



# Finance Act 1996

## 1996 CHAPTER 8

### PART IV

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

### CHAPTER VI

#### MISCELLANEOUS PROVISIONS

#### *Reliefs*

#### **143 Annual payments under certain insurance policies**

(1) After section 580 of the Taxes Act 1988 there shall be inserted the following sections—

#### **“580A Relief from tax on annual payments under certain insurance policies**

- (1) This section applies (subject to subsection (7)(b) below) in the case of any such annual payment under an insurance policy as—
  - (a) apart from this section, would be brought into charge under Case III of Schedule D; or
  - (b) is equivalent to a description of payment brought into charge under Case III of that Schedule but (apart from this section) would be brought into charge under Case V of that Schedule.
- (2) Subject to the following provisions of this section, the annual payment shall be exempt from income tax if—
  - (a) it constitutes a benefit provided under so much of an insurance policy as provides insurance against a qualifying risk;
  - (b) the provisions of the policy by which insurance is provided against that risk are self-contained (within the meaning of section 580B);

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- (c) the only annual payments relating to that risk for which provision is made by that policy are payments in respect of a period throughout which the relevant conditions of payment are satisfied; and
  - (d) at all times while the policy has contained provisions relating to that risk, those provisions have been of a qualifying type.
- (3) For the purposes of this section and section 580B a qualifying risk is any risk falling within either of the following descriptions, that is to say—
- (a) a risk that the insured will (or will in any specified way) become subject to, or to any deterioration in a condition resulting from, any physical or mental illness, disability, infirmity or defect;
  - (b) a risk that circumstances will arise as a result of which the insured will cease to be employed or will cease to carry on any trade, profession or vocation carried on by him.
- (4) For the purposes of this section the relevant conditions of payment are satisfied in relation to payments under an insurance policy for so long as any of the following continues, that is to say—
- (a) an illness, disability, infirmity or defect which is insured against by the relevant part of the policy, and any related period of convalescence or rehabilitation;
  - (b) any period during which the insured is, in circumstances insured against by the relevant part of the policy, either unemployed or not carrying on a trade, profession or vocation;
  - (c) any period during which the income of the insured (apart from any benefits under the policy) is less, in circumstances so insured against, than it would have been if those circumstances had not arisen; or
  - (d) any period immediately following the end, as a result of the death of the insured, of any period falling within any of paragraphs (a) to (c) above;
- and in this subsection “the relevant part of the policy” means so much of it as relates to insurance against one or more risks mentioned in subsection (3) above.
- (5) For the purposes of subsection (2)(d) above provisions relating to a qualifying risk are of a qualifying type if they are of such a description that their inclusion in any policy of insurance containing provisions relating only to a comparable risk would (apart from any reinsurance) involve the possibility for the insurer that a significant loss might be sustained on the amounts payable by way of premiums in respect of the risk, taken together with any return on the investment of those amounts.
- (6) An annual payment shall not be exempt from income tax under this section if it is paid in accordance with a contract the whole or any part of any premiums under which have qualified for relief for the purposes of income tax by being deductible either—
- (a) in the computation of the insured’s income from any source; or
  - (b) from the insured’s income.
- (7) Where a person takes out any insurance policy wholly or partly for the benefit of another and that other person pays or contributes to the payment of the premiums under that policy, then to the extent only that the benefits under

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the policy are attributable, on a just and reasonable apportionment, to the payments or contributions made by that other person—

- (a) that other person shall be treated for the purposes of this section and section 580B as the insured in relation to that policy;
- (b) this section shall have effect in relation to those benefits, so far as comprised in payments to that other person or his spouse, as if the reference in subsection (1)(a) above to Case III of Schedule D included a reference to Schedule E; and
- (c) subsection (6) above shall have effect as if the references to the premiums under the policy were references only to the payments or contributions made by that other person in respect of the premiums.

(8) Where—

- (a) payments are made to or in respect of any person (“the beneficiary”) under any insurance policy (“the individual policy”),
- (b) the rights under the individual policy in accordance with which the payments are made superseded, with effect from the time when another policy (“the employer’s policy”) ceased to apply to that person, any rights conferred under that other policy,
- (c) the employer’s policy is or was a policy entered into wholly or partly for the benefit of persons holding office or employment under any person (“the employer”) against risks falling within subsection (3)(a) above,
- (d) the individual policy is one entered into in pursuance of, or in accordance with, any provisions contained in the employer’s policy, and
- (e) the beneficiary has ceased to hold office or employment under the employer as a consequence of the occurrence of anything insured against by so much of the employer’s policy as related to risks falling within subsection (3)(a) above,

this section shall have effect as if the employer’s policy and the individual policy were one policy.

(9) In the preceding provisions of this section references to the insured, in relation to any insurance policy, include references to—

- (a) the insured’s spouse; and
- (b) in the case of a policy entered into wholly or partly for purposes connected with the meeting of liabilities arising from an actual or proposed transaction identified in the policy, any person on whom any of those liabilities will fall jointly with the insured or his spouse.

(10) References in this section and section 580B to insurance against a risk include references to any insurance for the provision (otherwise than by way of indemnity) of any benefits against that risk, and references to what is insured against by a policy shall be construed accordingly.

