

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1981, Schedule 17. (See end of Document for details)*

## SCHEDULES

### <sup>XI</sup>SCHEDULE 17

Section 134.

#### SPECIAL TAX ON BANKING DEPOSITS

##### **Editorial Information**

- X1** The text of Sch. 17 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### **PART I**

##### THE BASE PERIOD AND CHARGEABLE DEPOSITS

###### *The base period*

- 1 (1) The base period for the purposes of section 134 of this Act (“the principal section”) is the last quarter of 1980; and the average chargeable deposits held by a person in that period shall be determined by—
- (a) aggregating the chargeable deposits held by him at the close of a business on 15th October, 19th November and 10th December 1980; and
  - (b) dividing the result by three.
- (2) Where a person regularly prepares statistics of the deposits held by him as at the close of business on a particular day in each month and the day in October, November or December 1980 is not that mentioned in sub-paragraph (1)(a) above, the Board may, on the application of that person, direct that for any of those days there shall be substituted the day in the month in question for which that person has prepared the statistics.
- (3) Any time at which the amount of the chargeable deposits held by a person falls to be ascertained by virtue of this paragraph is in this Schedule referred to as a material time.

###### *Chargeable deposits*

- 2 For the purposes of the principal section and this Schedule a deposit is any sum of money paid to a person carrying on a banking business (“a deposit-taker”) on terms—
- (a) under which it will be repaid either on demand or at a time or in circumstances agreed by or on behalf of the person who paid the sum and the deposit-taker; and
  - (b) which are not, within the meaning of subsection (6) of section 1 of the <sup>M1</sup>Banking Act 1979, referable to the provision of property or services or to the giving of security.

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#### Marginal Citations

**M1** 1979 c. 37.

- 3 (1) Subject to the following provisions of this paragraph, a deposit is a chargeable deposit at a material time if it is then held on terms under which it does not carry interest or a premium.
- (2) The following are not chargeable deposits—
- (a) any deposit not denominated in sterling;
  - (b) any deposit paid to the deposit-taker by a company if at the material time the deposit-taker is a subsidiary of that company, or that company is a subsidiary of the deposit-taker, or both are subsidiaries of another company;
  - (c) where the deposit-taker is resident in the United Kingdom for the purposes of income or corporation tax, any deposit which at the material time is held at a branch of his situated outside the United Kingdom;
  - (d) where the deposit-taker is not so resident, any deposit which at that time is held otherwise than at a branch of his situated in the United Kingdom.
- (3) In sub-paragraph (1) above the reference to interest or a premium shall not be construed as including any allowance made by the deposit-taker in calculating whether any, and if so what, bank or other charges are to be made by him to the person making the deposit.
- (4) In sub-paragraph (2)(b) above “subsidiary” shall be construed in accordance with section 154 of the <sup>M2</sup>Companies Act 1948 or section 148 of the <sup>M3</sup>Companies Act (Northern Ireland) 1960.
- (5) For the purposes of sub-paragraph (2)(c) and (d) above a deposit is held at a branch of a deposit-taker if it is recorded in his books as a liability of that branch.

#### Marginal Citations

**M2** 1948 c. 38.

**M3** 1960 c. 22 (N.I.)

- 4 (1) Where any amount of the chargeable deposits held by a deposit-taker at a material time consists of the credit balance or balances on one or more accounts which the deposit-taker treats as reducing or extinguishing the amount on which he is entitled to interest in respect of the debit balance or balances on one or more other accounts held with him at that time, that amount of chargeable deposits shall be treated as equal to its excess, if any, over that other amount.
- (2) This paragraph applies only if the other account or accounts are denominated in sterling.
- 5 (1) The amount of chargeable deposits held by a deposit-taker at any material time shall be treated as—
- (a) reduced by an amount equal to 60 per cent. of any sum which has been credited in his books to an account held with him (whether or not an account the balance on which constitutes a chargeable deposit) by reference to a cheque or other authority which is then in course of collection by him; and

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(b) increased by an amount equal to 60 per cent. of any sum which has been debited in his books to such an account by reference to a standing order or other authority which is then in course of transmission by him.

(2) In this paragraph “sum” means a sum denominated in sterling.

6 Where a person was carrying on a banking business at any time in the last quarter of 1980 but was not carrying on such a business on 10th March 1981, then, if his business was, after the first of the material times and before that date, transferred to another person who was carrying on such a business on that date, the principal section and this Schedule shall have effect as if any chargeable deposits held by the first-mentioned person at any material time had then been held by the other person.

