 Restriction of exemption for disabled persons

- (1) Subject to subsection (2) below, a vehicle shall not be exempt from duty by virtue of section 7 of the Finance Act 1971 for any period after 6th April 1976 for which the person in whose name the vehicle is registered is entitled to a mobility allowance.
- (2) Where a person—
- (a) has before the said 6th April obtained, in pursuance of regulations made under the Vehicles (Excise) Act 1971, a document in the form of a licence in respect of a vehicle exempt under the said section 7 ; or
 - (b) has since the beginning of 1976 and before that date applied for the certificate required by the regulations for obtaining such a document,
- the vehicle shall not cease to be exempt by virtue of this section before the expiration of the period of validity of the document obtained by him before that date or, as the case may be, the first such document obtained by him after that date by virtue of the certificate.

- (3) This section shall apply to Northern Ireland with the substitution for any reference to the said section 7 of a reference to section 7(2A) of the Vehicles (Excise) Act (Northern Ireland) 1972 and for the reference to the Vehicles (Excise) Act 1971 of a reference to the said Act of 1972.

14 Fishermen's tractors

- (1) The Vehicles (Excise) Act 1971 shall be amended in accordance with subsections (2) to (4) below.
- (2) After paragraph 5 of Part I of Schedule 3 there shall be inserted—
- “5A In this Schedule " fisherman's tractor " means a tractor registered under this Act in the name of a person engaged in the business of sea fishing for food and not used on public roads for hauling anything except—
- (a) a fishing boat, and anything (including the catch) carried in it, which belongs to that person or to him and other persons engaged in that business in the same locality;
 - (b) fishing tackle or other equipment required by the crew, or for the operation, of any such boat;
 - (c) fishing tackle or other equipment required for, and the catch resulting from, fishing operations carried out with the tractor.”
- (3) In paragraph 1 in column 1 of Part II of that Schedule after the words " mowing machines " there shall be inserted the words " fishermen's tractors ".
- (4) In Part I of Schedule 4, in paragraph 3(c) for the words " or works truck " there shall be substituted the words " , works truck or fisherman's tractor " and in paragraph 9(1) after the definition of " farmer's goods vehicle " there shall be inserted—
- “ fisherman's tractor ' has the same meaning as in Schedule 3 to this Act;”.
- (5) In section 6(1) of the Finance Act 1971 (definition of " tractor ") after the words " paragraph 2 " there shall be inserted the words " or of ' fisherman's tractor' in paragraph 5A ".
- (6) Subsections (2) to (4) above shall also have effect in relation to the Vehicles (Excise) Act (Northern Ireland) 1972; and in paragraph 2(2) of Schedule 3 to that Act, after the words " sub-paragraph (1)" there shall be inserted the words " and ' fisherman's tractor' in paragraph 5A ".

Miscellaneous

15 Deferred payment of customs duty

- (1) The Commissioners may by regulations provide for the payment of customs duty to be deferred in such cases as may be specified by the regulations and subject to such conditions as may be imposed by or under the regulations ; and duty of which payment is deferred under the regulations shall be treated, for such purposes as may be specified thereby, as if it had been paid.
- (2) Regulations under this section may make different provision for goods of different descriptions or for goods of the same description in different circumstances.

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- (3) Section 34 (1A) of the Customs and Excise Act 1952 and section 16(6) of the Finance (No. 2) Act 1975 (which are superseded by this section) shall cease to have effect on the coming into force of the first regulations under this section.

16 Continuation of powers under Finance Act 1961 s. 9

The period after which orders of the Treasury under section 9 of the Finance Act 1961 may not be made or continue in force (which, by section 7 of the Finance (No. 2) Act 1975, was extended until the end of August 1976) shall extend until the end of August 1977 or such later date as Parliament may hereafter determine.

PART II

VALUE ADDED TAX

17 Reduction of higher rate

- (1) In section 17(1) of the Finance (No. 2) Act 1975 (higher rate) for the words " 25 per cent." there shall be substituted the words " 12 1/2 per cent. ".
(2) This section shall be deemed to have come into force on 12th April 1976.

18 Annual adjustments of input tax

In section 3(4) of the Finance Act 1972 (regulations for attributing input tax where not all supplies are taxable) for paragraphs (a) and (b) there shall be substituted—

- “(a) determining a proportion of supplies in any prescribed accounting period which is to be taken as consisting of taxable supplies and provisionally attributing input tax for that period in accordance with the proportion so determined; and
(b) adjusting, in accordance with a proportion determined in like manner for any longer period comprising two or more prescribed accounting periods or parts thereof, the provisional attribution for any of those prescribed accounting periods; and
(c) dispensing with an adjustment where the amounts of input tax deductible for any such longer period in accordance with the provisional and adjusted attributions do not differ by more than—
(i) an amount equal to such percentage (not exceeding 10 per cent.) of the input tax for that period as may be specified in the regulations; or
(ii) such an amount (not exceeding £10) as may be so specified, whichever is the greater ;”.

19 Effect on value of surcharges and rebates in respect of revenue duties

For the purposes of section 11(b) and 27(2)(b) of the Finance Act 1972 (value of imported goods and of supply of goods in warehouse to include duty) the amount of any duty shall be taken to be the amount with any addition or deduction falling to be made under section 9 of the Finance Act 1961 (surcharges and rebates in respect of revenue duties).

20 Credit and discounts

- (1) Paragraph 3 of Schedule 3 to the Finance Act 1972 (goods supplied pursuant to agreement subject to Hire-Purchase Acts to be treated as supplied for cash price) shall cease to have effect.
- (2) For paragraph 4 of that Schedule (consideration in cases where reduction is allowed for immediate payment etc.) there shall be substituted—
 - “4 (1) Where goods or services are supplied for a consideration in money and on terms allowing a discount for prompt payment, the consideration shall be taken for the purposes of this Part of this Act as reduced by the discount whether or not payment is made in accordance with those terms.
 - (2) This paragraph does not apply where the terms include any provision for payment by instalments.”
- (3) This section shall come into force on the day appointed under section 192(4) of the Consumer Credit Act 1974 for the repeal of section 7 of the Hire-Purchase Act 1965, section 7 of the Hire-Purchase (Scotland) Act 1965 and section 7 of the Hire-Purchase Act (Northern Ireland) 1966.

21 Assessments

- (1) In subsection (1) of section 31 of the Finance Act 1972 (power to assess tax where taxable person has failed to make returns etc.) the word "taxable" shall be omitted.
- (2) Where the person failing to make a return, or making a return which appears to the Commissioners to be incomplete or incorrect, was required to make the return as a personal representative, trustee in bankruptcy, receiver, liquidator or person otherwise acting in a representative capacity in relation to another person, subsection (1) of the said section 31 shall apply as if the reference to tax due from him included a reference to tax due from that other person.
- (3) For the purposes of the said section 31 notification to a personal representative, trustee in bankruptcy, receiver, liquidator or person otherwise acting as aforesaid shall be treated as notification to the person in relation to whom he so acts.

22 Priority in bankruptcy etc.

For the avoidance of doubt it is hereby declared that in section 41 of the Finance Act 1972 (priority in bankruptcy etc.)—

- (a) the reference to tax due at the relevant date is a reference to tax which is then unpaid (whether payable before or after that date); and
- (b) references to tax which has become due within the twelve months next before that date are references to tax (whether payable before or after that date) which is attributable to any prescribed accounting period falling—
 - (i) wholly within those twelve months ; or
 - (ii) subject to apportionment in accordance with subsection (2) of that section, partly within and partly outside those twelve months,including such tax assessed (whether before or after that date) under section 31 of that Act.

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

23 Failure of resolution under Provisional Collection of Taxes Act 1968

(1) Where—

- (a) by virtue of a resolution having effect under the Provisional Collection of Taxes Act 1968 value added tax has been paid at a rate specified in the resolution on the supply of any goods or services by reference to a value determined under section 10(2) of the Finance Act 1972, and
- (b) by virtue of section 1(6) or (7) or 5(3) of the said Act of 1968 any of that tax is repayable in consequence of the restoration in relation to that supply of a lower rate,

the amount repayable shall be the difference between the tax paid by reference to that value at the rate specified in the resolution and the tax that would have been payable by reference to that value at the lower rate.

(2) Where—

- (a) by virtue of such a resolution value added tax is chargeable at a rate specified in the resolution on the supply of any goods or services by reference to a value determined under the said section 10(2), but
- (b) before the tax is paid it ceases to be chargeable at that rate in consequence of the restoration in relation to that supply of a lower rate,

the tax chargeable at the lower rate shall be charged by reference to the same value as that by reference to which tax would have been chargeable at the rate specified in the resolution.

- (3) The tax that may be deducted as input tax under section 3(1) of the Finance Act 1972 or refunded under section 15 or 15A of that Act does not include tax that has been repaid by virtue of any of the provisions mentioned in subsection (1)(b) above or that would be repayable by virtue of any of those provisions if it had been paid.

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

24 Charge of income tax for 1976-77

Income tax for the year 1976-77 shall be charged at the basic rate of 35 per cent.; and

- (a) in respect of so much of an individual's total income as exceeds £5,000 at such higher rates as are specified in the Table below ; and
- (b) in respect of so much of the investment income included in an individual's total income as exceeds £1,000 at the additional rates of 10 per cent. for the first £1,000 of the excess and 15 per cent. for the remainder;

except that, in the case of an individual who shows that, at any time within that year, his age or that of his wife living with him was sixty-five years or more, income tax at the additional rate of 10 per cent. shall not be charged in respect of the first £500 of the excess mentioned in paragraph (b) above.

TABLE

<i>Part of excess over £5,000</i>	<i>Higher rate</i>
The first £500	40 per cent
The next £1,000	45 per cent
The next £1,000	50 per cent
The next £1,000	55 per cent
The next £1,500	60 per cent
The next £2,000	65 per cent
The next £3,000	70 per cent
The next £5,000	75 per cent
The remainder	83 per cent

25 Charge of corporation tax for financial year 1975

Corporation tax shall be charged for the financial year 1975 at the rate of 52 per cent.

26 Rate of advance corporation tax for financial year 1976

The rate of advance corporation tax for the financial year 1976 shall be thirty-five sixtieths.

27 Corporation tax: other rates and fractions

- (1) The fraction by which, under section 93(2) of the Finance Act 1972, chargeable gains are to be reduced before they are for the purposes of corporation tax included in the profits of an authorised unit trust or investment trust shall, as from 1st April 1975, be sixty-nine one-hundred-and-fourths (instead of the fraction specified in section 27(1) of the Finance (No. 2) Act 1975).
- (2) The small companies rate for the financial year 1975 shall be 42 per cent., and for that year the fraction mentioned in subsection (2) of section 95 of the Finance Act 1972 (marginal relief for small companies) shall be three-twentieths
- (3) For the financial year 1975 and subsequent financial years subsection (3) of the said section 95 shall have effect with the substitution for any reference to £25,000 of a reference to £30,000 and with the substitution for any reference to £40,000 of a reference to £50,000.
- (4) Where by virtue of subsection (3) above the said section 95 has effect with different relevant amounts in relation to different parts of the same accounting period, those parts shall be treated for the purposes of that section as if they were separate accounting periods, and the profits and income of the company for that period (as defined in that section) shall be apportioned between those parts.

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

28 Relief for interest: limit for 1976-77

In paragraph 5(1) of Schedule 1 to the Finance Act 1974 (limit on relief for interest on certain loans for purchase or improvement of land used as an only or main residence) the references to £25,000 shall have effect for the year 1976-77 as well as for the years 1974-75 and 1975-76.

29 Alteration of personal reliefs

- (1) In section 8 of the Taxes Act (personal reliefs)—
 - (a) in subsection (1)(a) (married) for " £955 " there shall be substituted " £1,085 " ;
 - (b) in subsections (1)(b) (single) and (2) (wife's earned income relief) for " £675 " there shall be substituted " £735 " ;
 - (c) in subsections (1A) and (1B) (age allowance) for " £1,425 " , " £950 " and " £3,000 " there shall be substituted " £1,555 " , " £1,010 " and " £3,250 " respectively.
- (2) In the year 1976-77 only, the allowances set out in section 10(3) of the Taxes Act (children) shall be amended as follows—
 - (a) in paragraph (a) (child over 16) for " £305 " there shall be substituted " £365 " ;
 - (b) in paragraph (b) (child over 11 but not over 16) for " £275 " there shall be substituted " £335 " ;
 - (c) in paragraph (c) (child not over 11) for " £240 " there shall be substituted " £300 " .
- (3) In section 10(5) of that Act (restriction of relief where child has income exceeding £115) for " £115 " there shall be substituted " £350 " and at the end of the proviso there shall be inserted the words " and that in the case of a child who—
 - (a) is under the age of eighteen at the end of the year of assessment and is unmarried throughout that year; and
 - (b) either has no earned income or has earned income not exceeding £235,
 this subsection shall have effect with the substitution for the words " income exceeding £350 " of the words " investment income (that is to say, income other than earned income) exceeding £115 " .
- (4) In section 14(2) and (3) of that Act (additional relief for widows and others in respect of children) for " £280 " there shall be substituted " £350 " .
- (5) In section 14(2)(a) of that Act (relief available only for claimant entitled to relief under section 10 in respect of a child resident with him) after the words " resident with him " there shall be inserted the words " or would be so entitled apart from subsection (5) of that section " .

30 Retirement annuities

- (1) Sections 227 and 228 of the Taxes Act (which prescribe limits subject to which relief is available for premiums paid under approved retirement annuity contracts etc.) shall be amended as follows—
 - (a) in subsections (1A) and (1C) of section 227 and subsections (1) and (4) of section 228 for " £1,500 " , wherever it occurs, there shall be substituted " £2,250 " ;
 - (b) in subsections (1B) and (1C) of section 227 for " £500 " ,

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wherever it occurs, there shall be substituted " £750 "; and

(c) in the Table in subsection (4) of section 228 for " £1,600 ", " £1,700 ", " £1,800 ", " £1,900 ", and " £2,000 " there shall be substituted respectively " £2,400 ", " £2,550 ", " £2,700 ", " £2,850 " and " £3,000 ".

(2) In section 226(2)(b) and (10) and section 226A(1)(b) and (3)(b) (upper age limit in relation to approval of contracts etc.) for references to the age of 70 there shall be substituted references to the age of 75.

(3) This section does not affect relief for any year of assessment before the year 1976-77.

31 War widows

For the purposes of calculating taxable income, the first 50 per cent. of war widow's pension shall be exempt.

32 Child benefit

(1) The Income Tax Acts shall have effect with the following amendments, being amendments which—

- (a) apply to child benefit the provisions applying to family allowances; and
- (b) make other changes in those provisions.

(2) In section 8(2)(b) of the Taxes Act (wife's earned income relief) for the words " on account of an allowance under the Family Allowances Act 1965 or the Family Allowances Act (Northern Ireland) 1966 " there shall be substituted the words " of child benefit ".

(3) In section 24 of that Act (reduction of reliefs on account of family allowances)—

- (a) in subsection (1) for the words " on account of an allowance under the Family Allowances Act 1965 or the Family Allowances Act (Northern Ireland) 1966 " there shall be substituted the words " of child benefit in respect of one child " and for the words from " on account of two or more allowances " onwards there shall be substituted the words " of child benefit in respect of two or more children the appropriate reduction shall be made under the preceding provisions of this subsection in respect of the child benefit in respect of each child ";
- (b) subsection (2) shall be omitted ;
- (c) in subsection (3)(a) for the words " or child's special allowance" there shall be substituted the words " , child's special allowance or invalid care allowance ";
- (d) after subsection (3) there shall be inserted—

“(3A) The said subsection (1) shall not apply to payments of child benefit in respect of a child in respect of which the individual to whom the payments are made is entitled to a guardian's allowance under the Social Security Act 1975 or the Social Security (Northern Ireland) Act 1975.”

(4) In section 219(1)(b) of that Act (benefits chargeable to tax under Schedule E) for the words " on account of allowances under the Family Allowances Act 1965 or the Family Allowances Act (Northern Ireland) 1966" there shall be substituted the words " of child benefit ".

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- (5) In section 530(2)(c) of that Act (meaning of " earned income ") for the words " family allowances " there shall be substituted the words " child benefit ".
- (6) In paragraph 1(b) of Schedule 4 to the Finance Act 1971 (separate taxation of wife's earnings) for the words " on account of an allowance under the Family Allowances Acts 1965 to 1969 or the Family Allowances Acts (Northern Ireland) 1966 to 1969 " there shall be substituted the words " of child benefit ".
- (7) Section 32 of the Finance (No. 2) Act 1975 (interim benefit for unmarried or separated parents with children) shall cease to have effect.
- (8) The provisions of subsections (2) to (7) above (other than subsection (3)(c)) do not affect the operation of any of the enactments there mentioned in relation to any allowance or benefit payable in respect of a period before the appointed day for the purposes of the Child Benefit Act 1975 and the Child Benefit (Northern Ireland) Order 1975.

33 Certification of life insurance policies

- (1) Until such day as the Treasury may by order made by statutory instrument appoint, paragraph 1(1) of Schedule 2 to the Finance Act 1975 (which requires qualifying policies to be certified or to conform with a form certified by the Board) shall not apply to a policy issued in respect of an insurance made before 1st April 1976 which is varied on or after that date.
- (2) In relation to the variation before the day appointed under subsection (1) above of any such policy as is there mentioned paragraph 11(2) of Schedule 1 to the Taxes Act (which was amended by the said Schedule 2 so as to transfer the function of certification from the body issuing the policy to the Board) shall have effect as originally enacted and not as so amended.

34 Relief on life policies etc.

For the year 1979-80 and subsequent years of assessment sections 19 to 21 of the Taxes Act and the other enactments mentioned in Schedule 4 to this Act shall have effect subject to the provisions of that Schedule.

35 Loan annuity contracts by the elderly

Paragraph 16(1) and (2) of Schedule 2 to the Finance Act 1975 (charge in connection with contract for life annuity where money is lent to the annuitant etc.) shall not apply in relation to a contract if and to the extent that interest on the sum lent is eligible for relief under section 75 of the Finance Act 1972 by virtue of paragraph 24 of Schedule 1 to the Finance Act 1974 (loan to elderly person for purchase of life annuity).

36 Husband and wife: income tax

- (1) The Income Tax Acts shall have effect with the following amendments, being amendments which—
 - (a) in general preclude a wife's income from aggregation with her husband's until the beginning of the year of assessment following their marriage ; and
 - (b) make other changes in provisions applying to husbands and wives.

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- (2) In section 37(1) of the Taxes Act (aggregation of wife's income with husband's) for the words " so far as it is income for a year of assessment or part of a year of assessment during which she is a married woman living with her husband " there shall be substituted the words " so far as it is income for—
- (a) a year of assessment; or
 - (b) any part of a year of assessment, being a part beginning; with 6th April, during which she is a married woman living with her husband ".
- (3) In section 38(1) of that Act (options for separate assessment) after the words " any year of assessment" there shall be inserted the words " for which his income would include any of hers " and the proviso shall be omitted.
- (4) In section 14 of that Act—
- (a) in subsection (2) for the words " Subject to subsection (3) below " there shall be substituted the words " Subject to subsections (3) and (4) below "; and
 - (b) after subsection (3) there shall be inserted—

“(4) A person to whom this section applies by virtue of subsection (1)(a) above shall not be entitled to relief under this section for a year of assessment during any part of which that person is married and living with his or her spouse unless the child in connection with which the relief is claimed is resident with that person during a part of the year in which that person is not married and living with his or her spouse.”
- (5) In section 19 of that Act (life insurance relief)—
- (a) in subsection (2)(b) for the word " wife " there shall be substituted the word " spouse "; and
 - (b) in subsection (7) after the word " Where " there shall be inserted the words " in any year of assessment for which her husband's income includes or, if there were any, would include any of hers ".
- (6) After section 21(1) of that Act (life insurance premium relief not to exceed one-sixth of a person's total income) there shall be inserted—
- “(1A) In relation to a year of assessment in which a woman is married and living with her husband but for which his income does not or, if there were any, would not include any of hers, subsection (1) above shall apply to each of them as if the maximum there specified were increased by an amount equal to the difference between—
- (a) one-sixth of the other's total income; and
 - (b) the premiums or other sums in respect of which relief is given to the other.”
- (7) Where during any part of a year of assessment a husband and wife are living together but his income for that year does not or, if there were any, would not include any of hers, then, if either of them—
- (a) would, if he or she had sufficient income for that year, be entitled to have any amount deducted from or set off against it under a provision to which this subsection applies; and
 - (b) makes a claim in that behalf,

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that amount or, as the case may be, so much of it as cannot be deducted from or set off against his or her own income for that year shall instead be deducted from and set off against the income for that year of the other spouse.

- (8) Subsection (7) above applies—
- (a) in the case of the husband, to any provision of Chapter II of Part I of the Taxes Act (personal reliefs) and section 75 of the Finance Act 1972 (relief for payment of interest);
 - (b) in the case of the wife, to—
 - (i) any provision of that Chapter except sections 8(1)(b) and (1A)(b), 12, 13 and 14; and
 - (ii) the said section 75 so far as applicable to interest paid in the part of the year of assessment mentioned in subsection (7) above.
- (9) For the purposes of section 168 of the Taxes Act and section 71 of the Capital Allowances Act 1968 (set-off of losses and capital allowances against general income), section 37(1)(b) of the Taxes Act shall have effect as if the words " being a part beginning with 6th April " were omitted.
- (10) In section 23(2) and (4) of the Finance Act 1971 (election for separate taxation of wife's earnings to be made or revoked within six months after the end of the year of assessment) for the words "six months after" there shall be substituted the words " twelve months after ".

37 Relief for increase in stock values

Schedule 5 to this Act shall have effect for affording relief for increases in the value of trading stock and work in progress in any period of account.