#### **580B Meaning of “self-contained” for the purposes of s.580A**

(1) For the purposes of section 580A the provisions of an insurance policy by which insurance is provided against a qualifying risk are self-contained unless subsection (2) or (3) below applies to the provisions of that policy so far as they relate to that risk; but, in determining whether either of those subsections

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so applies, regard shall be had to all the persons for whose benefit insurance is provided by that policy against that risk.

(2) This subsection applies to the provisions of an insurance policy so far as they relate to a qualifying risk if—

- (a) that insurance policy contains provision for the payment of benefits other than those relating to that risk;
- (b) the terms of the policy so far as they relate to that risk, or the manner in which effect is given to those terms, would have been significantly different if the only benefits under the policy had been those relating to that risk; and
- (c) that difference is not one relating exclusively to the fact that the amount of benefits receivable by or in respect of any person under the policy is applied for reducing the amount of other benefits payable to or in respect of that person under the policy.

(3) This subsection applies to the provisions of an insurance policy (“the relevant policy”) so far as they relate to a qualifying risk if—

- (a) the insured under that policy is, or has been, the insured under one or more other policies;
- (b) that other policy, or each of those other policies, is in force or has been in force at a time when the relevant policy was in force or at the time immediately before the relevant policy was entered into;
- (c) the terms of the relevant policy so far as relating to that risk, or the manner in which effect is given to those terms, would have been significantly different if the other policy or policies had not been entered into; and
- (d) that difference is not one relating exclusively to the fact that the amount of benefits receivable by or in respect of any person under the other policy, or any of the other policies, is applied for reducing the amount of benefits payable to or in respect of that person under the relevant policy.

(4) In subsections (2)(b) and (3)(c) above the references to the terms of a policy so far as they relate to a risk include references to the terms fixing any amount payable by way of premium or otherwise in respect of insurance against that risk.”

(2) This section has effect for the year 1996-97 and subsequent years of assessment in relation to—

- (a) any payment which under the policy in question falls to be paid at any time on or after 6th April 1996; and
- (b) any payment not falling within paragraph (a) above in relation to which the conditions mentioned in subsection (3)(a) and (b) below are satisfied.

(3) This section shall also be deemed to have had effect for earlier years of assessment in relation to any payment in relation to which the following conditions are satisfied, that is to say—

- (a) the payment was made under a policy in relation to which the requirements of subsection (4) below were fulfilled; and
- (b) the policy in question provided for the right to annual payments under the policy to cease when all the liabilities in question were discharged.

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- (4) The requirements of this subsection are fulfilled in relation to any policy if—
- (a) the only or main purpose of the insurance under the policy was to secure that the insured would be able to meet (in whole or in part) liabilities that would or might arise from any transaction;
  - (b) the policy expressly identified the transaction or, as the case may be, all the transactions (whether actual or proposed) by reference to which the insurance was taken out; and
  - (c) none of the transactions which would or might give rise to the liabilities mentioned in paragraph (a) above could be one entered into after any of the circumstances insured against arose.
- (5) In subsection (4) above “transaction” includes any arrangements for the provision of credit or for the supply of services to residential premises.

#### **144 Vocational training**

- (1) Section 32 of the Finance Act 1991 (vocational training relief) shall be amended in accordance with the following provisions of this section.
- (2) In subsection (1) (application of section) for paragraph (ca) (individual has attained school leaving age etc at time of paying for the course) there shall be substituted—
- “(ca) at the time the payment is made, the individual—
    - (i) in a case where the qualifying course of vocational training is such a course by virtue only of paragraph (b) of subsection (10) below, has attained the age of thirty, or
    - (ii) in any other case, has attained school-leaving age and, if under the age of nineteen, is not a person who is being provided with full-time education at a school.”.
- (3) For subsection (10) (meaning of “qualifying course of vocational training”) there shall be substituted—
- “(10) In this section “qualifying course of vocational training” means—
    - (a) any programme of activity capable of counting towards a qualification—
      - (i) accredited as a National Vocational Qualification by the National Council for Vocational Qualifications; or
      - (ii) accredited as a Scottish Vocational Qualification by the Scottish Vocational Education Council; or
    - (b) any course of training which—
      - (i) satisfies the conditions set out in the paragraphs of section 589(1) of the Taxes Act 1988 (qualifying courses of training etc),
      - (ii) requires participation on a full-time or substantially full-time basis, and
      - (iii) extends for a period which consists of or includes four consecutive weeks,but treating any time devoted to study in connection with the course as time devoted to the practical application of skills or knowledge.”
- (4) This section applies to payments made on or after 6th May 1996.

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#### **145 Personal reliefs for non-resident EEA nationals**

- (1) In section 278(2)(a) of the Taxes Act 1988 (exclusion of non-residents from entitlement to personal reliefs not to apply to Commonwealth citizens or citizens of the Republic of Ireland), for “a citizen of the Republic of Ireland” there shall be substituted “an EEA national”.
- (2) After subsection (8) of that section (claims to be made to the Board) there shall be added the following subsection—
  - “(9) In this section “EEA national” means a national of any State, other than the United Kingdom, which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992, as adjusted by the Protocol signed at Brussels on 17th March 1993.”
- (3) This section has effect for the year 1996-97 and subsequent years of assessment.