## PART II

### MANAGEMENT AND COLLECTION

#### *Management*

7 The tax shall be under care and management of the Board.

#### *Notice of liability*

- 8 (1) Every person who is chargeable with the tax shall give notice to the Board that he is so chargeable.
- (2) The notice shall be given not later than 1st September 1981.
- (3) If any person fails to give the notice which he is required to give under this paragraph he shall be liable to a penalty not exceeding £1,000.
- (4) Any application under paragraph 1(2) above shall be included in the notice given under this section.

#### *Returns*

- 9 (1) Every person who is chargeable with the tax shall on or before 1st October 1981 deliver to the Board a return complying with the following provisions of this paragraph; and the Board may by notice in writing require any person who—
- (a) has not given a notice under paragraph 8 above; but
  - (b) in the opinion of the Board is or may be chargeable with the tax,
- to deliver such a return to the Board within such time (not being less than thirty days) as may be specified in the notice.
- (2) Subject to sub-paragraph (3) below, a return delivered under this paragraph by any person shall contain—
- (a) a statement, in relation to each material time, of the chargeable deposits held by him and of—
    - (i) any deposits excluded from the chargeable deposits by virtue of paragraph 3(2)(b), (c) or (d) above;
    - (ii) any adjustment of the amount of the chargeable deposits made by virtue of paragraph 4 or 5 above;

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- (b) a computation of the amount by reference to which he is chargeable with the tax, of the total tax chargeable by reference to that amount and of the respective amounts of the tax due and payable by him on or before each of the dates mentioned in paragraph 11(1) below; and
  - (c) such particulars of the aggregate amounts of the different kinds of deposit held by him in his banking business at each material time as the Board may require for the purposes of the tax.
- (3) In sub-paragraph (2)(c) above the reference to a person's banking business is—
- (a) in the case of a person who is not resident in the United Kingdom for the purposes of income tax or corporation tax, to so much of his banking business as is carried on by his branch or branches situated in the United Kingdom;
  - (b) in the case of a person who is so resident, to his banking business exclusive of so much of it as is carried on by any branch of his which is situated outside the United Kingdom.
- (4) A return under this paragraph shall be in such form as the Board may prescribe and shall include a declaration that it is correct and complete.
- 10 (1) If a person fails to deliver a return within the time within which he is required to deliver it under paragraph 9 above he shall be liable, subject to sub-paragraph (3) below—
- (a) to a penalty not exceeding, except in the case mentioned in sub-paragraph (2) below, £500; and
  - (b) if the failure continues after it has been declared by the court or the Special Commissioners before whom proceedings for the penalty have been commenced, to a further penalty not exceeding £100 for each day on which the failure so continues.
- (2) If the failure continues after the end of six months from the time by which the return ought to have been delivered, the penalty under sub-paragraph (1)(a) above shall be an amount not exceeding the aggregate of £500 and the total amount of the tax with which the person in question is chargeable.
- (3) Except in the case mentioned in sub-paragraph (2) above, a person shall not be liable to any penalty incurred under this paragraph for failure to deliver a return if the failure is remedied before proceedings for the recovery of the penalty are commenced.

#### *Payment of tax*

- 11 (1) The tax chargeable in the case of any person shall be due and payable—
- (a) as to one half, on or before 1st October 1981;
  - (b) as to one quarter, on or before 1st December 1981; and
  - (c) as to the remainder, on or before 1st February 1982,
- and shall be so due and payable whether or not an assessment to the tax has been made by the date in question.
- (2) Certificates of tax deposit issued by the Treasury under section 12 of the <sup>M4</sup>National Loans Act 1968 on terms published on or before 14th May 1979 may be used for paying the tax; and for that purpose those terms shall have effect with the necessary modifications and as if the tax in or towards the payment of which a certificate is used were due as provided in sub-paragraph (1) above.

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#### Marginal Citations

M4 1968 c. 13.