38 Restriction of relief for payments of interest

- (1) Relief shall not be given to any person under any provision of the Tax Acts in respect of any payment of interest if a scheme has been effected or arrangements have been made (whether before or after the time when the payment is made) such that the sole or main benefit that might be expected to accrue to that person from the transaction under which the interest is paid was the obtaining of a reduction in tax liability by means of such relief as aforesaid.
- (2) In this section " relief " means relief by way of deduction in computing profits or gains or deduction or set off against income or total profits.
- (3) Where the relief is claimed by virtue of section 259(6) of the Taxes Act (group relief) any question under this section as to what benefit might be expected to accrue from the transaction in question shall be determined by reference to the claimant company and the surrendering company taken together.
- (4) This section applies—
- (a) where the payment is after 8th June 1976 ; and
 - (b) as respects relief—
 - (i) under section 248 or 259(6) of the Taxes Act in relation to the total profits for an accounting period beginning after that date or for any part falling after that date of an accounting period beginning earlier; or

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- (ii) under section 75 of the Finance Act 1972 in relation to income for the part of the year 1976-77 falling after that date,
where the payment is on or before that date.
- (5) For the purposes of subsection (4)(b) above—
- (a) the total profits for part of an accounting period shall be so much of the total profits for the whole period (reduced by any relief otherwise than in respect of the payment or payments in question) as is apportioned to that part;
 - (b) the income for part of a year of assessment shall be so much of the income for the whole year (reduced by any relief otherwise than as aforesaid and otherwise than under Chapter II of Part I of the Taxes Act) as is apportioned to that part;
- and any apportionment for the purposes of this subsection shall be made on a time basis.

39 Capital allowances: writing-down allowances

- (1) Notwithstanding section 40 of the Finance Act 1971 and section 68(1) of the Finance Act 1972 (which exclude from the system of capital allowances introduced in 1971 expenditure incurred before 27th October 1970 and certain expenditure incurred later), the expenditure to which subsection (4)(a) of section 44 of the said Act of 1971 applies in the case of a person's first new chargeable period shall include the amount still unallowed, at the beginning of that period or its basis period, of any eligible expenditure incurred by him on the provision for the purposes of his trade of machinery or plant which then—
- (a) belongs to him ; and
 - (b) is or has been used for those purposes; and
 - (c) has not permanently ceased to be so used ;
- and elsewhere in the said section 44 references to capital expenditure shall include references to such eligible expenditure as aforesaid.
- (2) In the case of such eligible expenditure as is mentioned in subsection (1) above no allowances or charges shall be made under Chapter II of Part I of the Capital Allowances Act 1968 for any new chargeable period; and in the case of other expenditure section 20(1) of that Act (normal method of calculating writing-down allowances) shall have effect for any such period with the substitution for the words " a percentage " of the words " 25 per cent. " .
- (3) In this section "eligible expenditure" means, subject to subsection (4) below, expenditure in respect of which an allowance or allowances have been (or, if claimed, could have been) made under the said Chapter II; and in subsection (1) above the reference to the amount of any such expenditure still unallowed shall be construed in accordance with section 41 in that Chapter.
- (4) The following is not eligible expenditure—
- (a) expenditure on the provision of a new ship within the meaning of section 31 of the said Act of 1968 ;
 - (b) expenditure in respect of which an allowance or allowances have been (or, if claimed, could have been) made by virtue of or in accordance with the following provisions of the said Act of 1968—
 - (i) section 18(5) or 28 (assets used partly for trade and partly for other purposes);

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- (ii) section 18(6) or 29 (subsidies for wear and tear);
 - (iii) section 32 (cars); or
 - (iv) section 42 or 43 (lessors or lessees);
 - (c) expenditure in respect of which an allowance or allowances have been made in accordance with section 21 of the said Act of 1968 (alternative method of calculating writing-down allowances);
 - (d) expenditure incurred by a person under a contract which provides that he shall or may become the owner of the machinery or plant on the performance of the contract and which has not been performed before the beginning of his first new chargeable period or its basis period;
 - (e) expenditure to which the person by whom it was incurred elects that subsection (1) above shall not apply.
- (5) Any election under subsection (4)(e) above shall be made by notice in writing to the inspector given within two years from the end of the first new chargeable period of the person concerned.
- (6) In this section " new chargeable period " means—
- (a) where the chargeable period is a company's accounting period, an accounting period ending after 5th April 1976;
 - (b) where the chargeable period is a year of assessment, a year of assessment the basis period for which ends after that date.
- (7) This section shall be construed as if contained in Chapter I of Part III of the said Act of 1971.

40 Capital allowances: disposal value

- (1) After subsection (6) of section 44 of the Finance Act 1971 (calculation of disposal value for purposes of writing-down allowances and balancing adjustments) there shall be inserted—
- “(7) Where the person mentioned in the proviso to subsection (6) above has acquired the machinery or plant as a result of a transaction which was, or of a series of transactions each of which was, between connected persons within the meaning of section 533 of the Taxes Act, that proviso shall have effect as if it referred to the capital expenditure on the provision of the machinery or plant incurred by whichever party to that transaction, or to any of those transactions, incurred the greatest such expenditure.”
- (2) Section 68(2) of the Finance Act 1972 (which is superseded by this section) shall cease to have effect.
- (3) This section does not affect any case in which the event by reason of which the disposal value of the machinery or plant falls to be taken into account is before 16th April 1976.

41 Capital allowances: restriction of set-off against general income

- (1) Relief shall not be given to an individual under section 168 of the Taxes Act (set-off against general income) by reference to a first-year allowance made to him in respect of expenditure incurred on the provision of machinery or plant for leasing in the course of a trade if—

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- (a) at the time when the expenditure was incurred the trade was carried on by him in partnership with a company (with or without other partners); or
 - (b) a scheme has been effected or arrangements have been made (whether before or after that time) with a view to the trade being carried on by him as aforesaid.
- (2) Relief shall not be given to an individual under the said section 168 by reference to a first-year allowance if—
- (a) the allowance is made in connection with—
 - (i) a trade which at the time when the expenditure was incurred was carried on by him in partnership or which has subsequently been carried on by him in partnership or transferred to a person who was connected with him within the meaning of section 533 of the Taxes Act; or
 - (ii) an asset which after that time has been transferred by him to a person who was connected with him as aforesaid or, at a price lower than that which it would have fetched if sold in the open market, to any other person ; and
 - (b) a scheme has been effected or arrangements have been made (whether before or after that time) such that the sole or main benefit that might be expected to accrue to the individual from the transaction under which the expenditure was incurred was the obtaining of a reduction in tax liability by means of such relief as aforesaid.
- (3) Where relief has been given in a case to which subsection (1) or (2) above applies it shall be withdrawn by the making of an assessment under Case VI of Schedule D.
- (4) For the purposes of subsection (1) above letting a ship on charter shall be regarded as leasing it if, apart from this provision, it would not be so regarded.
- (5) In this section " first-year allowance " means a first-year allowance under Chapter I of Part III of the Finance Act 1971, "trade" includes any activity in connection with which a first-year allowance can be given and any expression defined in section 50 of the said Act of 1971 has the meaning given in that section.
- (6) This section applies to relief under the proviso to section 71(1) of the Capital Allowances Act 1968 as it applies to relief under the said section 168.
- (7) Subsections (1) and (2) above apply where the expenditure in respect of which the allowance is made to the individual in question was incurred by him after the commencement date and otherwise than under a contract entered into by him on or before that date ; and " the commencement date " is, in relation to subsection (1), 15th December 1975 and, in relation to subsection (2), 6th April 1976.

42 Capital allowances: subsidies and contributions

- (1) After subsection (1) of section 85 of the Capital Allowances Act 1968 (allowances in respect of contributions to capital expenditure) there shall be inserted—
- “(1A) Subsection (1) above shall not apply where the person making the contribution and the person receiving it are connected persons within the meaning of section 533 of the principal Act.”.
- (2) This section applies in relation to contributions made after 8th July 1976.

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43 Capital allowances: motor cars

- (1) In paragraphs 10 to 12 of Schedule 8 to the Finance Act 1971 (special capital allowances rules for motor cars) for any reference to £4,000 or £1,000 there shall be substituted a reference to £5,000 or £1,250 respectively.
- (2) This section applies in relation to expenditure incurred after 6th April 1976 ; and section 50(4) of the said Act of 1971 applies for the purposes of this subsection.

44 Close companies: loans to participators

- (1) In relation to any claim made after the passing of this Act under subsection (5) of section 286 of the Taxes Act (relief where loan to participator is repaid) that subsection shall have effect with the substitution for the words " year of assessment " of the words " financial year ".
- (2) After section 287 of that Act there shall be inserted—

“287A Extension of s. 286 to loans by controlled companies.

- (1) Subject to subsection (4) below, where a company which is controlled by a close company makes a loan which, apart from this section does not give rise to a charge under subsection (1) of section 286 above, that section shall apply as if the loan had been made by the close company.
- (2) Subject to subsection (4) below, where a company which is not controlled by a close company makes a loan which, apart from this section does not give rise to a charge under subsection (1) of section 286 above, and a close company subsequently acquires control of it, that section shall apply as if the loan had been made by the close company immediately after the time when it acquired control.
- (3) Where two or more close companies together control the company that makes or has made the loan, subsections (1) and (2) above shall have effect—
 - (a) as if each of them controlled that company ; and
 - (b) as if the loan had been made by each of those close companies ;
 but the loan shall be apportioned between those close companies in such proportion as may be appropriate having regard to the nature and amount of their respective interests in the company that makes or has made the loan.
- (4) Subsections (1) and (2) above do not apply if it is shown that no person has made any arrangements (otherwise than in the ordinary course of a business carried on by him) as a result of which there is a connection—
 - (a) between the making of the loan and the acquisition of control; or
 - (b) between the making of the loan and the provision by the close company of funds for the company making the loan ;
 and the close company shall be regarded as providing funds as aforesaid if it directly or indirectly makes any payment or transfers any property to, or releases or satisfies (in whole or in part) a liability of, the company making the loan.
- (5) Where, by virtue of this section, section 286 above has effect as if a loan made by one company had been made by another any question under that section or section 287 above whether—

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- (a) the company making the loan did so otherwise than in the ordinary course of a business carried on by it which includes the lending of money ;
 - (b) the loan or any part of it has been repaid to the company;
 - (c) the company has released or written off the whole or part of the debt in respect of the loan,
- shall be determined by reference to the company that made the loan.
- (6) This section shall be construed as one with section 286 above, and in this section " loan" includes advance, and references to a company making a loan include references to cases in which the company is, or if it were a close company would be, regarded as making a loan by virtue of subsection (2) of that section.
- (3) In paragraph 19(5) of Schedule 16 to the Finance Act 1972 (information powers) for the words " sections 286 and 287 of the Taxes Act " there shall be substituted the words " sections 286, 287 and 287A of the Taxes Act".
- (4) Subsection (2) above has effect as respects loans made or debts incurred or assigned after 15th April 1976.

45 Close companies: notice of liability

In paragraph 6(2) of Schedule 16 to the Finance Act 1972 (which requires a notice of liability to be served on a close company if a participator does not pay the tax assessed in respect of a sum apportioned to him) for the words " shall be served" there shall be substituted the words " may be served " and for the words " shall thereupon be payable by the company " there shall be substituted the words " shall be payable by the company upon service of the notice ".

46 Effect of advance corporation tax on preference dividends etc.

- (1) In paragraph 18(1) of Schedule 23 to the Finance Act 1972 (dividends etc., at gross rate or of gross amount; transitional provisions on introduction of advance corporation tax), the reference to " the rate of advance corporation tax in force on that date " is to the rate in force on 6th April 1973.
- This subsection shall be deemed always to have had effect.
- (2) Where in the case of shares not carrying cumulative rights, a company, relying on the alternative view of paragraph 18, has reduced any dividend to which the paragraph applies below what it would have been according to the original view, the deficiency may be made up by means of supplementary dividend payable to shareholders registered on a given date ; and—
- (a) this has effect notwithstanding any restriction, of whatsoever nature, on the company's power to pay dividends, except that which requires dividends to be paid only out of profits and reserves;
 - (b) the date mentioned above is either the date of declaration of the supplementary dividend or such other date (but not earlier than two months before the due date for its payment) as may be appointed by the company.
- (3) In the case of shares carrying cumulative rights, the obligation arising from this section to make good any underpayment of dividend made in reliance on the alternative view

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shall be carried forward to subsequent periods of account in the same way as with any other underpayment.

- (4) In the case of shares carrying both non-cumulative and cumulative rights, subsections (2) and (3) above apply respectively according as dividend is payable by reference to the one category of rights or the other.
- (5) Subject to subsections (3) and (4) above, this section does not invalidate anything done with reliance in good faith either on the original or on the alternative view of paragraph 18; nor does it give rise to any liability or increased liability on any person for acting, or omitting to act, in a particular way where he did so with reliance in good faith on the one or on the other view.
- (6) In this section—
- (a) " dividend " includes any other distribution ;
 - (b) " share" includes stock, and any other interest of a member in a company, and any securities within the meaning of Part X of the Taxes Act; and
 - (c) " paragraph 18 " means paragraph 18 of Schedule 23 to the Finance Act 1972 ;
- and for the purposes of subsections (2) to (5) the original view of paragraph 18 is that it has, and always had, the meaning given to it by subsection (1) above, and the alternative view is that the rate of advance corporation tax referred to in the paragraph is the rate in force from time to time.

47 Relief for levies on insurance companies

For the purposes of section 304 of the Taxes Act as applied by section 305 of that Act (expenses of management of insurance companies), any sums paid by a company, whether before or after the passing of this Act, under a long term business levy imposed by virtue of the Policyholders Protection Act 1975 shall be treated as part of its expenses of management.

48 Friendly societies

- (1) In section 332 of the Taxes Act (registered friendly societies) after subsection (9) there shall be inserted—
- “(10) Where at any time a registered friendly society ceases by virtue of section 84 of the Friendly Societies Act 1974 (conversion into company) to be registered under that Act, any part of its life or endowment business consisting of business which—
- (a) relates to contracts made before that time; and
 - (b) immediately before that time was tax exempt life or endowment business,
- shall thereafter continue to be tax exempt life or endowment business for the purposes of this Chapter.
- (11) Where a registered friendly society—
- (a) at any time ceases by virtue of section 84 of the said Act of 1974 to be registered under that Act; and
 - (b) immediately before that time was exempt from income tax or corporation tax on profits arising from any business carried on by it other than life or endowment business,

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the company into which the society is converted shall be so exempt on its profits arising from any part of that business which relates to contracts made before that time so long as there is no increase in the scale of benefits which it undertakes to provide in the course of carrying on that part of its business.

(12) For the purposes of the Corporation Tax Acts any part of a company's business—

- (a) which continues to be tax exempt life or endowment business by virtue of subsection (10) above ; or
- (b) in respect of the profits from which the company is exempt by virtue of subsection (11) above,

shall be treated as a separate business from any other business carried on by the company.”

(2) In the definition of " tax exempt life or endowment business " in section 337(3) of the Taxes Act for the words " subject to section 332(6) to (9)" there shall be substituted the words " subject to section 332(6) to (10) ".

(3) The amendment of section 337(5)(b) of the Taxes Act made by paragraph 23(b) of Schedule 9 of the Friendly Societies Act 1974 shall extend to Northern Ireland.

49 New double taxation arrangements with Ireland

(1) If in the year 1976 Her Majesty by Order in Council under section 497 of the Taxes Act declares, with respect to arrangements made between Her Government in the United Kingdom and the Government of the Republic of Ireland with a view to affording relief from double taxation, that it is expedient that those arrangements should have effect, then the following provisions of this section (going to the implementation of those arrangements or required in consequence of them) shall come into force with the Order (or, in the case of the Order in Council having come into force before this Act is passed, shall be deemed to have done so).

(2) The following enactments (giving effect to, or consequent on, arrangements made between the two countries in the years up to 1975) are hereby repealed, that is to say—

- (a) in the Taxes Act—
 - section 315(7) and (8) (Republic of Ireland included with United Kingdom for purposes of provisions about foreign life assurance funds),
 - section 473(2) (exception of Irish residents from certain United Kingdom measures about transactions in securities),
 - in section 498(1), the proviso (excluding unilateral relief in the case of Irish tax),
 - section 513 and, in Schedule 12 (which by virtue of the section saves the effect of the former Agreements up to and including that of 1960 and provides for their implementation), Parts I and II and paragraphs 1, 3(1) and (2), 4 and 5 of Part III;
- (b) in the Finance Act 1973, section 42 and Schedule 17 (implementation of 1973 Agreement); and
- (c) in the Finance (No. 2) Act 1975, section 65 and Schedule 11 (implementation of 1975 Agreement).

(3) In Part III of Schedule 12 to the Taxes Act (provisions already operating so as to give effect to double taxation arrangements with Ireland), paragraphs 2, 3(3) and 6 continue

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in force by virtue of this section and not, as previously, by virtue of section 513 of that Act.

- (4) In Part III of Schedule 12 to the Taxes Act (provisions in force before 1976 for giving effect to double taxation arrangements with Ireland and continued by this section), the following is added at the end of paragraph 2—

“(3) In charging any income which is excluded from sub-paragraph (1) above by sub-paragraph (2)(a), the same deductions shall be made, and there shall be the same limitation on reliefs, as under section 23(3) and (4) of the Finance Act 1974 (method of charging income from trade, etc. carried on abroad) in the case of income computed by virtue of that section in accordance with the rules applicable to Cases I and II of Schedule D.”.

- (5) In section 75 of the Finance Act 1972 (relief for payment of interest) the following is substituted for subsection (6)—

“(6) This section has effect as if references to the United Kingdom included references to the Republic of Ireland.”.

- (6) In section 22(1) of the Finance Act 1974 (foreign pensions etc.) the reference to a pension which would have fallen under section 122(2)(c) of the Taxes Act (remittance basis) includes any which would have so fallen but for paragraph 2 of Part III of Schedule 12 to the Taxes Act.

- (7) The repeals in subsection (2) above, and the amendments made by subsections (4) to (6), take effect from 6th April 1976, subject however to so much of the new Agreement as retains any former Agreement in force for years of assessment ending on or before 5th April 1977.

- (8) In this section "the new Agreement" means any Convention between the Governments of the United Kingdom and the Republic of Ireland relating to avoidance of double taxation and entering into force in the year 1976; and the " former Agreements " are those set out in Part I of Schedule 12 to the Taxes Act, Schedule 17 to the Finance Act 1973 and Schedule 11 to the Finance (No. 2) Act 1975.

50 Other provisions relating to double taxation

- (1) In the case of a person not resident in the United Kingdom who carries on in the United Kingdom a banking business, an insurance business or a business consisting wholly or partly in dealing in securities, receipts of interest or dividend which have been treated as tax-exempt under double taxation arrangements are not to be excluded from trading income or profits of the business so as to give rise to losses to be set off (under section 177 or 312 of the Taxes Act) against income or profits arising on or after 15th April 1976.

In this subsection " double taxation arrangements" means arrangements having effect by virtue of section 497 of the Taxes Act; and " securities " includes stocks and shares.

- (2) In section 497 of the Taxes Act, in subsection (3) (foreign tax treated as paid though not payable)—
- (a) the words (in the second paragraph of the subsection) from " to any relief" onwards shall become paragraph (a); and
 - (b) after that paragraph there shall be added—

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“and

- (b) to any relief provided under and in accordance with the arrangements, where the latter expressly contemplate that the relief is to fall within this subsection”.

- (3) In section 506 of the Taxes Act (computation of underlying tax on foreign company profits), the following shall be inserted after subsection (1)—

“(1A) Where under the foreign tax law the dividend has been increased for tax purposes by an amount to be set off against the recipient's own tax under that law or, to the extent that it exceeds his own tax thereunder, paid to him, then from the amount of the underlying tax to be taken into account under subsection (1) above there is to be subtracted the amount of that increase.

This subsection has effect as from 1st April 1976.”.

51 Capital gains: small disposals

- (1) In section 57(1) and (2) of the Finance Act 1971 (small disposals) for "£500" there shall be substituted " £1,000 ".
- (2) This section applies for the year 1975-76 and subsequent years of assessment.

52 Capital gains: husband and wife

- (1) The enactments relating to capital gains tax shall have effect with the following amendments, being amendments corresponding to or consequential on the amendments made by section 36 above.
- (2) In section 21(4) of the Finance Act 1965 (capital gains chargeable on income tax basis) after the words "a married woman who in the year of assessment is a married woman living with her husband " there shall be inserted the words " and whose income for, or for any part of, that year is included in his by virtue of section 37(1) of the Income and Corporation Taxes Act 1970 ".
- (3) In paragraph 3(1) of Schedule 10 to that Act (married woman's chargeable gains to be assessed on her husband) for the words " in a year of assessment, or part of a year of assessment, during which she is a married woman living with her husband " there shall be substituted the words " in—
 - (a) a year of assessment; or
 - (b) any part of a year of assessment, being a part beginning with 6th April, during which she is a married woman living with her husband ".
- (4) After section 57(3) of the Finance Act 1971 (small disposals) there shall be inserted—

“(3A) Subsection (3) above applies only to disposals made in a year of assessment for which, by virtue of section 37(1) of the Income and Corporation Taxes Act 1970, the husband's income includes or, if there were any, would include, any of the wife's.”

53 Capital gains: compensation stock

- (1) This section has effect where gilt-edged securities are exchanged for shares in pursuance of any enactment (including an enactment passed after this Act) which

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provides for the compulsory acquisition of any shares and the issue of gilt-edged securities instead.