#### **146 Exemptions for charities**

- (1) Section 505(1) of the Taxes Act 1988 (exemptions for charities) shall be amended as follows.
- (2) For paragraph (a) (rents etc.) there shall be substituted the following paragraph—
  - “(a) exemption from tax under Schedules A and D in respect of any profits or gains arising in respect of rents or other receipts from an estate, interest or right in or over any land (whether situated in the United Kingdom or elsewhere) to the extent that the profits or gains—
    - (i) arise in respect of rents or receipts from an estate, interest or right vested in any person for charitable purposes; and
    - (ii) are applied to charitable purposes only;”.
- (3) For sub-paragraph (ii) of paragraph (c) (yearly interest and annual payments) there shall be substituted the following sub-paragraphs—
  - “(ii) from tax under Case III of Schedule D,
  - (iia) from tax under Case IV or V of Schedule D in respect of income equivalent to income chargeable under Case III of that Schedule but arising from securities or other possessions outside the United Kingdom,
  - (iib) from tax under Case V of Schedule D in respect of income consisting in any such dividend or other distribution of a company not resident in the United Kingdom as would be chargeable to tax under Schedule F if the company were so resident, and”.
- (4) In paragraph (e) (trading profits), after “by a charity” there shall be inserted “(whether in the United Kingdom or elsewhere)”.
- (5) This section has effect—
  - (a) for the purposes of income tax, for the year 1996-97 and subsequent years of assessment; and
  - (b) for the purposes of corporation tax, in relation to accounting periods ending after 31st March 1996.

#### **147 Withdrawal of relief for Class 4 contributions**

- (1) In section 617 of the Taxes Act 1988 (social security benefits and contributions), subsection (5) (relief for Class 4 contributions) shall cease to have effect.
- (2) In consequence of the provision made by subsection (1) above, in paragraph 3(2) of Schedule 2 to—
  - (a) the Social Security Contributions and Benefits Act 1992, and
  - (b) the Social Security Contributions and Benefits (Northern Ireland) Act 1992,the words “(e) section 617(5) (relief for Class 4 contributions);” shall be omitted.
- (3) This section shall have effect in relation to the year 1996-97 and subsequent years of assessment.

#### **148 Mis-sold personal pensions etc**

- (1) Income tax shall not be chargeable on any payment falling within subsection (3) or (5) below.
- (2) Receipt of a payment falling within subsection (3) below shall not be regarded for the purposes of capital gains tax as the disposal of an asset.
- (3) A payment falls within this subsection if it is a capital sum by way of compensation for loss suffered, or reasonably likely to be suffered, by a person in a case where that person, or some other person, acting in reliance on bad investment advice at least some of which was given during the period beginning with 29th April 1988 and ending with 30th June 1994,—
  - (a) has, while eligible, or reasonably likely to become eligible, to be a member of an occupational pension scheme, instead become a member of a personal pension scheme or entered into a retirement annuity contract;
  - (b) has ceased to be a member of, or to pay contributions to, an occupational pension scheme and has instead become a member of a personal pension scheme or entered into a retirement annuity contract;
  - (c) has transferred to a personal pension scheme accrued rights of his under an occupational pension scheme; or
  - (d) has ceased to be a member of an occupational pension scheme and has instead (by virtue of such a provision as is mentioned in section 591(2)(g) of the Taxes Act 1988) entered into arrangements for securing relevant benefits by means of an annuity contract.
- (4) A payment chargeable to income tax apart from subsection (1) above may nevertheless be regarded as a capital sum for the purpose of determining whether it falls within subsection (3) above.
- (5) A payment falls within this subsection if and to the extent that it is a payment of interest, on the whole or any part of a capital sum such as is mentioned in subsection (3) above, for a period ending on or before the earliest date on which a determination (whether or not subsequently varied on an appeal or in any other proceedings) of the amount of the particular capital sum in question is made, whether by agreement or by a decision of—
  - (a) a court, tribunal or commissioner,
  - (b) an arbitrator or (in Scotland) arbiter, or
  - (c) any other person appointed for the purpose.

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(6) In this section—

“bad investment advice” means investment advice in respect of which an action against the person who gave it has been, or may be, brought—

- (a) in or for negligence;
- (b) for breach of contract;
- (c) by reason of a breach of a fiduciary obligation; or
- (d) by reason of a contravention which is actionable under section 62 of the Financial Services Act 1986;

“investment advice” means advice such as is mentioned in paragraph 15 of Schedule 1 to the Financial Services Act 1986;

“occupational pension scheme” means—

- (a) a scheme approved, or being considered for approval, under Chapter I of Part XIV of the Taxes Act 1988 (retirement benefit schemes);
- (b) a relevant statutory scheme, as defined in section 611A(1) of that Act; or
- (c) a fund to which section 608 of that Act applies (superannuation funds approved before 6th April 1980 etc);

“personal pension scheme” has the meaning given by section 630(1) of the Taxes Act 1988;

“relevant benefits” has the meaning given by section 612(1) of the Taxes Act 1988;

“retirement annuity contract” means a contract made before 1st July 1988 and approved by the Board under or by virtue of any provision of Chapter III of Part XIV of the Taxes Act 1988.