#### Assessments

- 12 (1) Any tax with which a person is chargeable may be assessed on him whether or not it has been paid (in whole or in part) when the assessment is made.
- (2) The making of an assessment in respect of any tax shall not affect the date when it is due and payable.
- (3) Where a person has under paragraph 9 above delivered to the Board a return and the Board are satisfied that the information given in it with respect to his chargeable deposits is correct and complete, the Board shall make an assessment in accordance with the return.
- (4) Where the Board are not so satisfied in relation to a return, or a person fails to deliver to the Board a return as required under paragraph 9 above, any assessment made by the Board shall be made to the best of their judgment.
- (5) An assessment may be made at any time not later than 30th September 1987 except that where any form of fraud or wilful default or any neglect has been committed by or on behalf of any person in connection with or in relation to the tax, assessments on that person may, for the purpose of making good to the Crown any loss of tax attributable to the fraud, wilful default or neglect, be made at any time.
- (6) An assessment which by virtue of subsection (5) above is made after 30th September 1987 shall require the leave of a Special Commissioner given on being satisfied by an inspector or other officer of the Board that there are reasonable grounds for believing that tax has or may have been lost to the Crown owing to the fraud, wilful default or neglect of any person; and the Special Commissioner giving leave to make such an assessment shall take no part in the proceedings, and shall not be present, when any appeal against the assessment is heard or determined.
- (7) A person who is not resident in the United Kingdom may be assessed and charged with the tax in the name of any branch or agent in the United Kingdom.
- (8) Notice of any assessment shall be served on the person assessed and shall state the date on which it is issued and the time within which any appeal against the assessment may be made.
- (9) After the notice of assessment has been served on the person assessed, the assessment shall not be altered except in accordance with the following provisions of this Schedule.
- 13 (1) Where it appears to the Board that the amount of tax charged by an assessment should have been larger they may make a further assessment; and where it appears to them that the amount charged by an assessment should have been smaller they may amend the assessment accordingly.
- (2) Paragraph 12(8) and (9) above shall apply in relation to any assessment or amendment under this paragraph.

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### *Right of appeal*

- 14 (1) An Appeal may be brought against an assessment to the tax by a notice of appeal in writing given to the Board within thirty days after the date of the notice of assessment.
- (2) The appeal shall be to the Special Commissioners.
- (3) The notice of appeal against any assessment shall specify the grounds of appeal, but on the hearing of the appeal the Special Commissioners may allow the appellant to put forward any ground not specified in the notice and take it into consideration if satisfied that the omission was not wilful or unreasonable.
- (4) Subject to section 55 of the <sup>M5</sup>Taxes Management Act 1970 as applied by paragraph 18 below, an appeal against an assessment shall not affect the date when any tax is due.

#### **Marginal Citations**

**M5** 1970 c. 9.

### *Interest*

- 15 (1) Any tax with which a person is chargeable and which is not paid by the time by which paragraph 11(1) above requires it to be paid shall carry interest from that time until payment.
- (2) Sub-paragraph (1) above applies to any such tax as is there mentioned whether or not payment of it is postponed under section 55 of the Taxes Management Act 1970 as applied by paragraph 18 below.
- (3) Any amount of tax which becomes repayable shall carry interest—
- (a) in the case of tax in respect of which interest has been paid under sub-paragraph (1) above, from the time by which paragraph 11(1) above requires the tax to be paid until it is repaid;
  - (b) in any other case, from the time when paragraph 11(1) above requires the tax to be paid (or, if later, the time when it is paid) until it is repaid.
- (4) The rate of interest under this paragraph for any period shall be that applying for that period for the purposes of sections 86 and 87 of the said Act of 1970.
- (5) Interest payable under sub-paragraph (1) above shall be paid without any deduction of income tax and shall not be allowed as a deduction in computing income, profits or losses for any tax purposes; and interest paid under sub-paragraph (3) above shall be disregarded in computing income, profits or losses for any such purpose.

### *Information*

- 16 (1) Where the Board are not satisfied that the information given in a return delivered by any person under paragraph 9 above is correct and complete or a person who the Board believe to be chargeable with the tax has failed to deliver to the Board a return under that paragraph, the Board may by notice in writing require that person—
- (a) to deliver to the Board, within such time as is specified in the notice (not being less than thirty days), copies of any such accounts, books, records or

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other documents whatsoever in his possession or power as may be specified or described in the notice;

- (b) to make available, within such time as aforesaid, for inspection by an officer authorised by the Board all such accounts, books, records or other documents whatsoever in that person's possession or power as may be so specified or described.

being, in either case, accounts, books, records or documents which the Board may reasonably require to inspect for the purpose of determining whether a person is chargeable to the tax or the amount of the tax with which a person is chargeable.

- (2) An authorised officer of the Board may take copies of, or make extracts from, any accounts, books, records or other documents made available for inspection under this paragraph.
- (3) Nothing in this paragraph shall require a person to deliver or make available for inspection any particulars of an account held by any person except the balance at any material time.

*Incorrect returns, accounts, etc.*

- 17 (1) Where a person fraudulently or negligently—
- (a) delivers an incorrect return under paragraph 9 above; or
- (b) submits under paragraph 16 above any document that is incorrect,
- he shall be liable to a penalty not exceeding the aggregate of—
- (i) £50, and
- (ii) the amount or, in the case of fraud, twice the amount, of the difference between the tax payable and the tax that would have been payable if the return or document had been correct.
- (2) Where a return or other document was made or submitted by a person neither fraudulently nor negligently and it comes to his notice that it was incorrect, then, unless the error is remedied without unreasonable delay, the return or document shall be treated for the purpose of this paragraph as having been negligently made or submitted.
- (3) For the purposes of this paragraph any return or document made or submitted on behalf of a person shall be deemed to have been made or submitted by him unless he proves that it was submitted without his consent or connivance.
- (4) In this paragraph “document” includes accounts, books and records.