- (2) The exchange shall not constitute a conversion of securities within paragraph 5 of Schedule 7 to the Finance Act 1965 (which has the effect that compensation securities are treated as the same asset as the original shares) and accordingly the gilt-edged securities shall not be treated as having been acquired on any date earlier than that on which they were issued or for any consideration other than the value of the shares as determined for the purposes of the exchange.
- (3) The exchange shall be treated as not involving any disposal of the shares by the person from whom they were compulsorily acquired but—
 - (a) there shall be calculated the gain or loss that would have accrued to him if he had then disposed of the shares for a consideration equal to the value mentioned in subsection (2) above: and
 - (b) on a subsequent disposal of the whole or part of the gilt-edged securities by the person to whom they were issued—
 - (i) there shall be deemed to accrue to him (in addition to any gain or loss that actually accrues) the whole or a corresponding part of the gain or loss mentioned in paragraph (a) above ; and
 - (ii) if the disposal is within section 41 of the Finance Act 1969 (exemption for gilt-edged securities) that section shall have effect only in relation to any gain or loss that actually accrues and not in relation to any gain or loss that is deemed to accrue as aforesaid.
- (4) Where a person to whom gilt-edged securities of any kind were issued as mentioned in subsection (1) above disposes of securities of that kind, the securities of which he disposes—
 - (a) shall, so far as possible, be identified with any securities of that kind which he has acquired otherwise than as mentioned in subsection (1) above within the twelve months preceding the disposal; and
 - (b) so far as they cannot be identified as aforesaid, shall be identified (without regard to paragraphs 6, 7(3) and 8 of Schedule 10 to the Finance Act 1971) with securities which were issued to him as mentioned in that subsection, taking those issued earlier before those issued later.
- (5) Subsection (3)(b) above shall not apply to any disposal falling within the provisions of—
 - (a) section 24(7) of the Finance Act 1965 (disposals by personal representatives to legatees); or
 - (b) paragraph 20(1) of Schedule 7 to that Act (disposals between husband and wife); or
 - (c) section 273(1) of the Taxes Act (disposals within a group of companies);but a person who has acquired the securities on a disposal falling within those provisions (and without there having been a previous disposal not falling within those provisions or a devolution on death) shall be treated for the purposes of subsections (3)(b) and (4) above as if the securities had been issued to him.
- (6) Where the gilt-edged securities to be exchanged for any shares are not issued until after the date on which the shares are compulsorily acquired but on that date a right to the securities is granted, this section shall have effect as if the exchange had taken place on that date, as if references to the issue of the securities and the person to whom they were issued were references to the grant of the right and the person to whom

it was granted and references to the disposal of the securities included references to disposals of the rights.

(7) In this section—

" gilt-edged securities " means specified securities within the meaning of section 41 of the Finance Act 1969;

" shares " includes securities within the meaning of paragraph 5 of Schedule 7 to the Finance Act 1965.

(8) This section has effect where the compulsory acquisition is after 6th April 1976.

54 Capital gains: compulsory acquisition of aircraft and shipbuilding shares

(1) This section has effect where, in pursuance of any enactment to which this subsection applies, gilt-edged securities are exchanged for shares in a company and, immediately before the exchange, those shares are owned by another company—

- (a) which is a member of the same group of companies as the first-mentioned company; or
- (b) which is a member of a consortium by which the first-mentioned company is owned.

(2) Subsection (1) above applies to any enactment providing for the compulsory acquisition of shares in companies engaged in manufacturing aircraft or guided weapons or in shipbuilding or allied industries.

(3) In any case in which this section has effect the company owning the shares immediately before the exchange may by notice in writing given to the inspector within four years after the exchange, elect—

- (a) that section 53(3) above shall not apply to the exchange ; and
- (b) that section 33 of the Finance Act 1965 (replacement of business assets) shall have effect in relation to the disposal on the occasion of the exchange as if the shares were assets falling within the classes listed in that section and had, throughout the period of ownership, been used and used only for the purposes of a trade carried on by that company.

(4) For the purposes of this section—

- (a) two companies shall be deemed to be members of a group of companies if one is the 75 per cent. subsidiary of the other or both are 75 per cent. subsidiaries of a third company ;
- (b) a company is owned by a consortium if all of the ordinary share capital of that company is directly and beneficially owned between them by five or fewer companies, and those companies are called the members of the consortium.

(5) Subsections (6) and (7) of section 53 above shall apply in relation to this section as they apply in relation to that section.

55 Capital gains: maintenance funds for historic buildings

(1) This section applies where after 2nd May 1976 a person disposes of an asset to trustees in circumstances such that the disposal is a transfer of value which by virtue of section 84 below is an exempt transfer.

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- (2) The person making the disposal and the person acquiring the asset on the disposal shall be treated for all the purposes of Part III of the Finance Act 1965 (capital gains tax) as if the asset was acquired from the one making the disposal for a consideration of such an amount as would secure that on the disposal neither a gain nor a loss would accrue to the one making the disposal.

56 Capital gains: disposals on trust for benefit of employees

- (1) Where a close company within the meaning of section 90 below or an individual disposes of an asset to trustees in circumstances such that the disposal is a disposition which by virtue of that section is not a transfer of value for the purposes of capital transfer tax, Part III of the Finance Act 1965 (capital gains tax) shall have effect in relation to the disposal in accordance with subsections (2) and (3) below.
- (2) Section 22(4) of that Act (consideration deemed to be equal to market value) shall not apply to the disposal; and if the disposal is by way of gift or is for a consideration not exceeding the sums allowable as a deduction under paragraph 4 of Schedule 6 to that Act—
- (a) the disposal, and the acquisition by the trustees, shall be treated for the purposes of Part III (but not for the purposes of section 57 of the Finance Act 1971) as being made for such consideration as to secure that neither a gain nor a loss accrues on the disposal; and
 - (b) where the trustees dispose of the asset, its acquisition by the company or individual shall be treated as its acquisition by the trustees.
- (3) Where the disposal is by a close company, paragraph 18(1) of Schedule 7 to the said Act of 1965 (assets disposed of for less than market value) shall apply to the disposal as if for the reference to market value there were substituted a reference to market value or the sums allowable as a deduction under paragraph 4 of Schedule 6 to that Act, whichever is the less.
- (4) Subject to subsection (5) below, Part III of the said Act of 1965 shall also have effect in accordance with subsection (2) above in relation to any disposal made after 6th April 1976 by a company other than such a close company as aforesaid if—
- (a) the disposal is made to trustees otherwise than under a bargain made at arm's length ; and
 - (b) the property disposed of is to be held by them on trusts of the description specified in paragraph 17(1) of Schedule 5 to the Finance Act 1975 (that is to say, those in relation to which the said section 90 has effect) and the persons for whose benefit the trusts permit the property to be applied include all or most of either—
 - (i) the persons employed by or holding office with the company; or
 - (ii) the persons employed by or holding office with the company or any one or more subsidiaries of the company.
- (5) Subsection (4) above does not apply if the trusts permit any of the property to be applied at any time (whether during any such period as is referred to in the said paragraph 17(1) or later) for the benefit of—
- (a) a person who is a participator in the company (" the donor company "); or
 - (b) any other person who is a participator in any other company that has made a disposal of property to be held on the same trusts as the property disposed of

- by the donor company, being a disposal in relation to which the said Part III has had effect in accordance with subsection (2) above ; or
- (c) any other person who has been a participator in the donor company or any such company as is mentioned in paragraph (b) above at any time after, or during the ten years before, the disposal made by that company ; or
 - (d) any person who is connected with a person within paragraph (a), (b) or (c) above.
- (6) The participators in a company who are referred to in subsection (5) above do not include any participator who on a winding-up of the company would not be entitled to 5 per cent. or more of its assets; and in determining whether the trusts permit property to be applied as mentioned in that subsection, no account shall be taken of any power to make a payment which is the income of any person for any of the purposes of income tax, or would be the income for any of those purposes of a person not resident in the United Kingdom if he were so resident.
- (7) In subsection (4) above " subsidiary " has the same meaning as in the Companies Act 1948 and in subsections (5) and (6) above " participator " has the meaning given in section 303(1) of the Taxes Act, except that it does not include a loan creditor.

57 Investigatory powers

- (1) For section 20 of the Taxes Management Act 1970 (power to call for documents relating to business profits and tax liability thereon) there shall be substituted the sections 20, 20A, 20B, 20C and 20D set out in Schedule 6 to this Act.
- (2) In section 118(1) of that Act (interpretation), in the definition of " tax ", after the words " those taxes " there are inserted the words " except that in sections 20, 20A, 20B, 20C and 20D it does not include development land tax ".

58 Recovery of tax in sheriff court

- (1) Section 67(1) of the Taxes Management Act 1970 (recovery of tax in sheriff court) shall be amended as follows—
 - (a) for the words " does not exceed £250 " there shall be substituted the words " does not exceed the sum for the time being specified in section 35(1)(a) of the Sheriff Courts (Scotland) Act 1971 ";
 - (b) the words " or in the sheriff's small debt court, whichever is appropriate " shall be omitted.
- (2) This section shall come into force on 1st September 1976.

59 Post-war credits

After section 131(3) of the Finance Act 1972 (power of Treasury to make order fixing time-limit for applications for repayment of post-war credits) there shall be inserted—

- “(3A) An order under subsection (3) above may make different provision for different cases or classes of case and may provide that no amount shall be ascertained, recorded or notified under section 7 of the Finance Act 1941 after any such time as may be specified in the order.”

CHAPTER II

BENEFITS DERIVED BY COMPANY DIRECTORS AND OTHERS FROM THEIR EMPLOYMENT

60 **Payments by way of expenses**

- (1) Subject to the provisions of this Chapter, where in any year a person is employed in director's or higher-paid employment and by reason of his employment there are paid to him in respect of expenses any sums which, apart from this section, are not chargeable to tax as his income, those sums are to be treated as emoluments of the employment and accordingly chargeable to income tax under Schedule E.
- (2) Subsection (1) above is without prejudice to any claim for deductions under section 189, 192 or 194(3) of the Taxes Act (relief for necessary expenses, etc.).
- (3) The reference in that subsection to sums paid in respect of expenses includes any sums put at the employee's disposal by reason of his employment and paid away by him.
- (4) This section has effect for the year 1977-78 and subsequent years.

61 **General provision charging benefits**

- (1) Where in any year a person is employed in director's or higher-paid employment and—
 - (a) by reason of his employment there is provided for him, or for others being members of his family or household, any benefit to which this section applies; and
 - (b) the cost of providing the benefit is not (apart from this section) chargeable to tax as his income,
 there is to be treated as emoluments of the employment, and accordingly chargeable to income tax under Schedule E, an amount equal to whatever is the cash equivalent of the benefit.
- (2) The benefits to which this section applies are living or other accommodation, entertainment, domestic or other services, and other benefits and facilities of whatsoever nature (whether or not similar to any of those mentioned above in this subsection), excluding however those taxable under sections 64 to 68 below in this Chapter, and subject to the exceptions provided for by the next following section.
- (3) For the purposes of this section and sections 62 and 63 below, the persons providing a benefit are those at whose cost the provision is made.
- (4) This section has effect for the year 1977-78 and for subsequent years.

62 **Exceptions from general charge**

- (1) Without prejudice to its generality, section 61 above applies where by reason of the person's employment a car is made available (without any transfer of the property in it) either to himself or to others being members of his family or household, and it is made available for his or their private use, but applies only where in the relevant year either—
 - (a) the car is not used for the employee's business travel; or
 - (b) its use for such travel is insubstantial compared with the private use that is made of it.

- (2) That section applies to benefits in connection with a car made available as mentioned in subsection (1) above, but only for a year in which either paragraph (a) or paragraph (b) of that subsection is the case; and, for a year in which neither paragraph is the case, the section applies only to benefits in connection with the provision of a driver for the car.
- (3) Section 61 above does not apply where the benefit consists in provision for the employee, in premises occupied by the employer or others providing it, of accommodation, supplies or services used by the employee solely in performing the duties of his employment.
- (4) That section does not apply where the benefit consists in the provision of living accommodation and—
 - (a) the person providing it is the employee's employer, and it is provided in part of premises occupied by him; and
 - (b) the employee is required by the terms of his employment to reside in the accommodation provided, and it is necessary for him to reside on the premises for the proper performance of his duties.
- (5) But subsection (4) above does not operate where the accommodation is provided by a company and either—
 - (a) the employee is a director of that company ; or
 - (b) he is a director of another company over which it has control, or which has control over it, or which is under the control of a person who also has control over the company first mentioned.
- (6) Section 61 above does not apply to a benefit consisting in the provision by the employee's employer for the employee himself, or for the spouse, children or dependants of the employee, of any pension, annuity, lump sum, gratuity or other like benefit to be given on the employee's death or retirement.
- (7) Section 61 does not apply to a benefit consisting in the provision by the employee's employer of meals in any canteen in which meals are provided for the staff generally.

63 Cash equivalent of benefits charged under s. 61

- (1) The cash equivalent of any benefit chargeable to tax under section 61 above is an amount equal to the cost of the benefit, less so much (if any) of it as is made good by the employee to those providing the benefit.
- (2) Subject to the following subsections, the cost of a benefit is the amount of any expense incurred in or in connection with its provision, and (here and in those subsections) includes a proper proportion of any expense relating partly to the benefit and partly to other matters.
- (3) Where the benefit consists in the transfer of an asset by any person, and since that person acquired or produced the asset it has been used or has depreciated, the cost of the benefit is deemed to be the market value of the asset at the time of transfer.
- (4) Where the benefit consists in an asset being placed at the employee's disposal, or at the disposal of others being members of his family or household, for his or their use (without any transfer of the property in the asset), or of its being used wholly or partly for his or their purposes, then the cost of the benefit in any year is deemed to be—

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- (a) the annual value of the use of the asset, ascertained under subsection (5) below, plus
 - (b) the total of any expense incurred in or in connection with the provision of the benefit (excluding however the expense of acquiring or producing it incurred by the person to whom the asset belongs).
- (5) The annual value of the use of the asset, for the purposes of subsection (4) above—
- (a) in the case of land, is its annual value determined in accordance with section 531 of the Taxes Act; and
 - (b) in the case of a car to which section 62(1)(a) or (b) applies in that year, is 20 per cent. of its original market value or 10 per cent. if at the end of the year its age exceeds 4 years ; and
 - (c) in any other case is 10 per cent. of its market value at the time when it was first applied (by those providing the benefit in question) in the provision of any benefit for a person, or for members of his family or household, by reason of his employment.
- (6) But where there is payable, by those providing the benefit, any sum by way of rent or hire-charge for the asset, the following applies—
- (a) if the annual amount of the rent or hire-charge is equal to, or greater than, the annual value of the use of the asset as ascertained under subsection (5) above, that amount is to be substituted for the annual value in subsection (4)(a); and
 - (b) if that amount is less than the annual value as so ascertained, the amount is to be left out of account under paragraph (b) of that subsection as expense incurred in or in connection with the provision of the benefit.
- (7) Where the benefit consists in the provision of accommodation for the employee, or members of his family or household, in premises in whose case there is an amount to be treated under section 185(1) of the Taxes Act as his emoluments, then any expense incurred in or in connection with the provision of the benefit is to be treated as reduced by that amount; and if the amount is greater than the total of that expense, the benefit is to be disregarded for the purposes of any charge to income tax under section 61 above.
- (8) From the cash equivalent there are deductible in each case under section 189, 192, or 194(3) of the Taxes Act (necessary expenses etc.) such amounts (if any) as would have been so deductible if the cost of the benefit had been incurred by the employee out of his emoluments.

64 Cars available for private use

- (1) Where in any year in the case of a person employed in director's or higher-paid employment, a car is made available (without any transfer of the property in it) either to himself or to others being members of his family or household, and—
- (a) it is so made available by reason of his employment and it is in that year available for his or their private use; and
 - (b) the benefit of the car is not (apart from this section) chargeable to tax as the employee's income,
- there is to be treated as emoluments of the employment, and accordingly chargeable to income tax under Schedule E, an amount equal to whatever is the cash equivalent of that benefit in that year.
- (2) Subject to the provisions of this section, the cash equivalent of that benefit is to be ascertained—

- (a) from Tables A and B in Part I of Schedule 7 to this Act, in the case of cars with an original market value up to £6,000 ; and
- (b) from Table C in that Part of that Schedule in the case of cars with an original market value more than that amount,

the equivalent in each case being shown in the second or third column of the applicable Table by reference to the age of the car at the end of the relevant year of assessment.

- (3) This section has effect for the year 1977-78 and subsequent years.
- (4) The Treasury may by order taking effect from the beginning of any year beginning after it is made (but not of any year earlier than 1978-79)—
 - (a) increase (or further increase) the money sum specified in subsection (2)(a) above ;
 - (b) with or without such an increase, substitute for any of the three Tables a different Table of cash equivalents.

Orders under this subsection shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons; and any such order may revoke a previous order thereunder.

- (5) Part II of Schedule 7 to this Act has effect—
 - (a) with respect to the application of the Tables in Part I; and
 - (b) for reduction of the cash equivalent under this section in cases where the car has not been available for the whole of the relevant year, or the use of it has been preponderantly business use, or the employee makes any payment for the use of it.

65 Pooled cars

- (1) This section applies to any car in whose case the inspector is satisfied (whether on a claim under this section or otherwise) that it has for any year been included in a car pool for the use of the employees of one or more employers.
- (2) A car is to be treated as having been so included for a year if—
 - (a) in that year it was made available to, and actually used by, more than one of those employees and, in the case of each of them, it was made available to him by reason of his employment but it was not in that year ordinarily used by any one of them to the exclusion of the others ; and
 - (b) in the case of each of them any private use of the car made by him in that year was merely incidental to his other use of it in the year ; and
 - (c) it was in that year not normally kept overnight on or in the vicinity of any residential premises where any of the employees was residing, except while being kept overnight on premises occupied by the person making the car available to them.
- (3) Where this section applies to a car, then for the year in question the car is to be treated under sections 61 and 64 of this Act as not having been available for the private use of any of the employees.
- (4) A claim under this section in respect of a car for any year may be made by any one of the employees mentioned in subsection (2)(a) above (they being referred to below in this section as " the employees concerned") or by the employer on behalf of all of them.

- (5) On an appeal against the decision of the inspector on a claim under this section all the employees concerned may take part in the proceedings, and the determination of the body of Commissioners or county court appealed to shall be binding on all those employees, whether or not they have taken part in the proceedings.
- (6) Where an appeal against the decision of the inspector on a claim under this section has been determined, no appeal against the inspector's decision on any other such claim in respect of the same car and the same year shall be entertained.

66 Beneficial loan arrangements

- (1) Where in the case of a person employed in director's or higher-paid employment there is outstanding for the whole or part of a year a loan (whether to the employee himself or a relative of his) of which the benefit is obtained by reason of his employment and—
 - (a) no interest is paid on the loan for that year ; or
 - (b) the amount of interest paid on it for the year is less than interest at the official rate,
 there is to be treated as emoluments of the employment, and accordingly chargeable to income tax under Schedule E, an amount equal to whatever is the cash equivalent of the benefit of the loan for that year.
- (2) There is no charge to tax under subsection (1) if the cash equivalent does not exceed £50 or (for a year in which there are two or more loans outstanding) the total of all the cash equivalents does not exceed that amount.
- (3) Where in the case of a person employed in director's or higher-paid employment there is in any year released or written off the whole or part of a loan (whether to the employee himself or a relative of his, and whether or not such a loan as is mentioned in subsection the benefit of which was obtained by reason of his employment, then, subject to subsection (5) below, there is to be treated as emoluments of the employment, and accordingly chargeable to income tax under Schedule E, an amount equal to that which is released or written off.
- (4) If the employee shows that he derived no benefit from a loan made to a relative of his, subsections (1) and (3) shall not apply to that loan.
- (5) Subsection (3) does not apply where the amount released or written off is chargeable to income tax as income of the employee apart from this section, except—
 - (a) where it is chargeable only by virtue of section 187 of the Taxes Act (payments on retirement or removal from employment); or
 - (b) to the extent that the amount exceeds the sums previously falling to be treated as the employee's income under section 451 of the Taxes Act (sums paid to settlor otherwise than as income).
- (6) Where there was outstanding at any time when a person was in director's or higher-paid employment the whole or part of a loan to him (or to a relative of his) the benefit of which was obtained by reason of his employment, and that director's or higher-paid employment has terminated, whether on the employee ceasing to be employed or ceasing to be employed in director's or higher-paid employment, subsection (3) applies as if it had not terminated.
- (7) But on the employee's death—

- (a) a loan within subsection (1) ceases to be outstanding for the purposes of the operation of that subsection; and
 - (b) no charge arises under subsection (3) by reference to any release or writing-off which takes effect on or after the death.
- (8) Part I of Schedule 8 to this Act has effect as to what is meant by the benefit of a loan obtained by reason of a person's employment; the cash equivalent of the benefit is to be ascertained in accordance with Part II of that Schedule; and Part III of that Schedule has effect for excluding from the operation of subsection (1) of this section loans on which interest is eligible for relief under section 75 of the Finance Act 1972.
- (9) In this section, section 67 below and Schedule 8—
- (a) " loan " includes any form of credit;
 - (b) references to a loan include references to any other loan applied directly or indirectly towards the replacement of the first-mentioned loan ;
 - (c) references to making a loan include arranging, guaranteeing or in any way facilitating a loan (related expressions being construed accordingly); and
 - (d) references to the official rate of interest are to the rate prescribed from time to time by the Treasury by order in a statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.
- (10) For the purposes of this section, a person is a relative of another person if he or she is—
- (a) the spouse of that other ; or
 - (b) a parent or remoter forebear, child or remoter issue, or brother or sister of that other or of the spouse of that other; or
 - (c) the spouse of a person falling within paragraph (b) above.
- (11) This section applies to loans whether made before or after this Act is passed ; and—
- (a) subsection (1) has effect for the year 1978-79 and subsequent years; but for that year and 1979-80 the cash equivalent under that subsection instead of being the amount arrived at by applying Part II of Schedule 8 is that amount reduced by half ; and
 - (b) subsection (3) has effect for the year 1976-77 and subsequent years, except that it does not apply to benefits received in pursuance of arrangements made at any time with a view to protecting the holder of shares acquired before 6th April 1976 from a fall in their market value.

67 Employee shareholdings

- (1) Subsections (2) to (6) of this section apply where after 6th April 1976—
- (a) a person employed or about to be employed in director's or higher-paid employment (" the employee "), or a person connected with him, acquires shares in a company (whether the employing company or not); and
 - (b) the shares are acquired at an under-value in pursuance of a right or opportunity available by reason of the employment.
- (2) " At an under-value " means the shares being acquired either without payment for them at the time or being acquired for an amount then paid which is less than the market value of fully paid up shares of that class (in either case with or without obligation to make payment or further payment at some later time).