- (7) This section shall have effect, and be taken always to have had effect, in relation to any payment falling within subsection (3) or (5) above, whether made before or after the passing of this Act.

**149 Annual payments in residuary cases**

- (1) Section 347A of the Taxes Act 1988 (annual payments not a charge on the income of a payer) shall apply to any payment made on or after 6th April 1996—

- (a) in pursuance of any obligation which falls within section 36(4)(a) of the Finance Act 1988 (existing obligations under certain court orders), and
- (b) for the benefit, maintenance or education of a person (whether or not the person to whom the payment is made) who attained the age of 21 before 6th April 1994,

as if that obligation were not an existing obligation within the definition contained in section 36(4) of the Finance Act 1988.

- (2) Subsection (1) above does not apply to any payment to which section 38 of the Finance Act 1988 (treatment of certain maintenance payments under existing obligations) applies.

**150 Income tax exemption for periodical payments of damages and compensation for personal injury**

- (1) The sections set out in Schedule 26 to this Act shall be inserted after section 329 of the Taxes Act 1988.



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- (2) The first of those sections supersedes sections 329A and 329B inserted by the Finance Act 1995 and applies to payments received after the passing of this Act irrespective of when the agreement or order referred to in that section was made or took effect.
- (3) Subsections (1) and (2) of the second of those sections supersede section 329C inserted by the Criminal Injuries Compensation Act 1995 and apply to payments received after the passing of that Act.
- (4) The repeal of sections 329A and 329B does not affect the operation of those sections in relation to payments received before the passing of this Act.

### *Taxation of benefits*

#### **151 Benefits under pilot schemes**

- (1) The Treasury may by order make provision for the Income Tax Acts to have effect in relation to any amount of benefit payable by virtue of a Government pilot scheme as if it was, as they think fit, either—
  - (a) wholly or partly exempt from income tax and, accordingly, to be disregarded in computing the amount of any receipts brought into account for income tax purposes; or
  - (b) to the extent specified in the order, to be brought into account for the purposes of income tax as income of a description so specified or as a receipt of a description so specified.
- (2) The Treasury may by order provide for any amount of benefit payable by virtue of a Government pilot scheme to be left out of account, to the extent specified in the order, in the determination for the purposes of section 153 of the Capital Allowances Act 1990 (subsidies etc.) of how far any expenditure has been or is to be met directly or indirectly by the Crown or by an authority or person other than the person actually incurring it.
- (3) In this section “Government pilot scheme” means any arrangements (whether or not contained in a scheme) which—
  - (a) are made, under any enactment or otherwise, by the Secretary of State or any Northern Ireland department;
  - (b) make provision for or about the payment of amounts of benefit either—
    - (i) for purposes that are similar to those for which any social security or comparable benefit is payable; or
    - (ii) for purposes connected with the carrying out of any functions of the Secretary of State or any such department in relation to employment or training for employment;
  - (c) are arrangements relating to a temporary experimental period; and
  - (d) are made wholly or partly for the purpose of facilitating a decision as to whether, or to what extent, it is desirable for provision to be made on a permanent basis for or in relation to any benefit.
- (4) In subsection (3)(b) above the reference to making provision for or about the payment of amounts of benefit for purposes that are similar to those for which any social security or comparable benefit is payable shall include a reference to making provision by virtue of which there is a modification of the conditions of entitlement to, or the conditions for the payment of, an existing social security or comparable benefit.

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- (5) An order under this section may—
- (a) make different provision for different cases, and
  - (b) contain such incidental, supplemental, consequential and transitional provision (including provision modifying provision made by or under the Income Tax Acts) as the Treasury may think fit.
- (6) In this section “benefit” includes any allowance, grant or other amount the whole or any part of which is payable directly or indirectly out of public funds.
- (7) The power to make an order under this section—
- (a) shall be exercisable for the year 1996-97 and subsequent years of assessment; and
  - (b) so far as exercisable for the year 1996-97, shall be exercisable in relation to benefits, allowances and other amounts paid at times on or after 6th April 1996 but before the making of the order.
- (8) The Treasury shall not make an order under this section containing any such provision as is mentioned in subsection (1)(b) above unless a draft of the order has been laid before, and approved by a resolution of, the House of Commons.

## **152 Jobfinder’s grant**

- (1) The Income Tax Acts shall have effect, and be deemed always to have had effect, as if jobfinder’s grant were exempt from income tax and, accordingly, were to be disregarded in computing the amount of any receipts brought into account for income tax purposes.
- (2) In this section “jobfinder’s grant” means grant paid under that name by virtue of arrangements made in pursuance of section 2 of the Employment and Training Act 1973 or section 1 of the Employment and Training Act (Northern Ireland) 1950 (arrangements for assisting persons to select, train for, obtain or retain employment).

### *Investments*

## **153 Foreign income dividends**

Schedule 27 to this Act (which makes provision relating to foreign income dividends) shall have effect.