*Application of Taxes Management Act*

- 18 (1) The provisions of the <sup>M6</sup>Taxes Management Act 1970 specified in the first column of the following Table shall apply in relation to the tax as they apply in relation to a tax within the meaning of that Act subject to any modifications specified in the second column of that Table and with the substitution—
- (a) for references to Part IX of that Act, to the Taxes Act or the Income Tax Acts of references to section 134 of this Act and this Schedule;
- (b) for references to profits or gains, profits, income or chargeable gains of references to amounts chargeable to the tax.

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TABLE

<i>Provision applied</i>	<i>Modifications</i>
Section 1(3)	
4	
30	Omit the words after “accordingly”.
32	In subsection (1) omit “and for the same chargeable period”.
33(1)	For “six years after the end of the year of assessment (or, if the assessment is to corporation tax, the end of the accounting period) in which the assessment was made” substitute “ 30th September 1987 ”.
(2)	
(3)	Omit the words after “profits of the claimant”.
(4)	
(5)	For the words after “profits” substitute “ means amounts chargeable to the tax ”.
42(1)	
(2)	
(3)	Omit the words after “that decision”.
(4)	Substitute “ (4) An appeal under this section shall lie to the Special Commissioners. ”
(5)	Omit the words after “such form as the Board may determine”.
(7)	
(8)	
(9)	
43(1)	For the words “within six years from the end of the chargeable period to which it relates” substitute “ before 30th September 1987 ”.
48	
49(1)	
50	Omit the proviso to subsection (5).
51	



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54

55(1)

Substitute “ (1) This section applies to an appeal to the Special Commissioners against an assessment under paragraph 12 of Schedule 17 to the Finance Act 1981 ”.

(2)

(3)

(4)

(5)

(6)

For paragraphs (a) and (b) substitute:

“ (a) in the case of a determination made on an application under subsection (3) above, any tax the payment of which is not postponed shall be due and payable forthwith (or, if later, on the date on which it is due and payable under paragraph 11(1) of Schedule 17 to the Finance Act 1981); and ”

“ (b) in the case of a determination made on an application under subsection (4) above, any tax the payment of which ceases to be postponed shall be due and payable forthwith (or, if later, on the date referred to in paragraph (a) above) or any tax overpaid shall be repaid, as the case may require. ”

(7)

(8)

(9)

For the words from “as if it were tax” to “pending” there shall be substituted the words “ forthwith or, if later, on the date referred to in subsection (6)(a) above ”.

(10)

Omit the words from the beginning to “was issued; and”.

56

58(2)

(3)

. . . <sup>F1</sup> for paragraphs (a) and (b) substitute “ proceedings in Northern Ireland means proceedings in respect

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	of a person whose principal place of business or head office is in Northern Ireland ”.
60	In subsection (1) omit the words after “charged therewith”.
66	
67	
68	
69	In paragraph (a) substitute a reference to sections 66 to 68 as applied by this paragraph.
70(1)	
(2)	For the reference to section 86 or 87 substitute a reference to paragraph 15 of this Schedule.
71	
74	
75	
83	
98	Omit the Table and for references to any of the provisions specified in it substitute a reference to section 51 as applied by this Schedule and to paragraph 16 of this Schedule.
99	
100(1)	Omit the words before “no proceedings”.
(2)	
(3)	Omit the reference to the General Commissioners.
(5) to (9)	
101	For the words after “sufficient evidence” substitute the words “ of the chargeable deposits stated therein and of the excess over £15 million of the average of such deposits held in the base period ”.
102	
103(1)	
(2)	

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(3)	Omit the words from “for any chargeable period” to “end of that chargeable period”.
104	
105	
107	
108	In subsection (2) for the words from the beginning to “Acts” substitute “ The tax chargeable under section 134 of the Finance Act 1981 ”.
112	
113(1A)	
(1B)	
(3)	
114	
115(1) to (3)	
118(1) to (3)	

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- (2) Any expression to which a meaning is given by the principal section or this Schedule and which is used in a provision of the Taxes Management Act 1970 as applied by this paragraph shall in that provision, as so applied, have the same meaning as in that section and this Schedule.

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**Textual Amendments**

**F1** Words repealed by [Finance Act 1988 \(c. 39\)](#), s. 148, [Sch. 14 pt. IX](#)

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**Marginal Citations**

**M6** [1970 c. 9](#).

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