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- (3) In the circumstances specified above, section 66(1) of this Act, with Schedule 8, applies as if the employee had the benefit of an interest-free loan obtained by reason of his employment; and this is " the notional loan " referred to in the following subsections.
- (4) The amount initially outstanding of the notional loan is so much of the under-value on acquisition (that is, the market value referred to in subsection (2) less any payment then made for the shares) as is not chargeable to tax as an emolument of the employee; and—
- (a) the loan remains outstanding until terminated under subsection (5) below; and
 - (b) payments or further payments made for the shares after the initial acquisition go to reduce the amount outstanding of the notional loan.
- (5) The notional loan terminates on the occurrence of any of the following events—
- (a) the whole amount of it outstanding is made good by means of payments or further payments made for the shares; or
 - (b) the case being one in which the shares were not at the time of acquisition fully paid up, any outstanding or contingent obligation to pay for them is released, transferred or adjusted so as no longer to bind the employee or any person connected with him ; or
 - (c) the shares are so disposed of by surrender or otherwise that neither he nor any such person any longer has a beneficial interest in the shares ; or
 - (d) the employee dies.
- (6) If the notional loan terminates as mentioned in subsection (5)(b) or (c) above, there is then for the year in which the event in question occurs the same charge to income tax on the employee, under section 66(3) of this Act, as if an amount equal to the then outstanding amount of the notional loan had been released or written off from a loan within that section.
- (7) Where after 6th April 1976 shares are acquired, whether or not at an under-value but otherwise as mentioned in subsection (1) above, and—
- (a) the shares are subsequently disposed of by surrender or otherwise so that neither the employee nor any person connected with him any longer has a beneficial interest in them; and
 - (b) the disposal is for a consideration which exceeds the then market value of the shares,
- then for the year in which the disposal is effected the amount of the excess is treated as emoluments of the employee's employment and accordingly chargeable to income tax under Schedule E.
- (8) If at the time of the event giving rise to a charge by virtue of subsection (6) or (7) above the person who is " the employee " under this section by reference to his employment in director's or higher-paid employment mentioned in subsection (1)(a) has ceased to be employed in that employment, subsections (6) and (7) apply as if he had not so ceased.
- (9) But no charge arises under subsection (7) by reference to any disposal effected after the death of the employee, whether by his personal representatives or otherwise.
- (10) This section applies in relation to acquisition and disposal of an interest in shares less than full beneficial ownership (including an interest in the proceeds of sale of part of

the shares but not including a share option) as it applies in relation to the acquisition and disposal of shares, and in those cases—

- (a) for references to the shares acquired substitute references to the interest in shares acquired ;
- (b) for the reference to the market value of the shares acquired substitute a reference to the proportion corresponding to the size of the interest of the market value of the shares in which the interest subsists ;
- (c) for the reference to shares of the same class as those acquired substitute references to shares of the same class as those in which the interest subsists ; and
- (d) for the reference to the market value of fully paid up shares of that class substitute a reference to the proportion of that value corresponding to the size of the interest.

(11) In this section—

- (a) " shares " includes stock and also includes securities as defined in section 237(5) of the Taxes Act;
- (b) " acquisition ", in relation to shares, includes receipt by way of allotment or assignment, or otherwise howsoever;
- (c) any reference to payment for shares includes giving any consideration in money or money's worth or making any subscription, whether in pursuance of a legal liability or not;
- (d) " market value " has the same meaning as, for the purposes of Part III of the Finance Act 1965, it has by virtue of section 44 of that Act;

and section 533 of the Taxes Act (connected persons) applies for the purposes of this section.

(12) In respect of any shares or interest in shares this section only operates to include an amount in emoluments so far as any amount corresponding to it, and representing the same benefit, does not otherwise fall to be so included under the Tax Acts.

(13) Where an amount is chargeable to tax by virtue of subsection (6) above in respect of shares or an interest in shares, then—

- (a) on a disposal of the shares or interest, where that is the event giving rise to the charge ; or
- (b) in any other case on the first disposal of the shares or interest after the event, paragraph 4(1)(a) of Schedule 6 to the Finance Act 1965 (expenditure allowable in computation of chargeable gains) applies as if a sum equal to the amount chargeable had formed part of the consideration given by the person making the disposal for his acquisition of the shares or interest.

(14) This section has effect for the year 1976-77 and subsequent years.

68 Medical insurance

(1) Where in the case of a person employed in any employment (whether or not director's or higher-paid)—

- (a) expense is incurred by his employer or others in or in connection with the provision for him, and for others being members of his family or household, of insurance against the cost of medical treatment; and

- (b) that provision is made by reason of his employment and, apart from this Chapter, the expense would not be chargeable to tax as his income, there is to be treated as emoluments of the employment, and accordingly chargeable to tax under Schedule E, an amount equal to that of the expenditure (disregarding so much of it, if any, as is made good by him to those incurring it).
- (2) Where the provision is made for a group or class to which the employees or the others in question belong, then the amount to be taken into account under subsection (1) above in respect of him is such proportion of the total expenses for all the members of the group or class as is just and reasonable.
- (3) This section does not apply to expense incurred wholly in or in connection with the provision for the employee of insurance against the cost of medical treatment outside the United Kingdom, the need for which arises while the employee is outside the United Kingdom for the purpose of performing the duties of his employment.
- (4) For the purposes of this section, medical treatment includes all forms of treatment for, and all procedures for diagnosing, any physical or mental ailment, infirmity or defect; and the cost of medical treatment includes the cost of being an in-patient, whether or not in a private room, for the purpose of medical treatment.
- (5) This section has effect for the year 1976-77 and subsequent years.

69 Employments subject to ss. 60 to 67

- (1) In this Chapter "director's or higher-paid employment" means—
- (a) employment as a director of a company (but excluding, if he does not have a material interest in the company, employment as a full-time working director); or
- (b) employment with emoluments at the rate of £5,000 a year or more.
- (2) For this purpose emoluments are to be calculated—
- (a) on the basis that they include all such amounts as come into charge under this Chapter in the case of those in director's or higher-paid employment or under section 68, or under section 36 or 37 of the Finance (No. 2) Act 1975 (cash or other vouchers); and
- (b) without any deduction under section 189, 192 or 194(3) of the Taxes Act (necessary expenses of employment, etc.).
- (3) But where a person is employed in two or more employments by the same employer, and the total of the emoluments of those employments (applying this section) is at the rate of £5,000 a year or more, all the employments are to be treated as director's or higher-paid.
- (4) All employees of a partnership or body over which an individual or another partnership or body has control are to be treated for the purposes of this section (but not for any other purpose) as if the employment were an employment by the individual or by that other partnership or body, as the case may be.

70 Notice of nil liability under this Chapter

- (1) If a person furnishes to the inspector a statement of the cases and circumstances in which payments of a particular character are made, or benefits or facilities of a particular kind are provided, for any employees (whether his own or those of anyone

else), and the inspector is satisfied that no additional tax is payable under this Chapter by reference to the payments, benefits or facilities mentioned in the statement, the inspector shall notify the person accordingly; and then nothing in this Chapter applies to those payments, or to the provision of those benefits or facilities, or otherwise for imposing any additional charge to income tax.

- (2) The inspector may, if in his opinion there is reason to do so, by notice in writing served on the person to whom notification under subsection (1) above was given, revoke the notification, either as from the date of its making or as from such later date as may be specified in the notice under this subsection; and then all such income tax becomes chargeable, and all such returns are to be made by that person and by the employees in question, as would have been chargeable or would have had to be made in the first instance if the notification under subsection (1) had never been given or, as the case may be, it had ceased to have effect on the specified date.

71 Cash vouchers

- (1) Section 37 of the Finance (No. 2) Act 1975 (taxation of cash vouchers for year 1976-77 and subsequent years of assessment) shall not have effect for the year 1976-77 and accordingly—

- (a) in subsection (6) of that section the words " and subsection (6) " shall be omitted ; and
 (b) after that subsection there shall be inserted—

“(7) This section has effect for the year 1977-78 and subsequent years of assessment.”

- (2) In subsection (5) of that section for the words from " income tax " onwards there shall be substituted the words " income tax in respect of all payments made in exchange for vouchers issued under the scheme to be deducted in accordance with regulations under section 204 of the Taxes Act ".

72 Interpretation of this Chapter; supplementary

- (1) The following provisions of this section apply for the interpretation of expressions used in sections 60 to 71 above, and Schedules 7 and 8.
- (2) "Employment" means an office or employment whose emoluments fall to be assessed under Schedule E; and related expressions are to be construed accordingly.
- (3) For the purposes of this Chapter, all sums paid to an employee by his employer in respect of expenses, and all such provision as is mentioned in this Chapter which is made for an employee, or for members of his family or household, by his employer, are deemed to be paid to or made for him or them by reason of his employment.

But this does not apply to any such payment or provision made by the employer, being an individual, as can be shown to have been made in the normal course of his domestic, family or personal relationships.

- (4) References to members of a person's family or household are to his spouse, his sons and daughters and their spouses, his parents and his servants, dependants and guests.
- (5) As respects cars, the following definitions apply—
- (a) " car" means any mechanically propelled road vehicle except—

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- (i) a vehicle of a construction primarily suited for the conveyance of goods or burden of any description,
 - (ii) a vehicle of a type not commonly used as a private vehicle and unsuitable to be so used,
 - (iii) a motor cycle as defined in section 190(4) of the Road Traffic Act 1972, and
 - (iv) an invalid carriage as defined in section 190(5) of that Act;
 - (b) the age of a car at any time is the interval between the date of its first registration and that time ;
 - (c) " business travel" means travelling which a person is necessarily obliged to do in the performance of the duties of his employment;
 - (d) the date of a car's first registration is the date on which it was first registered—
 - (i) in Great Britain, under the Vehicles (Excise) Act 1971 or corresponding earlier legislation, or
 - (ii) elsewhere, under the corresponding legislation of any country or territory ;
 - (e) the original market value of a car is the inclusive price which it might reasonably have been expected to fetch if sold in the United Kingdom singly in a retail sale in the open market immediately before the date of its first registration (" inclusive price " meaning the price inclusive of customs or excise duty, of any tax chargeable as if it were a duty of customs, and of car tax); and
 - (f) "private use", in relation to a car made available to any person, or to others being members of his family or household, means any use otherwise than for his business travel.
- (6) For the purposes of this Chapter—
- (a) a car made available in any year to an employee, or to others being members of his family or household, by reason of his employment is deemed to be available in that year for his or their private use unless the terms on which the car is made available prohibits such use and no such use is made of the car in that year;
 - (b) a car made available to an employee, or to others being members of his family or household, by his employer is deemed to be made available to him or them by reason of his employment (unless the employer is an individual and it can be shown that the car was made so available in the normal course of his domestic, family or personal relationships).
- (7) For the purposes of section 63, the market value of an asset at any time is the price which it might reasonably have been expected to fetch on a sale in the open market at that time.
- (8) " Director " means—
- (a) in relation to a company whose affairs are managed by a board of directors or similar body, a member of that board or similar body ;
 - (b) in relation to a company whose affairs are managed by a single director or similar person, that director or person; and
 - (c) in relation to a company whose affairs are managed by the members themselves, a member of the company,
- and includes any person in accordance with whose directions or instructions the directors of the company (defined as above) are accustomed to act.

But a person is not under this subsection to be deemed a person in accordance with whose directions or instructions the directors of the company are accustomed to act by reason only that the directors act on advice given by him in a professional capacity.

- (9) "Full-time working director" means a director who is required to devote substantially the whole of his time to the service of the company in a managerial or technical capacity.
- (10) A person shall be treated as having a material interest in a company—
- (a) if he, either on his own or with any one or more of his associates, or if any associate of his with or without such other associates, is the beneficial owner of, or able, directly or through the medium of other companies or by any other indirect means, to control, more than 5 per cent. of the ordinary share capital of the company, or
 - (b) if, in the case of a close company, on an amount equal to the whole distributable income of the company falling to be apportioned under Chapter III of Part XI of the Taxes Act for the purpose of computing total income, more than 5 per cent. of that amount could be apportioned to him together with his associates (if any), or to any associate of his, or any such associates taken together.

In this subsection "associate" has the same meaning as in section 303(3) of the Taxes Act, except that for this purpose "relative" in that subsection has the same meaning as in this Chapter.

- (11) "Control", in relation to a body corporate or partnership, has the meaning given to it by section 534 of the Taxes Act; and the definition of "control" in that section applies (with the necessary modifications) in relation to an unincorporated association as it applies in relation to a body corporate.
- (12) "Year" means year of assessment (except where the expression is used with reference to the age of a car).
- (13) The enactments specified in Schedule 9 to this Act shall be amended as there specified (which are amendments consequential on the replacement by this Chapter of Chapter II of Part VIII of the Taxes Act and other provisions); Part I of that Schedule substitutes a new section for section 15 of the Taxes Management Act 1970, and contains consequential amendments; Part II contains other amendments.

PART IV

CAPITAL TRANSFER TAX

Relief for business and agricultural property and woodlands

73 Relief for business property

Schedule 10 to this Act shall have effect for reducing, in the cases mentioned therein,

- (a) the value transferred by a transfer of value; and
- (b) the amount of a distribution payment made, or capital distribution treated as made.

74 Relief for agricultural property

- (1) Schedule 8 to the Finance Act 1975 shall be amended as follows.
- (2) In sub-paragraph (1) of paragraph 1, paragraph (a) shall be omitted and for the words " so computed " there shall be substituted the words " computed in accordance with paragraph 2 below ".
- (3) In sub-paragraph (2) of paragraph 1, after the words " transfer of value " in paragraph (a) there shall be inserted the words " and either that transfer or the current transfer was or would have been a transfer made on death " and at the end of paragraph (d) there shall be added the words
- “and
- (e) the agricultural property became, through the earlier transfer, the property of the person or of the spouse of the person who is the transferor in relation to the current transfer.
- (2A) Where, by virtue of sub-paragraph (2) above, the conditions stated in paragraph 3 below are deemed to be satisfied but, under the earlier transfer mentioned in that sub-paragraph, the amount of the value transferred which was attributable to the agricultural property was part only of the value of that property, a like part of its agricultural value shall be substituted for the agricultural value of the property in ascertaining the part eligible for relief under paragraph 2 below ”.
- (4) In paragraph 2 for the words from " reduced " to the end there shall be substituted the words " reduced by one half ".
- (5) After sub-paragraph (b) of paragraph 4 there shall be inserted the following sub-paragraph:
- “(bb) where the value of the shares or debentures is taken, by virtue of paragraph 9A of Schedule 10 to this Act, to be less than their value as previously determined, they would have been sufficient, without any other property, to give the transferor control as mentioned in sub-paragraph (b) above ; and”.
- (6) At the end of paragraph 5(2) there shall be added
- “and
- (c) the area of any rough grazing land shall be counted as one-sixth of its actual area.
- (2A) The Board may consult the Minister of Agriculture, Fisheries and Food or, as the case may require, the Secretary of State or the Department of Agriculture for Northern Ireland on any question arising; under this paragraph whether any land is rough grazing land; and paragraph 7(4) of Schedule 4 to this Act shall apply in relation to any such question as if it were a question as to the value of the land.”
- (7) The preceding provisions of this section have effect as follows:—
- (a) subsections (1), (2) and (4) to (6), in relation to chargeable transfers made after 6th April 1976 ; and
- (b) subsection (3) in relation to chargeable transfers made after the passing of this Act.

75 Relief for woodlands

In Schedule 9 to the Finance Act 1975, in paragraph 6(2)(b) (expenses allowable under the Schedule to include those incurred in replanting within three years of a disposal) after the word " disposal" there shall be inserted the words " (or such longer time as the Board may allow) ".

Relief for works of art, historic buildings etc.

76 Conditionally exempt transfers

- (1) Subject to the provisions of this section, a transfer of value made after 6th April 1976 is an exempt transfer to the extent that the value transferred by it is attributable to property—
 - (a) which, on a claim made for the purpose, is designated by the Treasury under section 77 below; and
 - (b) with respect to which the requisite undertaking described in that section is given by such person as the Treasury think appropriate in the circumstances of the case.
- (2) A transfer of value exempt as aforesaid with respect to any property is hereafter referred to as a conditionally exempt transfer of that property.
- (3) Subsection (1) above does not apply to a transfer of value other than one which under section 22 of the Finance Act 1975 a person makes on his death unless—
 - (a) the transferor or his spouse, or the transferor and his spouse between them, have been beneficially entitled to the property throughout the six years ending with the transfer; or
 - (b) the transferor acquired the property on a death and either there was under the said section 22 a transfer of value on the occasion of the death which was itself a conditionally exempt transfer of the property or the value of the property was, under section 31 or 34 of the said Act of 1975, section 40 of the Finance Act 1930 or section 2 of the Finance Act (Northern Ireland) 1931 left out of account for the purposes of the capital transfer tax or estate duty chargeable on the death.
- (4) Subsection (1) above does not apply to a transfer of value to the extent to which it is an exempt transfer under paragraph 1 or 10 of Schedule 6 to the said Act of 1975 (gifts to spouses or charities).
- (5) As from 7th April 1976 the enactments mentioned in Schedule 11 to this Act shall have effect subject to the amendments there specified, being amendments consequential on the provisions of this section and sections 77 to 84 below.

77 Designation and undertakings

- (1) The Treasury may designate under this section
 - (a) any pictures, prints, books, manuscripts, works of art, scientific collections or other things not yielding income which appear to the Treasury to be of national, scientific, historic or artistic interest;
 - (b) any land which in the opinion of the Treasury is of outstanding scenic or historic or scientific interest;

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- (c) any building for the preservation of which special steps should in the opinion of the Treasury be taken by reason of its outstanding historic or architectural interest;
 - (d) any land which adjoins such a building as is mentioned in paragraph (c) above and which in the opinion of the Treasury is essential for the protection of the character and amenities of the building ;
 - (e) any object which in the opinion of the Treasury is historically associated with such a building as is mentioned in paragraph (c) above.
- (2) In the case of property within subsection (1)(a) above, the requisite undertaking is that, until the person beneficially entitled to the property dies or the property is disposed of, whether by sale or gift or otherwise—
- (a) the property will be kept permanently in the United Kingdom and will not leave it temporarily except for a purpose and a period approved by the Treasury ; and
 - (b) reasonable steps will be taken for the preservation of the property and for securing reasonable access to the public.
- (3) If it appears to the Treasury, on a claim made for the purpose, that any documents which are designated or to be designated under subsection (1)(a) above contain information which for personal or other reasons ought to be treated as confidential, they may exclude those documents, either altogether or to such extent as they think fit, from so much of an undertaking given or to be given under subsection (2)(b) above as relates to public access.
- (4) In the case of other property within subsection (1) above, the requisite undertaking is that, until the person beneficially entitled to the property dies or the property is disposed of, whether by sale or gift or otherwise, reasonable steps will be taken—
- (a) in the case of land falling within subsection (1)(b) above, for the maintenance of the land and the preservation of its character ; and
 - (b) in the case of any other property, for the maintenance, repair and preservation of the property and, if it is an object falling with subsection (1)(e) above, for keeping it associated with the building concerned ;
- and for securing reasonable access to the public.
- (5) In this section " national interest" includes interest within any part of the United Kingdom.

78 Chargeable events

- (1) Where there has been a conditionally exempt transfer of any property, tax shall be charged under this section on the first occurrence after the transfer of an event which under this section is a chargeable event with respect to the property.
- (2) If the Treasury are satisfied that at any time an undertaking given with respect to the property under section 76 above or subsection (5)(b) below has not been observed in a material respect, the failure to observe the undertaking is a chargeable event with respect to the property; and the person liable for the tax chargeable by reference to that event is the person who, if the property were sold at the time the tax becomes chargeable, would be entitled to receive (whether for his benefit or not) the proceeds of sale or any income arising from them.
- (3) If—

- (a) the person beneficially entitled to the property dies; or
 - (b) the property is disposed of, whether by sale or gift or otherwise,
- the death or disposal is, subject to subsections (4) and (5) below, a chargeable event with respect to the property ; and the person liable for the tax chargeable by reference to the event is, in a case within paragraph (a), the person who, if the property were sold immediately after the death would be entitled to receive (whether for his own benefit or not) the proceeds of sale or any income arising from them and, in a case within paragraph (b), the person for whose benefit the property is disposed of.
- (4) A death or disposal is not a chargeable event with respect to any property if the personal representatives of the deceased (or, in the case of settled property, the trustees or the person next entitled) within three years of the death make or, as the case may be, the disposal is—
- (a) a disposal of the property by sale by private treaty to a body mentioned in paragraph 12 of Schedule 6 to the Finance Act 1975 (museums etc.) or a disposal of it to such a body otherwise than by sale ; or
 - (b) a disposal to the Board in pursuance of paragraph 17 of Schedule 4 to that Act or in accordance with directions given by the Treasury under section 50 or 51 of the Finance Act 1946 (acceptance of property in satisfaction of tax);
- and a death or disposal of the property after such a disposal as is mentioned in paragraph (a) or (b) above is not a chargeable event with respect to the property unless there has again been a conditionally exempt transfer of it after that disposal.
- (5) A death or disposal otherwise than by sale is not a chargeable event with respect to any property if—
- (a) the transfer of value made on the death or the disposal is itself a conditionally exempt transfer of the property ; or
 - (b) the undertaking previously given with respect to the property under section 76 above (or any undertaking previously given with respect to the property under this paragraph) is replaced by a corresponding undertaking given by such person as the Treasury think appropriate in the circumstances of the case.
- (6) Where tax is chargeable under this section with respect to any property within section 77(1)(c), (d) or (e) above, tax shall also be chargeable with respect to any property associated with it; but the Treasury may direct that the foregoing provisions of this subsection shall not apply if it appears to them that the entity consisting of the building, land and objects concerned has not been materially affected.
- (7) For the purposes of subsection (6) above two or more properties are associated with each other if one of them is a building falling within subsection (1)(c) of section 77 above and the other or others such land or objects as, in relation to that building, fall within subsection (1)(d) or (e) of that section.