## **154 FOTRA securities**

- (1) The modifications which, under section 60 of the Finance Act 1940, may be made for the purposes of any issue of securities to the conditions about tax exemption specified in section 22 of the Finance (No. 2) Act 1931 shall include a modification by virtue of which the tax exemption contained in any condition of the issue applies, as respects capital, irrespective of where the person with the beneficial ownership of the securities is domiciled.
- (2) Subject to subsections (3) to (5) below, nothing in the Tax Acts shall impose any charge to tax on any person in respect of so much of any profits or gains arising from a FOTRA security, or from any loan relationship represented by a FOTRA security,

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as is expressed to be exempt from tax in the tax exemption condition applying to that security.

- (3) Exemption from tax shall not be conferred by virtue of subsection (2) above in relation to any security unless the requirements imposed as respects that exemption by the conditions with which the security is issued (including any requirement as to the making of a claim) are complied with.
- (4) The tax exemption condition of a FOTRA security shall not be taken to confer any exemption from any charge to tax imposed by virtue of the provisions of Chapter IA of Part XV or Chapter III of Part XVII of the Taxes Act 1988 (anti-avoidance provisions for residents etc.)
- (5) Nothing in this section shall entitle any person to any repayment of tax which he has not claimed within the time limit which would be applicable under the Tax Acts (apart from this section) to a claim for the repayment of that tax.
- (6) A person with the beneficial ownership of a FOTRA security who would, by virtue of this section, be exempt from tax in respect of some or all of the profits and gains arising from that security, or from any loan relationship represented by it, shall not be entitled for the purposes of income tax or corporation tax to bring into account any amount—
  - (a) in respect of changes in the value of that security;
  - (b) as expenses or disbursements incurred in, or in connection with, the holding of the security or any transaction relating to the security; or
  - (c) as a debit given, in respect of any loan relationship represented by that security, by any provision of Chapter II of this Part of this Act in respect of such a relationship.
- (7) Schedule 28 to this Act (which contains amendments consequential on the provisions of this section) shall have effect.
- (8) References in this section to a FOTRA security are references to—
  - (a) any security issued with such a condition about exemption from taxation as is authorised in relation to its issue by virtue of section 22 of the Finance (No. 2) Act 1931; or
  - (b) any 3½% War Loan 1952 Or After which was issued with a condition authorised by virtue of section 47 of the Finance (No. 2) Act 1915;and references, in relation to such a security, to the tax exemption condition shall be construed accordingly.
- (9) This section and Schedule 28 to this Act shall have effect—
  - (a) for the purposes of income tax, for the year 1996-97 and subsequent years of assessment; and
  - (b) for the purposes of corporation tax, for accounting periods ending after 31st March 1996.

## **155 Directions for payment without deduction of tax**

After section 51 of the Taxes Act 1988 there shall be inserted the following section—

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**“51AA Commencement of direction under section 50 or 51**

A direction under section 50 or 51 that any security shall be deemed to have been issued subject to the condition that the interest thereon shall be paid without deduction of tax may provide that the direction is to have effect in relation only to payments of interest made on or after such date as may be specified in the direction.”

**156 Paying and collecting agents etc**

Schedule 29 to this Act (which amends the rules relating to paying and collecting agents) shall have effect.

**157 Stock lending fees**

- (1) After section 129A of the Taxes Act 1988 (interest on cash collateral paid in connection with stock lending arrangements) there shall be inserted the following section—

**“129B Stock lending fees**

- (1) The income which, as income deriving from investments of a description specified in any of the relevant provisions, is eligible for relief from tax by virtue of that provision shall be taken to include any relevant stock lending fee.
- (2) For the purposes of this section the relevant provisions are sections 592(2), 608(2)(a), 613(4), 614(3), 620(6) and 643(2).
- (3) In this section “relevant stock lending fee”, in relation to investments of any description, means any amount, in the nature of a fee, which is payable in connection with an approved stock lending arrangement relating to investments which, but for any transfer under the arrangement, would be investments of that description.
- (4) In this section “approved stock lending arrangement” has the same meaning as in Schedule 5A.”
- (2) This section has effect in relation to any arrangements entered into on or after 2nd January 1996.

**158 Transfers on death under the accrued income scheme**

- (1) In section 710(5) of the Taxes Act 1988 (meaning of “transfer” in sections 711 to 728), after “or otherwise” there shall be inserted “, but—
- (a) does not include the vesting of securities in a person’s personal representatives on his death; and”.
- (2) Subsection (1) of section 721 of that Act (transfer of securities on death) shall cease to have effect.
- (3) For subsection (2) of that section (transfers by personal representatives to legatees) there shall be substituted—

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“(2) Where—

- (a) an individual who is entitled to securities dies, and
  - (b) in the interest period in which the individual died, the securities are transferred by his personal representatives to a legatee,
- section 713 shall not apply to the transfer.”

(4) Subsection (4) of that section (interest period treated as ending with death) shall cease to have effect.

(5) This section has effect as respects deaths on or after 6th April 1996.

### **159 Manufactured payments, repos, etc**

(1) Sections 729, 737A(2)(b) and 786(4) of the Taxes Act 1988 (provisions applying to sale and repurchase agreements) shall cease to have effect except in relation to cases where the initial agreement to sell or transfer the securities or other property was made before the appointed day.