79 Amount of charge under s. 78

- (1) Subject to the provisions of this section, tax chargeable in respect of any property under section 78 above by reference to a chargeable event shall be charged—
- (a) on an amount equal to the value of the property at the time of the chargeable event; and
 - (b) at the following rate or rates—
 - (i) if the relevant transferor is alive, the rate or rates that would be applicable to that amount under the second Table in section 37 of

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- the Finance Act 1975 if it were the value transferred by a chargeable transfer made by the relevant transferor at that time;
- (ii) if the relevant transferor is dead, the rate or rates that would have applied to that amount under the appropriate Table in that section if it had been added to the value transferred on his death and had formed the highest part of that value.
- (2) For the purposes of subsection (1)(b)(ii) above the appropriate Table is, if the conditionally exempt transfer by the relevant transferor was made on death, the first Table and, if not, the second.
- (3) Where the chargeable event is a disposal on sale and—
- (a) the sale was not intended to confer any gratuitous benefit on any person ; and
- (b) was either a transaction at arm's length between persons not connected with each other or a transaction such as might be expected to be made at arm's length between persons not connected with each other,
- the value of the property at the time of the chargeable event shall be taken for the purposes of subsection (1)(a) above to be equal to the proceeds of the sale.
- (4) Where by virtue of section 76(4) above the conditionally exempt transfer extended only to part of the property, the amount mentioned in subsection (1)(a) above shall be proportionately reduced.
- (5) The relevant transferor in relation to the tax chargeable on the occasion of a chargeable event in respect of any property is—
- (a) if there has been only one conditionally exempt transfer of the property before the event, the person who made that transfer;
- (b) if there have been two or more such transfers and the last was before, or only one of them was within, the period of thirty years ending with the event, the person who made the last of those transfers ;
- (c) if there have been two or more such transfers within that period, the person who made whichever of those transfers the Board may select.
- (6) The conditionally exempt transfers to be taken into account for the purpose of subsection (5) above in relation to a chargeable event do not include transfers made before any previous chargeable event in respect of the same property or before any event which apart from section 78(4) above would have been such a chargeable event.
- (7) Where after a conditionally exempt transfer of any property there is a chargeable transfer the value transferred by which is wholly or partly attributable to that property, any tax charged on that value so far as attributable to that property shall be allowed as a credit—
- (a) if the chargeable transfer is a chargeable event with respect to the property, against the tax chargeable in accordance with this section by reference to that event;
- (b) if the chargeable transfer is not such a chargeable event, against the tax chargeable in accordance with this section by reference to the next chargeable event with respect to the property.

80 Reinstatement of transferor's cumulative total

- (1) Where tax has become chargeable under section 78 above by reference to a chargeable event in respect of any property (" the relevant event") the rate or rates of tax

applicable to any subsequent chargeable transfer made by the person who made the last conditionally exempt transfer of the property before the relevant event shall be determined as if the amount on which tax has become chargeable as aforesaid were value transferred by a chargeable transfer made by him at the time of the relevant event.

(2) Where the person who made the last conditionally exempt transfer of the property before the relevant event—

(a) is dead ; and

(b) is the relevant transferor in relation to a subsequent chargeable event,

section 79(1)(b)(ii) above shall have effect as if the value transferred on his death were increased by the amount on which tax has become chargeable on the occasion of the relevant event.

(3) If—

(a) the person who made the last conditionally exempt transfer of the property before the relevant event is not the relevant transferor in relation to that event; and

(b) at the time of that event or within the previous five years the property is or has been comprised in a settlement made not more than thirty years before that event; and

(c) a person who is the settlor in relation to the settlement has made a conditionally exempt transfer of the property within those thirty years,

subsections (1) and (2) above shall have effect with the substitution for references to the person who made the last conditionally exempt transfer before the relevant event of a reference to any such person as is mentioned in paragraph (c) above.

(4) The conditionally exempt transfers to be taken into account for the purposes of subsection (3)(c) above in relation to the relevant event do not include transfers made before any previous chargeable event in respect of the same property or before any event which apart from section 78(4) above would have been such a chargeable event.

81 Conditionally exempt distributions

(1) A transfer of property or other event shall not constitute or give rise to a distribution payment or capital distribution under any provision of Schedule 5 to the Finance Act 1975 (settled property) other than paragraph 12 if the property by reference to which the amount of the distribution payment or capital distribution would fall to be determined has been comprised in the settlement throughout the six years ending with the transfer or event, and—

(a) the property is, on a claim made for the purpose, designated by the Treasury under section 77 above; and

(b) the requisite undertaking described in that section is given with respect to the property by such person as the Treasury think appropriate in the circumstances of the case.

(2) A transfer or event which by virtue of subsection (1) above does not constitute or give rise to a distribution payment or capital distribution is hereafter referred to as a conditionally exempt distribution of the property in question.

(3) Subject to the following provisions of this section, sections 78, 79 and 80 above shall have effect as if—

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- (a) references to a conditionally exempt transfer included references to a conditionally exempt distribution;
 - (b) references to a disposal otherwise than by sale included references to any event on the occurrence of which a capital distribution or distribution payment is treated as made under any provision of the said Schedule 5 other than paragraph 12; and
 - (c) references to an undertaking given under section 76 above included references to an undertaking given under this section.
- (4) Where the relevant transferor for the purposes of section 79 above falls to be determined by reference to a conditionally exempt distribution, paragraph (b) of subsection (1) of that section shall not apply and the rate or rates at which the tax is charged on the amount mentioned in paragraph (a) of that section shall be—
- (a) if the settlement is still in existence at the time of the chargeable event, the rate or rates that would be applicable (under paragraph 7 or, as the case may be, paragraph 8 of the said Schedule 5) to that amount if a capital distribution of that amount were made at that time out of the property comprised in the settlement;
 - (b) if the settlement has then ceased to exist—
 - (i) subject to sub-paragraph (ii) below, the rate or rates that would be applicable as mentioned in paragraph (a) above but by reference to a capital distribution made on the occasion on which the settlement ceased to exist;
 - (ii) if a capital distribution was made or treated as made on that occasion, the rate or rates that would have been applicable to that amount if it had been included in the amount of that distribution and had formed the highest part of it.
- (5) Where tax has become chargeable as mentioned in section 80 above by reference to a chargeable event (" the relevant event") and the person to whom that section applies falls to be determined by reference to a conditionally exempt distribution, the following provisions shall have effect instead of subsections (1) and (2) of that section—
- (a) the rate or rates of tax applicable to any subsequent capital distribution out of the property comprised in the settlement shall be determined as if the amount on which tax has become chargeable had been the amount of a distribution payment made at the time of the relevant event ; and
 - (b) where the settlement has ceased to exist and the tax chargeable on the occasion of a subsequent chargeable event falls to be calculated in accordance with paragraph (i) or (ii) of subsection (4)(b) above, that paragraph shall have effect as if the amount of the capital distribution mentioned in that paragraph were increased by the amount on which tax has become chargeable on the occasion of the relevant event.

82 Exemption from periodic charge

- (1) Where property is comprised in a settlement and there has been a conditionally exempt transfer of the property on or before the occasion on which it became comprised in the settlement, paragraph 12 of Schedule 5 to the Finance Act 1975 (periodic charge to tax where there is no interest in possession) shall not have effect in relation to the property on any relevant date (whether a relevant anniversary or, in a case within sub-

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paragraph (2) of that paragraph, the end of a year) falling before the first occurrence after the transfer of a chargeable event with respect to the property.

- (2) Where property is comprised in a settlement and there has been, on or before the occasion on which it became comprised in the settlement, a disposal of the property in relation to which subsection (4) of section 31 of the Finance Act 1965 (capital gains tax relief for works of art etc.) had effect, the said paragraph 12 shall not have effect in relation to the property on any relevant date falling before the first occurrence after the disposal of an event on the happening of which the property is treated as sold under subsection (5) of that section.
- (3) Where property is comprised in a settlement and there has been no such transfer or disposal of the property as is mentioned in subsection (1) or (2) above on or before the occasion on which it became comprised in the settlement, then, if—
 - (a) the property has, on a claim made for the purpose, been designated by the Treasury under section 77 above; and
 - (b) the requisite undertaking described in that section has been given by such person as the Treasury think appropriate in the circumstances of the case,tax which would otherwise be chargeable under the said paragraph 12 in respect of the property on a relevant date shall be deferred until the first occurrence of an event which, if there had been a conditionally exempt transfer of the property when the claim was made and the undertaking had been given under section 76 above, would be a chargeable event with respect to the property.
- (4) Where any deferred tax becomes chargeable on the occurrence of a chargeable event, it shall be charged—
 - (a) subject to subsection (5) below, on an amount equal to the value of the property at the time of the chargeable event; and
 - (b) at the rate at which it would be chargeable if the relevant date had fallen at that time.
- (5) If more than one relevant date has passed and, accordingly, more than one deferred tax becomes chargeable—
 - (a) the second deferred tax shall be charged on the value mentioned in subsection (4)(a) above less the amount of the first deferred tax ; and
 - (b) the third deferred tax (if any) shall be charged on the amount found under paragraph (a) above less the amount of the second deferred tax,and so on.
- (6) In its application to a capital distribution made after the chargeable event, paragraph 13(1) of the said Schedule 5 (tax credit for periodic charge) shall have effect as if the reference to tax charged at a relevant anniversary included a reference to tax deferred from a relevant anniversary and charged under subsection (4) above.
- (7) The persons liable for any deferred tax shall be those who would have been liable but for the deferment.

83 Transfers on or before 6th April 1976

- (1) Section 31 to 34 of the Finance Act 1975 (conditional exemption for certain objects, land etc. on death) shall not apply to any death after 6th April 1976.

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- (2) Where tax is chargeable after that date under subsection (3) of section 33 or subsection (8) of section 34 of the said Act of 1975 by reason of a sale, so much of paragraph (b) of that subsection as provides for the value of the object or property to be treated as equal to the proceeds of sale shall not apply unless the sale was—
 - (a) not intended to confer any gratuitous benefit on any person; and
 - (b) was either a transaction at arm's length between persons not connected with each other or a transaction such as might be expected to be made at arm's length between persons not connected with each other.
- (3) Where there has been a transfer of value in relation to which the value of any property has been left out of account under the provisions of sections 31 to 34 of the said Act of 1975 and, before any tax has become chargeable in respect of that property under those provisions, there is a conditionally exempt transfer of that property, then, on the occurrence of a chargeable event in respect of that property—
 - (a) if there has been no conditionally exempt transfer of the property on death, tax shall be chargeable either under section 78 above or under those provisions as the Board may elect; and
 - (b) if there has been such a conditionally exempt transfer, tax shall be chargeable under that section and not under those provisions.
- (4) In sections 79(7) and 82 above references to a conditionally exempt transfer of any property include references to a transfer of value in relation to which the value of any property has been left out of account under the provisions of the said sections 31 to 34 and, in relation to such property, references to a chargeable event or to the tax chargeable in accordance with section 79 above by reference to a chargeable event include references to an event on the occurrence of which tax becomes chargeable under those provisions or to the tax so chargeable.
- (5) In paragraph 19(1)(c) of Schedule 4 to the Finance Act 1975 (interest on unpaid tax) after " section 32 " there shall be inserted " or 34 ".
- (6) In its application to a sale on any date after 6th April 1976 which does not satisfy the requirements of subsection (2)(a) and (b) above, subsection (2) of section 40 of the Finance Act 1930 shall have effect as if the reference to the proceeds of sale were a reference to the value of the objects on that date.
- (7) Subsections (3) and (4) above shall apply to a death in relation to which the value of any property has been left out of account under the said section 40 as they apply to such a transfer of value as is there mentioned, taking references to tax becoming chargeable under the provisions there mentioned as references to estate duty becoming chargeable under that section or section 48 of the Finance Act 1950.
- (8) In determining for the purposes of subsection (2) of the said section 40 what is the last death on which the objects passed there shall be disregarded any death after 6th April 1976.
- (9) In the application of this section to Northern Ireland for references to section 40 of the Finance Act 1930 and section 48 of the Finance Act 1950 there shall be substituted references to section 2 of the Finance Act (Northern Ireland) 1931 and Article 6 of the Finance (Northern Ireland) Order 1972 respectively.

84 Maintenance funds for historic buildings

- (1) Subject to the provisions of Part II of Schedule 6 to the Finance Act 1975 as applied by this section, a transfer of value made after 2nd May 1976 is an exempt transfer to the extent that—
 - (a) the value transferred by it is attributable to property which becomes comprised in a settlement; and
 - (b) the Treasury so direct (whether before or after the time of the transfer);and paragraphs 6 to 12 of Schedule 5 to that Act shall not apply in relation to property comprised in a settlement by virtue of a transfer of value exempt under this section.
- (2) The Treasury shall, on a claim made for the purpose, give a direction under subsection (1) above if—
 - (a) they are satisfied that—
 - (i) the settlement complies with the requirements of subsection (3) below ; and
 - (ii) the property is of a character and amount appropriate for the purposes of the settlement; and
 - (b) the trustees include a custodian trustee and are approved by the Treasury.
- (3) The requirements referred to in subsection (2)(a) above are—
 - (a) that during the continuance of the settlement none of the property comprised in it can be applied otherwise than—
 - (i) for the maintenance, repair or preservation of, or making provision for public access to, a building or land which is for the time being a qualifying building or qualifying land as defined in subsection (5) below; or
 - (ii) as respects income not so applied and not accumulated, for the benefit of a body mentioned in paragraph 12 of Schedule 6 to the said Act of 1975 (museums etc.) or of a qualifying charity as defined in subsection (7) below ; and
 - (b) that on the termination of the settlement none of the property comprised in it can devolve otherwise than on any such body or charity as aforesaid.
- (4) Where property is comprised in a settlement by virtue of a transfer of value exempt under this section the trustees shall from time to time furnish the Treasury with such accounts and other information relating to the settlement as the Treasury may reasonably require.
- (5) A building or land is a qualifying building or qualifying land for the purposes of subsection (3)(a) above if—
 - (a) it has been designated under section 34(1)(b) or (c) of the Finance Act 1975 or section 77(1)(c) or (d) above; and
 - (b) the requisite undertaking has been given with respect to it under the said section 34 or under section 76, 78(5)(b) or 82(3) above ; and
 - (c) tax has not (since the last occasion on which such an undertaking was given) become chargeable with respect to it under the said section 34 or under section 78 or 82(3) above.
- (6) If it appears to the Treasury that provision is, or is to be, made by a settlement for the maintenance, repair or preservation of any such property as is mentioned

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in subsection (1)(c) or (d) of section 77 above, they may, on a claim made for the purpose—

- (a) designate that property under this subsection ; and
- (b) accept with respect to it an undertaking such as is described in subsection (4) of that section;

and, if they do so, subsection (5) above shall have effect as if the designation were under that section and the undertaking under section 76 above and as if the reference to tax becoming chargeable were a reference to the occurrence of an event on which tax would become chargeable under section 78 above if there had been a conditionally exempt transfer of the property when the claim was made and the undertaking had been given under the said section 76.

- (7) A charity is a qualifying charity for the purposes of subsection (3) above if it exists wholly or mainly for maintaining, repairing or preserving for the public benefit buildings of historic or architectural interest, land of scenic, historic or scientific interest or objects of national, scientific, historic or artistic interest.

In this subsection " national interest" includes interest within any part of the United Kingdom.

- (8) In paragraph 15(1), (2) and (3) of Schedule 6 to the said Act of 1975 after the words " to 13 above " there shall be inserted the words " and section 84 of the Finance Act 1976 ".
- (9) In the application of this section to Scotland for the reference in subsection (2)(b) above to a custodian trustee there shall be substituted a reference to any such body or charity as is mentioned in subsection (3) above or any other body approved by the Treasury for the purposes of this subsection.
- (10) For the purposes of the application of this section to Northern Ireland, section 4(2) and (3) of the Public Trustee Act 1906 (custodian trustees) shall extend to Northern Ireland as if a trust corporation within the meaning of the Probates and Letters of Administration Act (Northern Ireland) 1933 were a body corporate entitled by rules made under the said Act of 1906 to act as a custodian trustee.

85 Gifts for public benefit

In Schedule 6 to the Finance Act 1975, in paragraph 13(2)(f), for the words "or historic or scientific" there shall be substituted the words " scientific, historic or artistic ".

Mutual and voidable transfers

86 Mutual transfers: exemption for donee's gift

- (1) This section and section 87 below have effect where—
 - (a) a person (" the donor") makes a chargeable transfer (" the donor's transfer ") which increases the estate of another person (" the donee "); and
 - (b) the donee subsequently makes a transfer of value (" the donee's transfer ") which either—
 - (i) is made in the donor's life-time and increases the value of the estate of the donor or his spouse; or
 - (ii) is made within two years after the donor's death and increases the value of the estate of the donor's widow or widower.

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- (2) The donee's transfer shall be an exempt transfer to the extent to which the value thereby transferred does not exceed—
 - (a) the amount by which his estate was increased by the donor's transfer; or
 - (b) if there has been a previous donee's transfer, so much of that amount as has not been taken into account under this subsection for exempting that transfer.
- (3) In subsection (1) above references to a transfer are references to a transfer (whether made before or after the passing of this Act) that is a disposition between individuals, including any disposition treated as made by virtue of section 20(7) of the Finance Act 1975 but not anything else that is treated as a disposition for the purposes of capital transfer tax.
- (4) Subsection (1)(b) above has effect in relation to a person as the donor's spouse, widow or widower only if at the relevant time both the donor and that person were, or neither of them was, domiciled in the United Kingdom ; and for that purpose the relevant time is, in the case of a spouse, the time of the donee's transfer and, in the case of a widow or widower, the time of the donor's death.
- (5) Where the donor has died before 1st April 1975 subsection (1)(b)(ii) above shall have effect with the substitution for the reference to his death of a reference to that date.

87 Mutual transfers: relief for donor's gift

- (1) The donor may, within six years after the donee's transfer, claim that for the purposes of this section the value transferred by the donor's transfer shall be treated as cancelled by the donee's transfer to the extent specified in subsection (3) below ; and thereupon—
 - (a) tax on the cancelled value paid or payable (whether or not by the claimant) shall be repaid to him by the Board or, as the case may be, shall not be payable; and
 - (b) the rate or rates of tax applicable to any chargeable transfer made by the donor after the claim shall be determined as if the values previously transferred by chargeable transfers made by the donor were reduced by the cancelled value.
- (2) Where the donor has died, then—
 - (a) if the case falls within section 86(1)(b)(i) above, a claim may be made under subsection (1) above by the donor's personal representatives and paragraph (b) of that subsection shall apply as if for the reference to any chargeable transfer made by the donor after the claim there were substituted a reference to the chargeable transfer made by him on his death;
 - (b) if the case falls within section 86(1)(b)(ii) above, a claim may be made under subsection (1) above by the donor's widow or widower.
- (3) The amount of the value transferred to be treated as cancelled by a donee's transfer shall be such amount thereof as, after deduction of the tax charged on it, is equal—
 - (a) if paragraph (b) below does not apply, to the value restored by the transfer ;
 - (b) if more than twelve months have elapsed between the donor's transfer and the donee's, to the value so restored reduced by 4 per cent. for every twelve months that have so elapsed ;and where the cancelled amount is less than the whole of the value transferred it shall be treated as the highest part of that value.

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- (4) As between two or more donor's transfers made by the same donor to the same donee value transferred by a later transfer shall be treated as cancelled rather than value transferred by an earlier one; and where there has been a claim in respect of a previous donee's transfer references in the foregoing provisions of this section to the value transferred shall be construed as references to the part of that value not treated as cancelled by that transfer.
- (5) For the purposes of subsection (3) above the value restored by the donee's transfer is so much of the value thereby transferred as does not exceed—
 - (a) the amount by which the donee's estate was increased by the donor's transfer ;
or
 - (b) if there has been a previous donee's transfer, so much of that amount as was not taken into account as the value restored by that transfer.
- (6) In paragraph (a) of subsection (1) above the reference to tax includes a reference to interest on tax.
- (7) Tax repayable on a claim under this section shall carry interest (which shall not constitute income for any tax purposes) at the rate for the time being applicable under paragraph 19(1)(ii) of Schedule 4 to the Finance Act 1975 from the date on which the claim is made.
- (8) For the purposes of liability to additional tax by reason of the donor's death within three years after the donor's transfer, the value thereby transferred which is treated as cancelled by a donee's transfer made before the death shall include any value that would be so treated if subsection (3)(b) above had not applied.
- (9) Where the donee's transfer has increased the estate of the spouse, widow or widower of another person any value thereby transferred which can (or if a claim were made could) be taken into account as value restored in relation to a transfer made by the spouse, widow or widower shall not be so taken into account in relation to a transfer made by that other person.

88 Voidable transfers

- (1) Where on a claim made for the purpose it is shown that the whole or any part of a chargeable transfer (" the relevant transfer ") has by virtue of any enactment or rule of law been set aside as voidable or otherwise defeasible—
 - (a) tax paid or payable by the claimant (in respect of the relevant transfer or any other chargeable transfer made before the claim) that would not have been payable if the relevant transfer had been void ab initio shall be repaid to him by the Board, or as the case may be, shall not be payable ; and
 - (b) the rate or rates of tax applicable to any chargeable transfer made after the claim by the person who made the relevant transfer shall be determined as if that transfer or that part of it had been void as aforesaid.
- (2) In subsection (1)(a) above " tax " includes interest on tax.
- (3) Tax repayable on a claim under subsection (1) above shall carry interest (which shall not constitute income for any tax purposes) at the rate for the time being applicable under paragraph 19(1)(ii) of Schedule 4 to the Finance Act 1975 from the date on which the claim is made.

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- (4) This section applies in relation to transfers before as well as after the passing of this Act.