(2) In section 737 of that Act—

- (a) in subsection (5) (manufactured dividends paid to UK residents by non-residents), for the words from “a person resident in the United Kingdom” to “the United Kingdom recipient shall” there shall be substituted “a United Kingdom recipient, that recipient shall”; and
- (b) after that subsection there shall be inserted the following subsection—

“(5AAA) For the purposes of subsection (5) above a person who receives a manufactured dividend is a United Kingdom recipient if—

- (a) he is resident in the United Kingdom; or
- (b) he is not so resident but receives that dividend for the purposes of a trade carried on through a branch or agency in the United Kingdom.”

(3) In section 737C of that Act (deemed manufactured payments), the following subsection shall be inserted after subsection (11A) in relation to cases where the initial agreement to sell the securities is made on or after the appointed day, that is to say—

“(11B) The preceding provisions of this section shall have effect in cases where paragraph 2, 3 or 4 of Schedule 23A would apply by virtue of section 737A(5) but for paragraph 5 of that Schedule as they have effect in a case where the paragraph in question is not disapplied by paragraph 5; and where—

- (a) the gross amount of the deemed manufactured interest, or
- (b) the gross amount of the deemed manufactured overseas dividend,

falls to be calculated in such a case under subsection (8) or (11) above, it shall be so calculated by reference to the provisions of paragraph 3 or 4 of Schedule 23A that would have applied but for paragraph 5 of that Schedule.”

(4) In sub-paragraph (3) of paragraph 4 of Schedule 23A to that Act (manufactured overseas dividends paid to UK residents by non-residents), for the words from “a person resident in the United Kingdom” to “the United Kingdom recipient shall” there shall be substituted “a United Kingdom recipient, that recipient shall”.

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

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- “(3A) For the purposes of sub-paragraph (3) above a person who receives a manufactured overseas dividend is a United Kingdom recipient if—
- (a) he is resident in the United Kingdom; or
  - (b) he is not so resident but receives that dividend for the purposes of a trade carried on through a branch or agency in the United Kingdom.
- (3B) Dividend manufacturing regulations may make provision, in relation to cases falling within sub-paragraph (3) above, for the amount of tax required under that sub-paragraph to be taken to be reduced, to such extent and for such purposes as may be determined under the regulations, by reference to amounts of overseas tax charged on, or in respect of—
- (a) the making of the manufactured overseas dividend; or
  - (b) the overseas dividend of which the manufactured overseas dividend is representative.”

(6) In sub-paragraph (7) of paragraph 4 of that Schedule (regulations for off-setting), for the words from “against” to “and account” in the words after paragraph (b) there shall be substituted “in accordance with the regulations and to the prescribed extent, amounts falling within paragraph (a) of sub-paragraph (7AA) below against the sums falling within paragraph (b) of that sub-paragraph, and to account”; and after that sub-paragraph there shall be inserted the following sub-paragraph—

“(7AA) Those amounts and sums are—

    - (a) amounts of overseas tax in respect of overseas dividends received by him in that chargeable period, amounts of overseas tax charged on, or in respect of, the making of manufactured overseas dividends so received by him and amounts deducted under sub-paragraph (2) above from any such manufactured overseas dividends; and
    - (b) the sums due from him on account of the amounts deducted by him under sub-paragraph (2) above from the manufactured overseas dividends paid by him in that chargeable period.”

(7) In sub-paragraph (1) of paragraph 8 of that Schedule (power to modify provisions of Schedule)—

      - (a) before the “or” at the end of paragraph (a) there shall be inserted—
        - “(aa) such persons who receive, or become entitled to receive, manufactured dividends, manufactured interest or manufactured overseas dividends as may be prescribed,”

and
      - (b) in the words after paragraph (b), for “paragraph 2, 3 or 4 above” there shall be substituted “paragraphs 2 to 5 above”.

(8) After sub-paragraph (1) of paragraph 8 of that Schedule there shall be inserted the following sub-paragraph—

“(1A) Dividend manufacturing regulations may provide, in relation to prescribed cases where a person makes or receives the payment of any amount representative of an overseas dividend, or is treated for any purposes of this Schedule or such regulations as a person making or receiving such a payment—

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- (a) for any entitlement of that person to claim relief under Part XVIII to be extinguished or reduced to such extent as may be found under the regulations; and
  - (b) for the adjustment, by reference to any provision having effect under the law of a territory outside the United Kingdom, of any amount falling to be taken, for any prescribed purposes of the Tax Acts or the 1992 Act, to be the amount paid or payable by or to any person in respect of any sale, repurchase or other transfer of the overseas securities to which the payment relates.”
- (9) Subsections (2), (4) and (5) above have effect—
- (a) for the purposes of corporation tax, in relation to accounting periods ending after 31st March 1996; and
  - (b) for the purposes of income tax, in relation to the year 1996-97 and subsequent years of assessment.
- (10) In this section “the appointed day” means such day as the Treasury may by order appoint, and different days may be appointed under this subsection for different purposes.