Dispositions that are not transfers of value

89 Dispositions allowable for income tax or conferring retirement benefits

- (1) A disposition made by any person is not a transfer of value if it is allowable in computing that person's profits or gains for the purposes of income tax or corporation tax or would be so allowable if those profits or gains were sufficient and fell to be so computed.
- (2) Without prejudice to subsection (1) above, a disposition made by any person is not a transfer of value if—
- (a) it is a contribution to a retirement benefits scheme which is approved by the Board for the purposes of Chapter II of Part II of the Finance Act 1970 (occupational pension schemes) and provides benefits in respect of service which is or includes service as an employee (as defined in that Chapter) of that person ; or
 - (b) it is made so as to provide—
 - (i) benefits on or after retirement for a person not connected with him who is or has been in his employ; or
 - (ii) benefits on or after the death of such a person for his widow or dependants,and does not result in the recipient receiving benefits which, having regard to their form and amount, are greater than what could be provided under a scheme approved as aforesaid.
- (3) Where a person makes dispositions of the kinds described in both paragraph (a) and paragraph (b) of subsection (2) above in respect of service by the same person, they shall be regarded as satisfying the conditions of that subsection only to the extent to which the benefits they provide do not exceed what could be provided by a disposition of the kind described in either of those paragraphs.
- (4) For the purposes of subsection (2)(b) above, the right to occupy a dwelling rent-free or at a rent less than might be expected to be obtained in a transaction at arm's length between persons not connected with each other shall be regarded as equivalent to a pension at a rate equal to the rent or additional rent that might be expected to be obtained as aforesaid.
- (5) Where a disposition satisfies the conditions of the preceding provisions of this section to a limited extent only, so much of it as satisfies them and so much of it as does not satisfy them shall be treated as separate dispositions.
- (6) Paragraph 9 of Schedule 6 to the Finance Act 1975 (which is superseded by subsection (1) above) shall cease to have effect.
- (7) This section applies to dispositions before as well as after the passing of this Act.

90 Dispositions on trust for benefit of employees

- (1) Subject to subsection (3) below, a disposition of property made to trustees by a close company whereby the property is to be held on trusts of the description specified in paragraph 17(1) of Schedule 5 to the Finance Act 1975 is not a transfer of value if the persons for whose benefit the trusts permit the property to be applied include all or most of either—
- (a) the persons employed by or holding office with the company; or
 - (b) the persons employed by or holding office with the company or any one or more subsidiaries of the company.
- (2) Subject to subsection (3) below, a disposition of property made to trustees by an individual beneficially entitled to shares in a company whereby the property is to be held on trusts of the said description is not a transfer of value if—
- (a) the property consists of all the shares and securities of the company to which he is beneficially entitled; and
 - (b) immediately after the disposition there are no shares or securities of the company to which his spouse is beneficially entitled; and
 - (c) as a result of the disposition and of any other dispositions made on the same occasion, the trustees—
 - (i) hold all or substantially all of the ordinary shares in the company, and
 - (ii) have powers of voting on all questions affecting the company as a whole which if exercised would yield a majority of the votes capable of being exercised thereon; and
 - (d) the persons for whose benefit the trusts permit the property to be applied include all or most of the persons employed by or holding office with the company.
- (3) Subject to subsection (4) below, subsections (1) and (2) above do not apply if the trusts permit any of the property to be applied at any time (whether during any such period as is referred to in the said paragraph 17(1) or later) for the benefit of—
- (a) a person who is a participator in the company making the disposition or, as the case may be, the company whose shares are disposed of ; or
 - (b) any other person who is a participator in any close company that has made a disposition whereby property became comprised in the same settlement, being a disposition which but for this section would have been a transfer of value ; or
 - (c) any other person who has been a participator in any such company as is mentioned in paragraph (a) or (b) above at any time after, or during the ten years before, the disposition made by that company or, as the case may be, the disposition of its shares ; or
 - (d) any person who is connected with any person within paragraph (a), (b) or (c) above.
- (4) The participators in a company who are referred to in subsection (3) above do not include any participator who on a winding-up of the company would not be entitled to 5 per cent. or more of its assets ; and in determining whether the trusts permit property to be applied as mentioned in that subsection, no account shall be taken of any power to make a payment which is the income of any person for any of the purposes of income tax, or would be the income for any of those purposes of a person not resident in the United Kingdom if he were so resident.
- (5) In this section—

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" close company " and " participator " have the same meanings as in section 39 of the Finance Act 1975 ;

" ordinary shares " means shares which carry either—

- (a) a right to dividends not restricted to dividends at a fixed rate, or
- (b) a right to conversion into shares carrying such a right as is mentioned in paragraph (a) above;

" subsidiary " has the same meaning as in the Companies Act 1948 ; and references in subsections (3) and (4) above to a participator in a company shall, in the case of a company which is not a close company, be construed as references to a person who would be a participator in the company if it were a close company.

- (6) This section applies to dispositions made after 6th April 1976.

91 Waiver of remuneration

- (1) Subject to subsection (2) below, the waiver or repayment of an amount of remuneration shall not be a transfer of value if, apart from the waiver or repayment, that amount would be assessable to income tax under Schedule E.
- (2) Where, apart from the waiver or repayment, the amount of the remuneration would be allowable as a deduction in computing for the purposes of income tax or corporation tax the profits or gains or losses of the person by whom it is payable or paid, this section applies only if, by reason of the waiver or repayment, it is not so allowed or is otherwise brought into charge in computing those profits or gains or losses.
- (3) This section applies to waivers or repayments before as well as after the passing of this Act.

92 Waiver of dividends

- (1) A person who waives any dividend on shares of a company within twelve months before any right to the dividend has accrued does not by reason of the waiver make a transfer of value.
- (2) This section applies to waivers before as well as after the passing of this Act.

Other exemptions and reliefs

93 Exemption for transfers under £2,000

- (1) In paragraph 2 of Schedule 6 to the Finance Act 1975 (exemption for transfers of value under £1,000) for " £1,000 " wherever it occurs there shall be substituted " £2,000 ".
- (2) This section does not affect the operation of paragraph 2 in relation to transfers of value made before 6th April 1976 or the amount which, under sub-paragraph (2) of that paragraph, may be carried forward to the year beginning on that date.

94 Transfers between spouses

- (1) In relation to transfers of value made after 6th April 1976, paragraph 1 of Schedule 6 to the Finance Act 1975 shall have effect with the following amendments.

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- (2) In sub-paragraph (1), for the words "the value of the estate of the transferor's spouse is increased" there shall be substituted the words " the value transferred is attributable to property which becomes comprised in the estate of the transferor's spouse or, so far as the value transferred is not so attributable, to the extent that that estate is increased ".
- (3) In sub-paragraph (2)—
- (a) for the words from " transfer is exempt " to " does not " there shall be substituted the words " value in respect of which the transfer is exempt (calculated as a value on which no tax is payable) shall not ";
 - (b) for the words " less any increase " there shall be substituted the words " less any amount ".

95 Exempt transfers: modification of exceptions

- (1) Paragraph 15 of Schedule 6 to the Finance Act 1975 shall be amended as follows.
- (2) In sub-paragraph (3), in paragraph (b) the words " is given subject to an interest reserved or created by the donor or " shall be omitted and after that paragraph there shall be inserted—
- “(ba) the property is an interest in possession in settled property and the settlement does not come to an end in relation to that settled property on the making of the transfer; or
 - (bb) the property is land or a building and is given subject to an interest reserved or created by the donor which entitles him, his spouse or a person connected with him to possession of, or to occupy, the whole or any part of the land or building rent-free or at a rent less than might be expected to be obtained in a transaction at arm's length between persons not connected with each other; or
 - (bc) the property is not land or a building and is given subject to an interest reserved or created by the donor other than—
 - (i) an interest created by him for full consideration in money or money's worth ; or
 - (ii) an interest which does not substantially affect the enjoyment of the property by the person or body to whom it is given ; or”.
- (3) After sub-paragraph (4) there shall be inserted—
- “(4A) Where a person or body acquires a reversionary interest in any settled property for a consideration in money or money's worth, paragraphs 1 and 10 to 13 above do not apply in relation to the property when it becomes the property of that person or body on the termination of the interest on which the reversionary interest is expectant.”
- (4) Subsection (2) above applies in relation to transfers of value made after 15th April 1976 and subsection (3) applies where the acquisition of the reversionary interest is after that date.

96 Exempt transfers: modification of Supplementary Provisions.

- (1) In relation to transfers of value made after 6th April 1976, Part III of Schedule 6 to the Finance Act 1975 shall have effect with the amendments set out in subsections (2) to (6) below.

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- (2) In paragraph 16, for sub-paragraph (b) there shall be substituted—
“(b) paragraph 22 shall have effect as respects the burden of tax.”
- (3) For sub-paragraph (1) of paragraph 19 there shall be substituted—
“(1) Such part of the value transferred shall be attributable to specific gifts as corresponds to the value of the gifts ; but if or to the extent that the gifts—
(a) are not gifts with respect to which the transfer is exempt or are outside the limit up to which the transfer is exempt, and
(b) do not bear their own tax,
the amount corresponding to the value of the gifts shall be taken to be the amount arrived at in accordance with sub-paragraphs (3) to (3B) below”.
- (4) For sub-paragraph (3) of paragraph 19 there shall be substituted—
“(3) Where the only gifts with respect to which the transfer is or might be chargeable are specific gifts which do not bear their own tax, the amount referred to in sub-paragraph (1) above is the aggregate of—
(a) the sum of the value of those gifts, and
(b) the amount of tax which would be chargeable if the value transferred equalled that aggregate.
(3A) Where the specific gifts not bearing their own tax are not the only gifts with respect to which the transfer is or might be chargeable, the amount referred to in sub-paragraph (1) above is such amount as, after deduction of tax at the assumed rate specified in sub-paragraph (3B) below, would be equal to the sum of the value of those gifts.
(3B) For the purposes of sub-paragraph (3A) above—
(a) the assumed rate is the rate found by dividing the assumed amount of tax by that part of the value transferred with respect to which the transfer would be chargeable on the hypothesis that—
(i) the amount corresponding to the value of specific gifts not bearing their own tax is equal to the aggregate referred to in sub-paragraph (3) above, and
(ii) the parts of the value transferred attributable to specific gifts and to gifts of residue or shares in residue are determined accordingly; and
(b) the assumed amount of tax is the amount that would be charged on the value transferred on the hypothesis mentioned in paragraph (a) above.”
- (5) For paragraph 22 there shall be substituted—

“Burden of tax

- 22 Notwithstanding the terms of any disposition—
(a) none of the tax on the value transferred shall fall on any specific gift if or to the extent that the transfer is exempt with respect to the gift; and

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- (b) none of the tax attributable to the value of property comprised in residue shall fall on any gift of a share of residue if or to the extent that the transfer is exempt with respect to the gift.”

(6) At the end of paragraph 23 there shall be added—

“(3) Where—

- (a) the whole or part of the value transferred by a transfer of value is attributable to property which is the subject of two or more gifts, and
- (b) the aggregate of the values of the property given by each of those gifts is less than the value transferred or, as the case may be, that part of it,

then for the purposes of this Part of this Schedule (and notwithstanding the definition of a gift in sub-paragraph (1) above) the value of each gift shall be taken to be the relevant proportion of the value transferred or, as the case may be, that part of it; and the relevant proportion in relation to any gift is the proportion which the value of the property given by it bears to the said aggregate.”

(7) After paragraph 22 of Schedule 6 to the Finance Act 1975 there shall be inserted the following paragraph—

“Legal rights in Scotland

- 22A (1) Where on the death of a person legal rights are claimed by a person entitled to claim such rights, those rights shall be treated as a specific gift which bears its own tax.
- (2) In determining the value of legal rights mentioned in sub-paragraph (1) above, any capital transfer tax repayable on the estate of the deceased shall be left out of account.
- (3) In the case of any death occurring after 13th March 1975 and before the passing of the Finance Act 1976, the executors of the deceased may elect that this paragraph shall apply to the estate of the deceased.
- (4) This paragraph extends to Scotland only”.

97 Relief for successive charges

(1) Section 30 of the Finance Act 1975 shall have effect, and be deemed always to have had effect, as if for subsection (3) there were substituted—

“(3) Where the value of a person's estate was increased—

- (a) on a death on which estate duty was payable ; or
- (b) in consequence of—
- (i) a gift inter vivos ; or
- (ii) a disposition or determination of a beneficial interest in possession in any property comprised in a settlement,
- where, by reason of the gift or interest, estate duty or capital transfer tax under section 22(5) of this Act was payable on a subsequent death,

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the preceding provisions of this section shall apply with the necessary modifications and, in particular, as if the increase had been by a chargeable transfer on the occasion of the death and, in a case where estate duty was payable, that duty had been tax on the value transferred thereby.”

- (2) Paragraph 5 of Schedule 5 to the said Act of 1975 shall have effect, and be deemed always to have had effect, as if for sub-paragraph (2) there were substituted—

- “(2) Where the transferor became entitled to the interest—
- (a) on a death on which estate duty was payable in respect of the settled property ; or
 - (b) in consequence of—
 - (i) a gift inter vivos ; or
 - (ii) a disposition or determination of a beneficial interest in possession in any property comprised in a settlement, where, by reason of the gift or interest, estate duty or capital transfer tax under section 22(5) of this Act was payable on a subsequent death in respect of the settled property,
- sub-paragraph (1) above shall apply as if the period referred to therein were the period between the death and the chargeable transfer.”

98 Gifts to spouses-relief from transitional charge

For the purpose of determining in relation to a death after 6th April 1976 whether any increase is to be made in the deceased's estate by virtue of section 22(5) of the Finance Act 1975 (which provides for such an increase in certain cases where, by reason of a gift or an interest in possession under a settlement, property would have been within the charge to estate duty), section 121(1)(c) of the Finance Act 1972 (relief from estate duty for gifts etc. to the deceased's widow or widower) shall have effect as if the reference to a widow or widower included a reference to a spouse who died before the deceased.

99 Transfers within three years before death

- (1) Subject to the following provisions, this section applies where additional tax becomes chargeable in respect of the value transferred by a chargeable transfer because of the transferor's death within three years of the transfer and all or part of the value transferred is attributable to the value of property (" the transferred property ") which—

- (a) is, at the date of the death, the property of the person (" the transferee ") whose property it became on the transfer or of his spouse, or
- (b) has, before that date, been sold by the transferee or his spouse by a qualifying sale ;

and in the following provisions of this section " the relevant date " means, in a case within sub-paragraph (a) above, the date of the death, and in a case within sub-paragraph (b), the date of the qualifying sale.

- (2) If the market value of the transferred property at the time of the chargeable transfer exceeds its market value on the relevant date, the additional tax shall be calculated as if the value transferred were reduced by the amount of the excess.
- (3) This section shall not apply unless—

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- (a) the transferor's death occurs after 6th April 1976, and
 - (b) a claim is made by a person liable to pay the whole or part of the additional tax.
- (4) This section shall not apply if the transferred property is tangible movable property that is a wasting asset, and in other cases shall apply subject to the provisions of Schedule 12 to this Act.
- (5) For the purposes of this section the market value at any time of any property is the price which the property might reasonably be expected to fetch if sold in the open market at that time; but—
- (a) that price shall not be assumed to be reduced on the ground that the whole property is on the market at one and the same time ; and
 - (b) paragraph 13 of Schedule 10 to the Finance Act 1975 shall apply as it applies for determining the value of unquoted shares and securities for the purposes of tax.
- (6) A sale is a qualifying sale for the purposes of this section if—
- (a) it is at arm's length for a price freely negotiated at the time of the sale ; and
 - (b) no person concerned as vendor (or as having an interest in the proceeds of the sale) is the same as or connected with any person concerned as purchaser (or as having an interest in the purchase); and
 - (c) no provision is made, in or in connection with the agreement for the sale, that the vendor (or any person having an interest in the proceeds of sale) is to have any right to acquire some or all of the property sold or some interest in or created out of it.
- (7) The transferred property is a wasting asset for the purposes of this section if, immediately before the chargeable transfer, it had a predictable useful life not exceeding fifty years, having regard to the purpose for which it was held by the transferor; and plant and machinery shall in every case be regarded as having a predictable useful life of less than fifty years.

Valuation

100 Liability for tax not in fact paid

- (1) In paragraph 9 of Schedule 10 to the Finance Act 1975 after sub-paragraph (2) there shall be inserted—
- “(2A) If in determining the value of a person's estate immediately before his death a liability for tax is taken into account, then, if that tax or any part of it is not in the event paid out of the estate, the value of the estate immediately before his death shall be treated as increased by an amount equal to that tax or so much of it as is not so paid.”
- (2) This section has effect in relation to deaths occurring after 15th April 1976.

101 Falls in value of land after death

- (1) At the end of paragraph 9 of Schedule 10 to the Finance Act 1975 there shall be added—

“(4) Part III of this Schedule shall apply with respect to the valuation of interests in land which are comprised in a person's estate immediately before his death and are sold by the appropriate person (as defined in that Part) within the period of three years immediately following the' date of the death.”

(2) After Part II of the said Schedule there shall be added the provisions set out in Schedule 13 to this Act.

(3) This section has effect in relation to deaths occurring after 6th April 1976.

102 Sales of related property after a death

(1) After paragraph 9 of Schedule 10 to the Finance Act 1975 there shall be inserted—

“9A (1) This paragraph has effect where, within three years after the death of any person, there is a qualifying sale of any property (" the relevant property ") comprised in his estate immediately before his death and valued for the purposes of tax—

- (a) in accordance with paragraph 7 above, or
- (b) in conjunction with property which was also comprised in the estate but has not at any time since the death been vested in the vendors.

(2) If a claim is made for relief under this paragraph then, subject to sub-paragraphs (4) and (5) below, the value of the relevant property immediately before the death shall be taken to be what it would have been if it had not been determined as mentioned in sub-paragraph (1) above.

(3) For the purposes of sub-paragraph (1) above a sale is a qualifying sale if—

- (a) the vendors are the persons in whom the relevant property vested immediately after the death or the deceased's personal representatives; and
- (b) it is at arm's length for a price freely negotiated at the time of the sale and is not made in conjunction with a sale of any of the related property taken into account as mentioned in sub-paragraph (1)(a) above or any of the property mentioned in sub-paragraph (1)(b) above ; and
- (c) no person concerned as vendor (or as having an interest in the proceeds of sale) is the same as or connected with any person concerned as purchaser (or as having an interest in the purchase); and
- (d) neither the vendors nor any other person having an interest in the proceeds of sale obtain in connection with the sale a right to acquire the property sold or any interest in or created out of it.

(4) Sub-paragraph (2) above shall not apply unless the price obtained on the sale, with any adjustment needed to take account of any difference in circumstances at the date of the sale and at the date of the death, is less than the value which, apart from this paragraph and apart from Part III of this Schedule, would be the value of the relevant property determined as mentioned in sub-paragraph (1) above.

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- (5) Where the relevant property consists of shares in or securities of a close company, sub-paragraph (2) above shall not apply if at any time between the death and the qualifying sale the value of the shares or securities is reduced by more than 5 per cent. as a result of an alteration in the company's share or loan capital or, in any rights attaching to shares in or securities of the company; and for the purposes of this sub-paragraph—
 " alteration " includes extinguishment, and
 " close company " has the same meaning as in section 39 of this Act."

- (2) This section has effect in relation to deaths occurring after 6th April 1976

103 Related property: property given to charities, etc.

- (1) In paragraph 7 of Schedule 10 to the Finance Act 1975, at the end of sub-paragraph (2) there shall be added "or
 (c) it is or has within the preceding five years been—
 (i) the property of a charity, or held on trust for charitable purposes only, or
 (ii) the property of a body mentioned in paragraph 11, 12 or 13 of Schedule 6 to this Act,
 and became so on a transfer of value which was made by him or his spouse after 15th April 1976 and was exempt to the extent that the value transferred was attributable to the property".

- (2) This section has effect in relation to transfers of value before as well as after the passing of this Act.

104 Sales of certain securities within twelve months after a death

Where the estate of a person who dies after 6th April 1976 comprises shares or securities in respect of which quotation on a recognised stock exchange is suspended at the date of the death, the shares or securities shall be qualifying investments for the purposes of Part II of Schedule 10 to the Finance Act 1975 if they are again quoted on a recognised stock exchange at the time when they are sold as mentioned in paragraph 15 or exchanged as mentioned in paragraph 24 of that Schedule.

Settled property

105 Survivorship clauses

- (1) Schedule 5 to the Finance Act 1975 shall have effect, and subject to subsections (2) and (3) below shall be deemed always to have had effect, as if paragraph 6(7) were omitted and the following paragraph inserted after paragraph 22—

"Survivorship clauses

- 22A (1) Where under the terms of a will or otherwise property is held for any person on condition that he survives another for a specified period of not more than six months, this Part of this Act shall apply as if the dispositions taking effect at the end of the period or, if he does not survive until then,

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on his death (including any such disposition which has effect by operation of law or is a separate disposition of the income from the property) had had effect from the beginning of the period.

- (2) Sub-paragraph (1) above does not affect the application of this Part of this Act in relation to any distribution or application of property occurring before the dispositions there mentioned take effect.
- (3) Where the death with which the period mentioned in sub-paragraph (1) above begins occurred before 13th March 1975, that sub-paragraph shall not apply in relation to any property if or to the extent that, by virtue of section 121(1)(c) of the Finance Act 1972 (relief for property given to a surviving spouse), the value attributable to it was disregarded for the purposes of estate duty chargeable on that death.”
- (2) Subsection (1) above shall not have effect in a case where the period there mentioned ended before 7th April 1976 if the application at the end of the period of sub-paragraph (2) of paragraph 6 of the said Schedule 5 was excluded by sub-paragraph (7) of that paragraph.
- (3) Where the person for whom property was held as mentioned in subsection (1) above—
 - (a) was the spouse of the other person there mentioned, and
 - (b) died before the end of 1976 and during the period there mentioned,that subsection shall not have effect if the persons mentioned in subsection (4) below so elect by written notice given to the Board within twelve months of the second death or such longer time as the Board may allow.
- (4) The persons referred to in subsection (3) above are the personal representatives of each spouse and the trustees of every settlement in which either of the spouses had an interest in possession immediately before his death.