## **160 Investments in housing**

Schedule 30 to this Act (which makes provision conferring relief from corporation tax on companies that invest in housing) shall have effect.

## **161 Venture capital trusts: control of companies etc**

- (1) Schedule 28B to the Taxes Act 1988 (venture capital trusts: meaning of qualifying holdings) shall have effect, and be deemed always to have had effect, subject to the amendments in subsections (2) and (3) below.
- (2) In paragraph 9 (requirements as to subsidiaries etc. of the relevant company), the following shall be omitted—
  - (a) in sub-paragraph (1), the words “subject to sub-paragraph (2) below”; and
  - (b) sub-paragraph (2).
- (3) In paragraph 13 (interpretation), for sub-paragraphs (2) and (3) (“connected” and “control” to be construed in accordance with sections 839 and 416(2) to (6)) there shall be substituted the following sub-paragraphs—
  - “(2) For the purposes of paragraphs 5(2) and 9 above, the question whether a person controls a company shall be determined in accordance with subsections (2) to (6) of section 416 with the modification given by sub-paragraph (3) below.
  - (3) The modification is that, in determining whether a person controls a company, there shall be disregarded—
    - (a) his or any other person’s possession of, or entitlement to acquire, relevant fixed-rate preference shares of the company; and
    - (b) his or any other person’s possession of, or entitlement to acquire, rights as a loan creditor of the company.

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- (4) Section 839 shall apply for the purposes of this Schedule, but as if the reference in subsection (8) to section 416 were a reference to subsections (2) to (6) of section 416 with the modification given by sub-paragraph (3) above.
- (5) For the purposes of sub-paragraph (3) above—
- (a) relevant fixed-rate preference shares are fixed-rate preference shares that do not for the time being carry voting rights; and
  - (b) “fixed-rate preference shares” has the same meaning as in section 95.”

### *Insurance policies*

#### **162 Qualifying life insurance policies: certification**

- (1) Section 55 of the Finance Act 1995 (removal of certification requirements for qualifying policies with respect to any time on or after 5th May 1996 etc) shall have effect—
- (a) with the substitution for “5th May 1996”, wherever occurring, of “the appointed date”; and
  - (b) with the addition of the following subsection after subsection (8)—
 

“(9) In this section “the appointed date” means such date as may be specified for the purpose in an order made by the Board.”
- (2) In Schedule 15 to the Taxes Act 1988 (qualifying policies) paragraphs 24(2A) and 25(2) shall have effect with the substitution for “5th May 1996” of “the appointed date for the purposes of section 55 of the Finance Act 1995 (removal of certification requirements)”.

### *Insurance companies*

#### **163 Life assurance business losses**

Schedule 31 to this Act, which makes provision about losses arising to insurance companies in the carrying on of life assurance business, shall have effect.

#### **164 Limits on relief for expenses**

- (1) For subsections (2) to (5) of section 76 of the Taxes Act 1988 there shall be substituted the following subsections—
- “(2) Where, in the case of any such company, the amount mentioned in paragraph (a) of subsection (2A) below exceeds for any accounting period the amount mentioned in paragraph (b) of that subsection, the amount which by virtue of this section is to be deductible by way of management expenses for that period shall be equal to the basic deduction for that period reduced by the amount of the excess.
- (2A) Those amounts are—



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- (a) the amount which would be the profits of the company's life assurance business for that period if computed in accordance with the provisions applicable to Case I of Schedule D and adjusted in respect of losses; and
  - (b) the amount (including any negative amount) produced by deducting the following aggregate amount from the company's relevant income for that period from its life assurance business, that is to say, the aggregate of—
    - (i) the basic deduction,
    - (ii) any non-trading deficit on the company's loan relationships which is produced for that period in relation to that business by a separate computation under paragraph 2 of Schedule 11 to the Finance Act 1996,
    - (iii) any amount which in pursuance of a claim under paragraph 4(3) of that Schedule is carried back to that period and (in accordance with paragraph 4(5) of that Schedule) applied in reducing profits of the company for that period, and
    - (iv) any charges on income for that period so far as they consist in annuities or other annual payments that are referable to the company's life assurance business and, if they are not annuities, are payable by the company wholly or partly in satisfaction of claims under insurance policies.
- (2B) For the purposes of subsection (2A) above a company's relevant income for any accounting period from its life assurance business is the sum of the following—
- (a) the income and gains of the company's life assurance business for that accounting period; and
  - (b) the relevant franked investment income of the company for that period so far as it arises from assets held for the purposes of that business and is not included in the income and gains mentioned in paragraph (a) above.
- (2C) The adjustment in respect of losses that is to be made for any accounting period under paragraph (a) of subsection (2A) above is a deduction of the amount equal to the unused part of the sum which—
- (a) by reference to computations made in respect of the company's life assurance business in accordance with the provisions applicable to Case I of Schedule D, and
  - (b) disregarding section 434A(2),
- would fall, in the case of the company, to be set off under section 393 against the company's income for that period.
- (2D) For the purposes of subsection (2C) above, an amount is unused to the extent that it has not been taken into account for any previous accounting period in determining the amount by reference to which the following question was answered, namely, the question whether, and by how much, the amount deductible by virtue of this section by way of management expenses was less than the basic deduction.
- (5) Subject to paragraph 4(11) to (13) of Schedule 11 to the Finance Act 1996, where the basic deduction for any period exceeds the amount which for that

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period is to be deductible by virtue of this section by way of management expenses, the amount to be carried forward by virtue of section 75(3) (including the amount to be so carried forward for the purpose of computing the amount of the basic deduction for any period) shall be increased by the amount of the excess.”