106 Accumulation and maintenance settlements

- (1) In paragraph 15 of Schedule 5 to the Finance Act 1975, at the end of sub-paragraph (1) there shall be added the words “and
 - (c) either—
 - (i) not more than twenty-five years have elapsed since the day on which the settlement was made or, if it was later, since the time (or latest time) when the conditions stated in paragraphs (a) and (b) above became satisfied with respect to the property or part; or
 - (ii) all the persons who are or have been beneficiaries are or were either grandchildren of a common grandparent or children, widows or widowers of such grandchildren who were themselves beneficiaries but died before the time when, had they survived, they would have become entitled as mentioned in paragraph (a) above.”
- (2) For sub-paragraphs (4) and (5) of the said paragraph 15 there shall be substituted—
 - “(4) Where the conditions stated in paragraphs (a) and (b) of sub-paragraph (1) above were satisfied on 15th April 1976 with respect to any property comprised in a settlement made before that day, paragraph (c)(i) of that sub-paragraph shall have effect with the substitution of a reference to that

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day for the reference to the day on which the settlement was made, and the condition stated in paragraph (c)(ii) shall be treated as satisfied if—

- (a) it is satisfied in respect of the period beginning with 15th April 1976 ; or
 - (b) it is satisfied in respect of the period beginning with 1st April 1977 and either there was no beneficiary living on 15th April 1976 or the beneficiaries on 1st April 1977 include a living beneficiary ; or
 - (c) there is no power under the terms of the settlement whereby it could have become satisfied in respect of the period beginning with 1st April 1977, and the trusts of the settlement have not been varied at any time after 15th April 1976.
- (5) In sub-paragraph (1) above " persons " includes unborn persons ; but the conditions stated in paragraphs (a) and (b) of that sub-paragraph shall be treated as not satisfied unless there is or has been a living beneficiary.
- (6) Paragraph 11 above shall apply for the interpretation of this paragraph as it applies for the interpretation of paragraphs 6 to 10 ; and for the purposes of this paragraph a person's children shall be taken to include his illegitimate children, his adopted children and his step-children.”
- (3) In paragraph 14(5)(b) of the said Schedule 5, after the word " therein " there shall be inserted the words " living at the time of the capital distribution ".

107 Employee trusts

- (1) Paragraph 17 of Schedule 5 to the Finance Act 1975 shall be amended as follows.
- (2) After sub-paragraph (4) there shall be inserted—
- “(4A) Where any property to which this paragraph applies ceases to be comprised in a settlement and, either immediately or not more than one month later, the whole of it becomes comprised in another settlement, then, if this paragraph again applies to it when it becomes comprised in the second settlement, it shall be treated for all the purposes of this Part of this Act as if it had remained comprised in the first settlement.”
- (3) At the end of sub-paragraph (6) there shall be added the words “except that if more than one relevant anniversary has passed and, accordingly, more than one deferred tax becomes chargeable—
- (a) the second deferred tax shall be charged on that value less the amount of the first deferred tax ; and
 - (b) the third deferred tax (if any) shall be charged on the amount found under paragraph (a) above less the amount of the second deferred tax ;
- and so on.”
- (4) In sub-paragraph (9)(b) for the words "is chargeable" there shall be substituted the words " would, apart from sub-paragraph (7)(b) above, be chargeable ".
- (5) This section shall be deemed to have come into force on 7th April 1976.

108 Newspaper trusts

(1) The following paragraph shall be inserted after paragraph 17 of Schedule 5 to the Finance Act 1975—

“17A (1) In relation to property comprised in a settlement to which this paragraph applies, paragraph 17 above shall have effect as if newspaper publishing companies were included among the persons within paragraphs (a) to (c) of sub-paragraph (1) of that paragraph.

(2) This paragraph applies to a settlement if shares in a newspaper publishing company or a newspaper holding company are the only or principal property comprised in the settlement.

(3) In this paragraph—

" newspaper publishing company " means a company whose business consists wholly or mainly in the publication of newspapers in the United Kingdom ; and

" newspaper holding company " means a company which—

(a) has as its only or principal asset shares in a newspaper publishing company, and

(b) has powers of voting on all or most questions affecting the publishing company as a whole which if exercised would yield a majority of the votes capable of being exercised thereon;

and for the purposes of this paragraph shares shall be treated as the principal property comprised in a settlement or the principal asset of a company if the remaining property comprised in the settlement or the remaining assets of the company are such as may be reasonably required to enable the trustees or the company to secure the operation of the newspaper publishing company concerned.”

(2) This section shall be deemed to have come into force on 7th April 1976.

109 Remuneration of trustees

After paragraph 19 of Schedule 5 to the Finance Act 1975 there shall be inserted—

“Trustees' annuities etc.

19A Where under the terms of a settlement a person is entitled by way of remuneration for his services as trustee to an interest in possession in property comprised in the settlement, then, except to the extent that the interest represents more than a reasonable amount of remuneration,—

(a) the interest shall be left out of account in determining for the purposes of this Part of this Act the value of his estate immediately before his death, and

(b) tax shall not be charged under paragraph 4(2) above when the interest comes to an end.”

110 Settlor's widow

(1) At the end of section 22(3) of the Finance Act 1975 there shall be added—

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“The references in this subsection to the settlor's spouse include, in a case where the settlor died less than two years before the deceased or the deceased died before 1st April 1977, references to the settlor's widow or widower.”

- (2) In paragraph 4 of Schedule 5 to that Act, at the end of sub-paragraph (6) there shall be added—

“The references in this sub-paragraph to the settlor's spouse include, in a case where the settlor has died less than two years before the interest comes to an end or the interest comes to an end before 1st April 1977, references to the settlor's widow or widower.”

- (3) In paragraph 6 of that Schedule, at the end of sub-paragraph (6) there shall be added—

“The references in this sub-paragraph to the settlor's spouse include, in the case of a distribution payment made less than two years after the settlor's death or made before 1st April 1977, references to the settlor's widow or widower”.

- (4) This section shall be deemed always to have had effect.

111 Distributions to charities etc.

- (1) For sub-paragraph (2) of paragraph 10 of Schedule 6 to the Finance Act 1975 there shall be substituted—

“(2) Subject to the provisions of Part II of this Schedule, where property comprised in a settlement is given to a charity, the payment or transfer of the property out of the settlement shall not be a distribution payment for the purposes of Schedule 5 to this Act.”

- (2) In paragraph 11 of the said Schedule 6, after sub-paragraph (1) there shall be inserted—

“(1A) Subject to the provisions of Part II of this Schedule, where property comprised in a settlement becomes the property of a political party qualifying for exemption under this paragraph, the payment or transfer of the property out of the settlement shall not be a distribution payment for the purposes of Schedule 5 to this Act.”

- (3) At the end of paragraph 12 of the said Schedule 6 there shall be added—

“(2) Subject to the provisions of Part II of this Schedule, where property comprised in a settlement becomes the property of a body mentioned in sub-paragraph (1) above, the payment or transfer of the property out of the settlement shall not be a distribution payment for the purposes of Schedule 5 to this Act.”

- (4) In paragraph 13 of the said Schedule 6, after sub-paragraph (1) there shall be inserted—

“(1A) Subject to the provisions of Part II of this Schedule, where—

- (a) property comprised in a settlement becomes at any time the property of a body not established or conducted for profit, and
- (b) the Treasury so direct (whether before or after that time),

the payment or transfer of the property out of the settlement shall not be a distribution payment for the purposes of Schedule 5 to this Act.”;

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in sub-paragraphs (3) and (4) for the words " sub-paragraph (1) above " there shall be substituted the words " this paragraph "; and at the end of sub-paragraph (7) there shall be added the words " or if both become the property of the same body on the making of the same payment or transfer out of a settlement ".

(5) At the end of paragraph 15 of the said Schedule 6 there shall be added—

“(6) In a case where property is given by a payment or transfer out of a settlement this paragraph shall have effect as if—

- (a) any reference to a transfer of value were a reference to the payment or transfer, and
- (b) paragraphs (b) to (bc) of sub-paragraph (3) above were omitted.”

(6) This section shall be deemed to have come into force on 7th April 1976.

112 Settled property: other amendments

Schedule 14 to this Act (which makes further amendments in relation to settled property) shall have effect.

Application of tax rates

113 Chargeable transfers made on same day

(1) At the end of section 43 of the Finance Act 1975 there shall be added—

“(3) Subject to subsection (2) above, the rate at which tax is charged on the values transferred by two or more chargeable transfers made by the same person on the same day shall be the effective rate at which tax would have been charged if those transfers had been a single chargeable transfer of the same total value.

(4) The chargeable transfers referred to in subsections (2) and (3) above do not include a transfer made on the death of the transferor.

(5) For the purposes of subsections (2) and (3) above, capital distributions shall be treated as made by the same person if they are made out of property comprised in the same settlement.”

(2) This section has effect in relation to chargeable transfers made after 15th April 1976.

114 Transfers reported late

(1) This section has effect where a person has made a transfer of value (" the earlier transfer ") which—

- (a) is not notified to the Board in an account under paragraph 2, or by information furnished under paragraph 5, of Schedule 4 to the Finance Act 1975 before the expiration of the period specified in paragraph 2 for the delivery of accounts ; and
- (b) is not discovered until after payment has been accepted by the Board in full satisfaction of the tax on the value transferred by another transfer of value (" the later transfer ") made by him on or after the day on which he made the earlier transfer.

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- (2) For the purposes of section 37 of the Finance Act 1975 (except so much of that section as determines the appropriate Table) the earlier transfer shall be treated as if it had been made on the date on which it was discovered or, if the later transfer is made on death, immediately before the later transfer.
- (3) Where the later transfer is the relevant transfer for the purposes of paragraph 7 of Schedule 5 to the said Act of 1975, the earlier transfer shall not by virtue of subsection (2) above be treated for those purposes as made after the later transfer.
- (4) Subsection (2) above shall not increase the amount in respect of which interest is payable under paragraph 19 of Schedule 4 to the said Act of 1975 in relation to the earlier transfer in respect of any period falling before the expiration of six months from the date on which it was discovered.
- (5) Where, apart from this subsection, the earlier transfer would be wholly or partly exempt by reason of some or all of the value thereby transferred falling within a limit applicable to an exemption, then, if tax has been accepted as mentioned in subsection (1)(b) above on the basis that the later transfer is partly exempt by reason of part of the value thereby transferred falling within that limit—
 - (a) tax shall not be chargeable on that part of the value transferred by the later transfer; but
 - (b) a corresponding part of the value transferred by the earlier transfer shall be treated as falling outside that limit.
- (6) Subsection (1)(b) above shall apply to a transfer in respect of which no tax is chargeable because the rate of tax applicable under the said section 37 is nil as if payment had been accepted when the transfer was notified in an account under paragraph 2 of the said Schedule 4.
- (7) For the purposes of this section a transfer is discovered—
 - (a) if it is notified under the provisions mentioned in subsection (1)(a) above after the expiration of the period there mentioned, on the date on which it is so notified ;
 - (b) in any other case, on the date on which the Board give notice of a determination in respect of the transfer under paragraph 6 of the said Schedule 4.
- (8) This section shall apply to distribution payments as defined in paragraph 11 of the said Schedule 5 and to capital distributions as it applies to transfers of value; and for the purposes of this section such payments or distributions shall be treated as made by the same person if they are made out of property comprised in the same settlement.

Loans

115 Free loans etc.

- (1) Where an individual (" the lender ") allows another person (" the borrower ") the use of money or other property in any year, then, subject to the provisions of this section and section 116 below, the lender shall be treated as making a disposition as a result of which the value of his estate is reduced by the amount (if any) by which any consideration for the use falls short of the cost to him of allowing it (determined in accordance with section 116 below).

- (2) The disposition under subsection(1) above shall be treated as made at the end of the year or, if earlier, at the time when the use comes to an end.
- (3) Where the use of the property is allowed for a period specified in advance, or where in any other case the lender has no right to terminate the use immediately after it begins, subsection (1) above shall not apply in relation to use before the expiration of the specified period or, as the case may be, before the earliest time when the lender could terminate the use if he exercised his right to do so at the earliest opportunity.
- (4) Subsection (1) above shall not apply in relation to any use of property allowed to the borrower at a time when it is mainly used by the lender or the lender's spouse.
- (5) Subsection (1) above shall not apply in relation to the use of property for a period which is less than twelve months unless that period falls within a period of twenty-four months during which the lender allows the borrower the use of that property or similar property for periods which amount in aggregate to twelve months or more; and in calculating that aggregate no account shall be taken of—
 - (a) use to which, by virtue of subsection (3) or (4) above, subsection (1) does not apply, or
 - (b) use to which (apart from this subsection) subsection (1) above does apply, if the disposition under that subsection is not a transfer of value.
- (6) Subsection (1) above shall not apply in relation to the use of property where the borrower is a body corporate if—
 - (a) it is not a close company; or
 - (b) not less than 90 per cent. in nominal value of its issued ordinary shares are shares to which the lender or his spouse is beneficially entitled ; or
 - (c) it is not an investment company and either—
 - (i) the lender or his spouse is a participator in the company or its holding company or has been such a participator at any time during the year or either of the two preceding years ; or
 - (ii) the lender's spouse died during the year or either of the two preceding years and was at any time during the three years ending with the year in which he died a participator in the company or its holding company.
- (7) Subsection (1) above shall not apply in relation to the use of property where the borrower is a firm if—
 - (a) the lender or his spouse is a partner or has been a partner at any time during the year or either of the two preceding years; or
 - (b) the lender's spouse died during the year or either of the two preceding years and was a partner at any time during the three years ending with the year in which he died.
- (8) Subsection (1) above shall not apply in relation to a loan in respect of which any person is chargeable to income tax under Schedule E by virtue of section 66(1) above.
- (9) For the purposes of this section an individual who makes a revocable gift of any property to another person shall, so long as the gift continues revocable, be taken to allow him the use of that property.
- (10) In this section—
 - " close company " and " participator " have the same meanings as in section 39 of the Finance Act 1975 ;

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" firm " has the same meaning as in the Partnership Act 1890;

" holding company " has the same meaning as in section 154 of the Companies Act 1948 ;

" investment company " means a company falling within paragraph (a) of paragraph 16(3) of Schedule 4 to the Finance Act 1975 and not falling also within paragraph (b) or (c) of that paragraph ;

" ordinary shares " has the same meaning as in paragraph 13 of that Schedule ;

" year " means period of twelve months beginning with 6th April.

- (11) This section has effect, in place of section 41 of the Finance Act 1975, in relation to the year beginning 6th April 1976 and subsequent years.

116 Free loans etc.: value transferred

- (1) The cost to the lender of allowing the use of money or land shall be taken to be equal to the consideration which might be expected in a transaction on the same terms as those on which the use is allowed (apart from terms as to consideration) made at arm's length between persons not connected with each other.
- (2) The cost to the lender of allowing the use of property other than money or land shall be taken to be equal to the aggregate of—
- (a) the annual value of the use of the property or, if the use does not continue throughout the year, a proportionate part of that annual value, and
 - (b) any expense incurred by the lender in connection with property during the year or, if the use does not continue throughout the year, a proportionate part of that expense, but excluding expense incurred in the acquisition or production of the property and excluding any hire charges;
- except that if the property is hired by the lender and the annual amount of the hire charges is greater than the annual value of the use of the property, paragraph (a) above shall have effect as if it referred to that annual amount instead of to that annual value.
- (3) If the property is money or land, the amount arrived at under section 115(1) above shall be reduced by the income tax which would be chargeable in respect of that amount (after taking account in the case of land of any deductions which might be made for the purposes of Schedule A) if it were the highest part of the lender's total income ; and in calculating that income there shall be disregarded any such sum as is mentioned in paragraphs (a) to (c) of section 529 of the Taxes Act.

117 Modification of exemptions for loans

- (1) Schedule 6 to the Finance Act 1975 shall apply with the following modifications to—
- (a) any transfer of value which is a disposition under section 115 above, and
 - (b) any other transfer of value, whether made before or after the passing of this Act, if or to the extent that it is a disposition whereby the use of money or other property is allowed by one person (" the lender") to another (" the borrower ").
- (2) For the purposes of paragraph 1 (transfers between spouses) the borrower's estate shall be treated as increased by an amount equal to the value transferred.
- (3) For the purposes of paragraphs 4 (small gifts) and 6 (gifts in consideration of marriage) the transfer of value shall be treated as made by outright gift.

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- (4) Paragraph 5(1) (normal expenditure out of income) shall apply as if for the conditions stated in paragraphs (a) and (b) there were substituted the condition that the transfer was a normal one on the part of the transferor.
- (5) Paragraphs 10 and 11 (gifts to charities and to political parties) shall apply without sub-paragraph (1)(b) (£100,000 limit for transfers within one year of death); and for the purposes of those paragraphs and paragraphs 12 and 13 (gifts for national purposes and for public benefit)—
 - (a) the value transferred shall be treated as attributable to the property of which the borrower is allowed the use, and
 - (b) that property shall be treated as given to, or as becoming the property of, the borrower unless the use allowed includes use for purposes other than charitable purposes or those of a body mentioned in paragraph 11, 12 or 13.
- (6) Part II (exceptions) shall not apply.

Miscellaneous

118 Close companies

- (1) In section 39 of the Finance Act 1975 the following subsections shall be inserted after subsections (6) and (8) respectively:—

“(6A) In determining for the purposes of this section whether a disposition made by a close company is a transfer of value or what value is transferred by such a transfer no account shall be taken of the surrender by the company, in pursuance of section 258 of the Taxes Act or of section 92 of the Finance Act 1972, of any relief or of the benefit of any amount of advance corporation tax paid by it.

(8A) Where part of a close company's share capital consists of preference shares (within the meaning of section 234(3) of the Taxes Act) and a transfer of value made by that or any other close company has only a small effect on the value of those shares, compared with its effect on the value of other parts of the company's share capital, the preference shares shall be left out of account in determining the respective rights and interests of the participators for the purposes of this section.

(8B) Where a close company (in this subsection and subsection (8C) below referred to as the transferor company) is a member, but not the principal member, of a group; and—

- (a) a disposal by the transferor company of any asset is a disposal to which section 273(1) of the Taxes Act applies and is also a transfer of value; and

- (b) the transfer of value has only a small effect on the value of the minority participators' rights and interests in that company compared with its effect on the value of the other participators' rights and interests in the company ;

the rights and interests of the minority participators shall be left out of account in determining the respective rights and interests of the transferor company's participators for the purpose of apportioning the value transferred under this section.

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- (8C) For the purposes of subsection (8B) above—
- (a) the principal member of a group is the member of which all the other members are 75 per cent. subsidiaries; and
 - (b) a minority participator is a participator of the transferor company who is not, and is not a person connected with, a participator of the principal member of the group or of any of the principal member's participators ;

and in that subsection and this subsection " group " and " 75 per cent. subsidiary " have the same meanings as in section 272 of the Taxes Act.

- (8D) Where the value of the estate of a company (in this subsection referred to as the transferee company) is increased as the result of a transfer of value made by a close company (in this subsection referred to as the transferor company) and an individual to whom part of the value transferred is apportioned under this section has an interest in the transferee company (or in a company which is a participator of the transferee company or any of its participators, and so on), then, in computing for the purposes of this section the amount to be offset, that is to say, the amount by which the value of his estate is more than it would be but for the transfer,—

- (a) the increase in the value of the transferee company's estate shall be taken to be such part of the value transferred as accounts for the increase ; and
- (b) the increase so computed shall be apportioned among the transferee company's participators according to their respective rights and interests in the company immediately before the transfer (and, where necessary, further apportioned among their participators, and so on), and the amount so apportioned to the individual shall be taken to be the amount to be offset”.

- (2) Where, by virtue of section 39(5) of the Finance Act 1975, an alteration in a close company's share or loan capital or of any rights attaching to shares in or debentures of a close company is treated as a disposition made by the participators, and—

- (a) a person is a participator in his capacity as trustee of a settlement; and
- (b) the disposition would, if the trustee were beneficially entitled to the settled property, be a transfer of value made by him;

subsection (3) below shall apply if at the time of the alteration an individual is beneficially entitled to an interest in possession in the whole or part of so much of the settled property as consists of shares in or securities of the close company which are not quoted on a recognised stock exchange, and subsection (4) below shall apply unless at that time an individual is beneficially entitled to an interest in possession in the whole of so much of the settled property as consists of such shares or securities.

- (3) Where this subsection applies such part of the individual's interest shall be deemed for the purposes of paragraph 4 of Schedule 5 to the Finance Act 1975 to come to an end at the time of the alteration as corresponds to the relevant decrease of the value of the property in which the interest subsists, that is to say the decrease caused by the alteration.

- (4) Where this subsection applies, a capital distribution shall be deemed to be made at the time of the alteration out of so much of the settled property as—

- (a) consists of shares in or securities of the close company which are not quoted on a recognised stock exchange ; and

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- (b) is not a part in which at the time of the alteration an interest in possession subsists to which an individual is beneficially entitled;
and the amount of the capital distribution shall be taken to be the amount by which the value of the property out of which it is treated as being made is less than it would be but for the alteration, and that amount shall for the purposes of paragraphs 7 to 9 of Schedule 5 to the Finance Act 1975 be deemed to be a distribution payment made out of that property ; and paragraph 6(4)(a) of that Schedule shall have effect, in relation to a capital distribution treated as made under this subsection as if the words " less the tax payable on it" were omitted.
- (5) In paragraph 24(1)(b) of Schedule 5 to the Finance Act 1975 for the words " subsection (4) " there shall be substituted the words " subsections (4) and (8D) ".
- (6) In section 39(2)(a) of the Finance Act 1975 after the words " corporation tax " there shall be inserted the words " or would fall to be so taken into account but for section 239 of the Taxes Act ".
- (7) At the end of section 39(5) of the Finance Act 1975 there shall be added the words " and shall not be taken to have affected the value immediately before that time of the shares or debentures not so quoted ".
- (8) At the end of paragraph 8 of Schedule 6 to the Finance Act 1975 there shall be added the words " but references in paragraph 2 above to transfers of value made by a transferor and to the values transferred by them (calculated as there mentioned) include references to apportionments made to a person under section 39 of this Act and the amounts for the tax on which (if charged) he would be liable ".
- (9) In paragraph 9(2) of Schedule 10 to the Finance Act 1975 after the words " an increase or decrease of the value of any property so comprised " there shall be inserted the words " other than a decrease resulting from such an alteration as is mentioned in section 39(5) of this Act ".
- (10) The preceding provisions of this section have effect as follows:—
- (a) subsections (1), (5), (6) and (8) in relation to transfers of value or dispositions made after 15th April 1976 ; and
 - (b) subsections (2) to (4), (7) and (9) in relation to alterations made or deaths occurring after 27th May 1976.

119 Liability for tax in respect of transfer by spouse

- (1) Section 25(8) of the Finance Act 1975 (which makes the transferor's spouse liable for tax in respect of a chargeable transfer to the extent of the value of property acquired by the spouse on another transfer made by the transferor) shall have effect as if for the reference to the value of the property (" the transferred property ") at the time of the other transfer there mentioned (" the spouse transfer") there were substituted a reference to the market value of the property at that time or, in a case where subsection (2) below applies, to the lower market value mentioned in paragraph (c) of that subsection.
- (2) This subsection applies where—
- (a) the chargeable transfer is made after the spouse transfer ; and
 - (b) the transferred property either remains the property of the transferor's spouse (" the transferee ") at the date of the chargeable transfer, or has before that date been sold by the transferee by a qualifying sale; and

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- (c) the market value of the transferred property on the relevant date (that is to say, the date of the chargeable transfer or, as the case may be, of the qualifying sale) is lower than its market value at the time of the spouse transfer; and
 - (d) the transferred property is not tangible movable property.
- (3) In this section " market value " and " qualifying sale " have the same meanings as in section 99 above; and, subject to subsection (4) below, Schedule 12 to this Act shall have effect for the purposes of this section as it has effect for the purposes of that section.
- (4) In its application by virtue of subsection (3) above Schedule 12 to this Act shall have effect as if—
- (a) references to the chargeable transfer were references to the spouse transfer; and
 - (b) references to the transferee's spouse were omitted; and
 - (c) references to section 99 above were references to this section.

120 Excluded property: reversionary interests

- (1) In section 24(3) of the Finance Act 1975, after paragraph (a) there shall be inserted—
- “(aa) it is one to which either the settlor or his spouse is beneficially entitled ; or”.
- (2) This section shall be deemed to have come into force on 16th April 1976, but shall not apply in relation to a reversionary interest under a settlement made before that date.

121 Deeds of family arrangement, etc.

- (1) In section 47 of the Finance Act 1975, after section (1) there shall be inserted—
- “(1A) Where property comprised in a person's estate immediately before his death is settled by his- will and, within the period of two years after his death and before any interest in possession has subsisted in the property, a distribution payment (within the meaning of paragraph 6 of Schedule 5 to this Act) is made out of the property or an event occurs on the happening of which a capital distribution would (apart from this subsection) be treated as so made under paragraphs 6(2) or 15(3) of that Schedule, then—
- (a) the making of the distribution payment shall not be a capital distribution, and paragraphs 6(2) and 15(3) shall have effect on the happening of the event as if the references in them to a capital distribution were references to a distribution payment, and
 - (b) this Part of this Act shall apply as if the will had provided that on the testator's death the property should be applied or held as it is applied by the distribution payment or held after the happening of the event.
- (1B) Where a testator expresses a wish that property bequeathed by his will should be transferred by the legatee to other persons, and the legatee transfers any of the property in accordance with that wish within the period of two years after the death of the testator—
- (a) the transfer shall not be a transfer of value, and
 - (b) this Part of this Act shall have effect as if the property transferred had been bequeathed by the will to the transferee.”.

- (2) Subsection (1) above applies in relation to deaths before as well as after the passing of this Act, and shall have effect in relation to a death occurring after 9th December 1972 but before 13th March 1975 as if the references to the period of two years after the death were references to the period ending with 13th March 1977.

122 Inheritance (Provision for Family and Dependants) Act 1975

- (1) Where an order is made under section 2 of the Inheritance (Provision for Family and Dependants) Act 1975 in relation to any property forming part of the net estate of a deceased person, then, without prejudice to section 19(1) of that Act, the property shall for the purposes of capital transfer tax be treated as if it had on his death devolved subject to the provisions of the order.
- (2) Where an order is made under section 10 of the said Act of 1975 requiring a person to provide any money or other property by reason of a disposition made by the deceased, then—
- (a) if that disposition was a chargeable transfer and the personal representatives of the deceased make a claim for the purpose—
 - (i) tax paid or payable on the value transferred by that chargeable transfer (whether or not by the claimants) shall be repaid to them by the Board or, as the case may be, shall not be payable ; and
 - (ii) the rate or rates of tax applicable to the transfer of value made by the deceased on his death shall be determined as if the values previously transferred by chargeable transfers made by him were reduced by that value;
 - (b) the money or property shall be included in the deceased's estate for the purpose of the transfer of value made by him on his death.
- (3) Where the money or other property ordered to be provided under the said section 10 is less than the maximum permitted by that section subsection (2)(a) above shall have effect in relation to such part of the value there mentioned as is appropriate.
- (4) The adjustment in consequence of the provisions of this section or of section 19(1) of the said Act of 1975 of the tax payable in respect of the transfer of value made by the deceased on his death shall not affect—
- (a) the amount of any deduction to be made under section 8 of that Act in respect of tax borne by the person mentioned in subsection (3) of that section ; or
 - (b) the amount of tax to which regard is to be had under section 9(2) of that Act; and where a person is ordered under that Act to make a payment or transfer property by reason of his holding property treated as part of the deceased's net estate under section 8 or 9 and tax borne by him is taken into account for the purposes of the order, any repayment of that tax shall be made to the personal representatives of the deceased and not to that person.
- (5) Tax repaid under paragraph (a)(i) of subsection (2) above shall be included in the deceased's estate for the purposes of the transfer of value made by him on his death; and tax repaid under that paragraph or under subsection (4) above shall form part of the deceased's net estate for the purposes of the said Act of 1975.
- (6) A distribution payment made in compliance with an order under the said Act of 1975 shall not be a capital distribution; and where an order under that Act provides

for property to be settled or for the variation of a settlement and, apart from this subsection—

- (a) tax would be charged under paragraph 4(2) of Schedule 5 to the Finance Act 1975 on the coming into force of the order; or
- (b) a capital distribution would be treated as made on that occasion under any other provision of the said Schedule 5,

the said paragraph 4(2) shall not apply and any such provision as is mentioned in paragraph (b) above shall apply as if it referred to a distribution payment instead of a capital distribution.

- (7) In subsections (2)(a) and (5) above " tax " includes interest on tax.
- (8) Tax overpaid or underpaid in consequence of subsection (1) above or of the said section 19(1) shall not carry interest for any period before the order there mentioned is made; and tax repayable on a claim under subsection (2) above shall carry interest (which shall not constitute income for any tax purposes) at the rate for the time being applicable under paragraph 19(1)(ii) of Schedule 4 to the Finance Act 1975 from the date on which the claim is made.
- (9) This section applies in relation to deaths after 6th April 1976.

123 Legitim

- (1) Where a testator dies leaving a surviving spouse and a person under the age of 18 entitled to claim legitim, and provision is made in his will or other testamentary document for a disposition to his spouse which, if it could take effect, would leave insufficient property in the estate to satisfy the entitlement of that person in respect of legitim, the following provisions of this section shall apply.
- (2) Subject to subsections (3) and (4) below, tax shall be charged at the testator's death as if the disposition to the spouse did not include any amount in respect of legitim, but if within the period mentioned in subsection (8) below the person or persons concerned renounce their claim to legitim, tax shall be repaid to the estate calculated on the basis that the disposition to the spouse did include the amount renounced, and the tax to be repaid shall carry interest at the rate for the time being set out in paragraph 19(1)(c)(i) of Schedule 4 to the Finance Act 1975 from the date on which the tax was paid.
- (3) The executors or judicial factor of the testator may, in accordance with the provisions of this section, elect that subsection (2) above shall not apply but that subsection (4) below shall apply.
- (4) Tax shall be charged at the testator's death as if the disposition to the spouse had taken effect, but where the person or persons concerned claim legitim within the period mentioned in subsection (8) below, tax shall be charged on the amount so claimed calculated on the basis that the legitim fund had been paid out in full at the testator's death (excluding any part of the fund renounced before any claim has been made) and the tax chargeable thereon had been apportioned rateably among the persons entitled to claim legitim (excluding any who have renounced as aforesaid) and the amount of tax charged shall carry interest at the rate mentioned in subsection (2) above as if paragraph 19(1)(b) of Schedule 4 to the Finance Act 1975 had applied.
- (5) Section 8(3) and (4) of the Finance Act 1894 and section 25(5)(a) of the Finance Act 1975 shall not apply in relation to tax charged by virtue of subsection (4) above but the person liable in respect of that tax shall be the person who claims legitim and

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any person mentioned in section 25(5)(c) of that Act, and section 27(1) of that Act shall apply in relation to the person who claims legitim as it applies in relation to the personal representatives of a deceased person.

- (6) Where within the period mentioned in subsection (8) below a person renounces his claim to legitim, that shall not be a transfer of value.
- (7) Where the executors or judicial factor of the testator decide to make an election under subsection (3) above they shall give notice in writing of that election to the Board within two years from the date of death of the testator or such longer period as the Board may permit.
- (8) For the purposes of subsections (2) and (4) above, a person shall be treated as having claimed legitim unless he has renounced his claim before attaining the age of 18 or he renounces his claim within two years of his attaining that age or such longer period as the Board may permit.
- (9) Where a person dies before attaining the age of 18 or before making a renunciation under subsection (8) above the provisions of this section shall apply in relation to that person's executors or judicial factor as they would have applied in relation to that person if that person had attained the age of 18 with the substitution of the date of death of that person for the date on which a person attained that age, but where the executors or factor renounce a claim to legitim in respect of a person the amount renounced shall not be treated as part of that person's estate.
- (10) Where subsection (2) above applies in relation to any estate, then notwithstanding anything in paragraph 24 of Schedule 4 to the Finance Act 1975 the Board may repay tax under that subsection without limit of time.
- (11) Where subsection (4) above applies in relation to any estate, then notwithstanding anything in section 11 of the Finance Act 1894 or paragraph 25 of Schedule 4 to the Finance Act 1975 a certificate of discharge may be given under the said section 11 or the said paragraph 25 in respect of the whole estate, and notwithstanding anything in section 8(7) of the Finance Act 1894 or paragraph 23 of Schedule 4 to the Finance Act 1975 the giving of the certificate shall not preclude the Board from claiming tax under subsection (4) above without limit of time.
- (12) In the case of a testator who died before 13th March 1975, any reference in this section to tax includes a reference to estate duty.
- (13) This section has effect in relation to the estate of any testator who died after 12th November 1974 and extends to Scotland only.

124 Acceptance of property in satisfaction of tax

In Schedule 4 to the Finance Act 1975, in paragraph 17(4), for paragraphs (a) and (b) there shall be substituted—

- “(a) any picture, print, book, manuscript, work of art, scientific object or other thing which the Treasury are satisfied is pre-eminent for its national, scientific, historic or artistic interest;”.

125 Double taxation relief

- (1) For paragraph 8 of Schedule 7 to the Finance Act 1975 (unilateral double taxation relief) there shall be substituted—

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“8 (1) Where the Board are satisfied that in any territory outside the United Kingdom (an " overseas territory ") any amount of tax imposed by reason of any disposition or other event is attributable to the value of any property, then, if—

- (a) that tax is of a character similar to that of capital transfer tax or is chargeable on or by reference to death or gifts inter vivos ; and
- (b) any capital transfer tax chargeable by reference to the same disposition or other event is also attributable to the value of that property,

they shall allow a credit in respect of that amount (" the overseas tax") against that capital transfer tax in accordance with the following provisions.

(2) Where the property is situated in the overseas territory and not in the United Kingdom, the credit shall be of an amount equal to the overseas tax.

(3) Where the property—

- (a) is situated neither in the United Kingdom nor in the overseas territory ; or
- (b) is situated both in the United Kingdom and in the overseas territory,

the credit shall be of an amount calculated in accordance with the following formula—

$$\frac{A}{A + B} \times C$$

where A is the amount of the capital transfer tax, B is the overseas tax and C is whichever of A and B is the smaller.

(4) Where tax is imposed in two or more overseas territories in respect of property which—

- (a) is situated neither in the United Kingdom nor in any of those territories ; or
- (b) is situated both in the United Kingdom and in each of those territories,

sub-paragraph (3) above shall apply as if, in the formula there set out, B were the aggregate of the overseas tax imposed in each of those territories and C were the aggregate of all, except the largest, of A and the overseas tax imposed in each of them.

(5) Where credit is allowed under sub-paragraph (2) above or paragraph 7 above in respect of overseas tax imposed in one overseas territory, any credit under sub-paragraph (3) above in respect of overseas tax imposed in another shall be calculated as if the capital transfer tax were reduced by the credit allowed under sub-paragraph (2) or paragraph 7; and where, in the case of any overseas territory mentioned in sub-paragraph (3) or (4) above, credit is allowed against the overseas tax for tax charged in a territory in which the property is situated, the overseas tax shall be treated for the purposes of those paragraphs as reduced by the credit.

(6) In this paragraph references to tax imposed in an overseas territory are references to tax chargeable under the law of that territory and paid by the person liable to pay it.

(7) Where relief can be given both under this paragraph and paragraph 7 above, relief shall be given under whichever paragraph provides the greater relief.”

(2) This section has effect in relation to dispositions and other events after 6th April 1976.

PART V

MISCELLANEOUS AND SUPPLEMENTARY

126 Stamp duty: exemption for transfers of loan capital

- (1) Subject to subsections (2) and (3) below, stamp duty shall not be chargeable on any transfer of loan capital.
- (2) Subsection (1) above does not apply to loan capital which, at the time when it is transferred, carries a right (exercisable then or later) of conversion into shares or other securities or to the acquisition of shares or other securities, including loan capital of the same description.
- (3) Subsection (1) above does not apply to loan capital which, at the time when it is transferred or at any earlier time, carries or has carried—
 - (a) a right to interest the amount of which—
 - (i) exceeds a reasonable commercial return on the nominal amount of the capital; or
 - (ii) falls or has fallen to be determined to any extent by reference to the results of, or of any part of, a business or to the value of any property; or
 - (b) a right on repayment to an amount which exceeds the nominal amount of the capital and is not reasonably comparable with what is generally repayable (in respect of a similar nominal amount of capital) under the terms of issue of loan capital listed in the Official List of The Stock Exchange.
- (4) Section 115 of the Stamp Act 1891, section 37 of the Finance Act 1939, section 65 of the Finance Act 1971 and Article 11 of the Finance (Northern Ireland) Order 1972 (composition for stamp duty on transfers of loan capital etc.) shall cease to have effect.
- (5) In this section " loan capital" means—
 - (a) any debenture stock, corporation stock or funded debt (by whatever name known) issued by any body corporate or other body of persons formed or established in the United Kingdom or any capital raised by any such body, being capital which is borrowed, or has the character of borrowed money, whether it is in the form of stock or any other form; and
 - (b) stock or marketable securities issued by the government of any country or territory within the commonwealth outside the United Kingdom.
- (6) This section shall be construed as one with the said Act of 1891.
- (7) This section shall be deemed to have come into force on 17th May 1976.

127 Stamp duty: stock exchange transfers

- (1) Stamp duty shall not be chargeable on any transfer to a stock exchange nominee which is executed for the purposes of a stock exchange transaction.
- (2) A transfer otherwise than on sale from a stock exchange nominee to a jobber or his nominee shall be regarded for the purposes of stamp duty as a transfer on sale for a consideration equal to the value of the stock or marketable securities thereby transferred.
- (3) For the purposes of section 42 of the Finance Act 1920 (jobbers' transfers) a transfer by a jobber or his nominee to a stock exchange nominee shall be regarded as a transfer to a bona fide purchaser.
- (4) In section 33(1) of the Finance Act 1970 (composition by Stock Exchange in respect of transfer duty) after the words " the heading " Conveyance or Transfer on Sale " " there shall be inserted the words " or " Conveyance or Transfer of any kind not hereinbefore described " " and the words " being instruments executed for the purposes of stock exchange transactions as defined in section 4(1) of the Stock Transfer Act 1963 " shall be omitted.
- (5) This section shall be construed as one with the Stamp Act 1891 and in this section—
 - " jobber " means a member of The Stock Exchange who is recognised by the Council thereof as carrying on the business of a jobber and carries on that business in the United Kingdom;
 - " stock exchange nominee " means any person designated for the purposes of this section as a nominee of The Stock Exchange by an order made by the Secretary of State;
 - " stock exchange transaction " has the meaning given in section 4 of the Stock Transfer Act 1963.
- (6) The power to make an order under subsection (5) above shall be exercisable by statutory instrument and includes power to vary or revoke a previous order.
- (7) Section 33 of the Finance Act 1970 shall extend to Northern Ireland; and in the application of that section and this section to Northern Ireland for any reference to the Stock Transfer Act 1963 there shall be substituted a reference to the Stock Transfer Act (Northern Ireland) 1963.

128 Stamp duty: chargeable transactions in respect of capital companies

In paragraph 10 of Schedule 19 to the Finance Act 1973 and paragraph 10 of Schedule 2 to the Finance (Miscellaneous Provisions) (Northern Ireland) Order 1973 (exemption from duty in cases of mergers etc.) after sub-paragraph (5) there shall be inserted—

- “(6) This paragraph applies also where the acquired company is a corporation or body of persons which is not a capital company for the purposes of this Schedule but which is treated as such in another member State; and paragraph 3(1) above shall apply for the interpretation of this sub-paragraph as it applies for the interpretation of paragraph 1 above.”

129 Development gains

- (1) Section 39 of the Finance Act 1974 (exemption or relief for small disposals) shall have effect, and be deemed always to have had effect, with the following amendments.
- (2) For subsections (1) to (3) there shall be substituted—
 - “(1) Where the amount of chargeable gains that would, apart from this subsection, be a person's development gains for any chargeable period does not exceed—
 - (a) in the case of an individual or the personal representatives of a deceased person as such, £10,000; or
 - (b) in the case of a company or the trustees of a settlement, £1,000,no part of those chargeable gains shall be development gains; and where that amount exceeds the limit applicable to that person under paragraph (a) or (b) above only so much of that amount as exceeds the limit shall be development gains.
 - (2) For the purposes of this section a man and his wife living with him shall be treated as one individual.”
- (3) In subsection (4)(c) for the words " subsections (1) and (2) above " there shall be substituted the words " subsection (1) above. "
- (4) Subsection (5) shall be omitted.

130 Petroleum revenue tax

- (1) Schedule 2 to the Oil Taxation Act 1975 (management and collection) shall be amended as follows.
- (2) In paragraph 12(1), after paragraph (c) there shall be inserted “or
 - (d) that for any chargeable period they ought to have made an assessment to tax instead of a determination of loss or a determination of loss instead of an assessment to tax;" and for the words " adjustments in assessments or determinations " there shall be substituted the words " assessments or determinations or amendments of assessments or determinations”.
- (3) After paragraph 12(2) there shall be inserted—
 - “(3) Where under this paragraph the Board make an assessment or determination or amend an assessment or determination they shall give notice thereof to the participator concerned; and sub-paragraphs (4), (5) and (6) of paragraph 10 above shall apply in relation to any such assessment, determination or amendment as they apply in relation to an assessment or determination under that paragraph.”
- (4) In paragraph 14(1) after the words " an assessment or determination " there shall be inserted the words " or an amendment of an assessment or determination " and at the end there shall be inserted the words " or of the notice of the amendment ".
- (5) In paragraph 14(9), in paragraph (a), for the words " or determination " there shall be substituted the words " , determination or amendment " and for the words from " on the adjustments " onwards there shall be substituted the words " on how the assessment, determination, amendment or decision should be varied or on what assessment or determination should be substituted in relation to the chargeable period in question,

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

the same consequences shall ensue as if the Commissioners had determined the appeal to that effect. "

(6) For paragraph 14(10) there shall be substituted—

“(10) If, on the appeal, it appears to a majority of the Commissioners present at the hearing that the assessment, determination or amendment is wrong—

- (a) because no, or a smaller, assessable profit or a, or a larger, allowable loss has accrued for the chargeable period in question ; or
- (b) because a, or a larger, assessable profit or no, or a smaller, allowable loss has accrued for that period,

the Commissioners shall vary the assessment, determination or amendment in such manner, or substitute such assessment or determination, as may be required; and it shall be for the participator to satisfy the Commissioners as to any matter within paragraph (a) above.”

(7) In paragraph 14(11) for the words "the determination of the Special Commissioners in any proceedings " there shall be substituted the words " the determination by the Special Commissioners of any appeal ".

131 Inter-American Development Bank

- (1) The following provisions of this section shall have effect on the United Kingdom's becoming a member of the Inter-American Development Bank (" the Bank ").
- (2) A person not resident in the United Kingdom shall not be liable to income tax in respect of income from any security issued by the Bank if he would not be liable but for the fact that—
 - (a) the security or income is issued, made payable or paid in the United Kingdom or in sterling; or
 - (b) the Bank maintains an office or other place of business in the United Kingdom; and such a security shall be taken for the purposes of capital transfer tax and capital gains tax to be situated outside the United Kingdom.
- (3) No stamp duty shall be chargeable under the heading " Bearer Instrument" in Schedule 1 to the Stamp Act 1891 on the issue of any instrument by the Bank or on the transfer of the stock constituted by, or transferable by means of, any instrument issued by the Bank.

132 Citation, interpretation, construction and repeals

- (1) This Act may be cited as the Finance Act 1976.
- (2) In this Act " the Taxes Act" means the Income and Corporation Taxes Act 1970.
- (3) In this Act—
 - (a) Part I (except sections 11 to 14) shall be construed as one with the Customs and Excise Act 1952 ;
 - (b) Part II shall be construed as one with Part I of the Finance Act 1972;
 - (c) Part III, so far as it relates to income tax, shall be construed as one with the Income Tax Acts, so far as it relates to corporation tax shall be construed as one with the Corporation Tax Acts and, so far as it relates to capital gains tax, shall be construed as one with Part III of the Finance Act 1965 ;

- (d) Part IV shall be construed as one with Part III of the Finance Act 1975.
- (4) Except so far as the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as amended, and as including a reference to that enactment as applied, by or under any other enactment, including this Act.
- (5) The enactments mentioned in Schedule 15 to this Act (which include spent enactments) are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision at the end of any Part of that Schedule.