(2) In subsection (8) of that section—

(a) after the definition of “authorised person” there shall be inserted the following definition—

““basic deduction”, in relation to an accounting period of an insurance company, means the amount which, by virtue of this section, would be deductible by way of management expenses for that period but for subsection (2) above;”

and

(b) after the definition of “recognised self-regulating organisation” there shall be inserted the following definition—

““relevant franked investment income”, in relation to any insurance company, means any franked investment income of the company in so far as it is not income the tax credits comprised in which may be claimed by the company under section 438(4) or 441A(7);”.

(3) In paragraph 5 of Schedule 19AC to the Taxes Act 1988 (modification of section 76)—

(a) in sub-paragraph (1), in the subsection (6B) treated as inserted in section 76, for “their” there shall be substituted “its” and the words “and subsections (2) and (3)(b) above” shall be omitted; and

(b) after that sub-paragraph there shall be inserted the following sub-paragraph—

“(1A) In section 76 references to franked investment income shall be treated as being references to UK distribution income within the meaning of paragraph 5B of this Schedule.”

(4) In section 56(4) of the Taxes Act 1988 (which contains a reference to the computation required by section 76(2) of that Act), for “by” there shall be substituted “for the purposes of”.

(5) Subject to subsection (6) below, this section has effect in relation to accounting periods beginning on or after 1st January 1996.

(6) Notwithstanding anything in the previous provisions of this section, section 76 of the Taxes Act 1988 has effect in relation to accounting periods beginning on or after 1st January 1996—

(a) as if the reference in subsection (2D) of that section to a previous accounting period included a reference to an accounting period beginning before that date, and

(b) in relation to such a previous accounting period, as if the references—  
 (i) to the amount deductible by virtue of this section, and  
 (ii) to the basic deduction,

were to be construed by reference to whatever provisions had effect in relation to that previous period for purposes corresponding to those of that section as amended by this section.

## **165 Annual payments under insurance policies: deductions**

- (1) In section 337 of the Taxes Act 1988 (deductions in computing income), the following subsections shall be inserted after subsection (2)—

“(2A) In computing any profits or losses of a company in accordance with the provisions of this Act applicable to Case I of Schedule D, subsection (2)(b) above shall not prevent the deduction of any annuity or other annual payment which is payable by a company wholly or partly in satisfaction of any claim under an insurance policy in relation to which the company is the insurer.

(2B) The reference in subsection (2A) above to an annuity payable wholly or partly in satisfaction of a claim under an insurance policy shall be taken, in relation to an insurance company (within the meaning of Chapter I of Part XII), to include a reference to every annuity payable by that company; and the references in sections 338(2) and 434B(2) to an annuity paid wholly or partly as mentioned in subsection (2A) above shall be construed accordingly.”

- (2) In section 338(2) of that Act, in the words after paragraph (b) (payments which are not charges on income), after “corporation tax” there shall be inserted “nor any annuity or other annual payment which (without being so deductible) is paid wholly or partly as mentioned in section 337(2A)”.

- (3) In section 434B of that Act (treatment of interest and annuities in the case of insurance companies), subsection (1) shall cease to have effect; and in subsection (2), for the words from the beginning to “mentioned in subsection (1) above” there shall be substituted—

“(2) Nothing in section 337(2A) or 338(2) shall be construed as preventing any annuity or other annual payment which is paid wholly or partly as mentioned in section 337(2A)”.

- (4) Subject to subsection (5) below, this section has effect in relation to accounting periods beginning on or after 1st January 1996.

- (5) In relation to any accounting period beginning on or after 1st January 1996 but ending before 1st April 1996, this section shall have effect as if any reference in provisions inserted by this section to an annuity payable or paid by an insurance company included a reference to any such interest as was mentioned in section 434B(1) of the Taxes Act 1988 before its repeal by virtue of this section.

## **166 Equalisation reserves**

Schedule 32 to this Act (which makes provision about the tax treatment of equalisation reserves maintained by insurance companies) shall have effect.

## **167 Industrial assurance business**

- (1) In section 432 of the Taxes Act 1988, subsection (2) (industrial assurance business treated as separate business for the purposes of Chapter I of Part XII) shall cease to have effect.
- (2) In section 432A(2) of the Taxes Act 1988, for paragraphs (d) and (e) (different categories of basic life assurance and general annuity business, including and not

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including industrial assurance business), there shall be substituted the following paragraph—

“(d) basic life assurance and general annuity business; and”.

(3) In section 86 of the Finance Act 1989 (spreading of relief for acquisition expenses)—

(a) in subsection (1)(a), for “in respect of industrial life assurance business carried on by the company” there shall be substituted “for persons who collect premiums from house to house”; and

(b) in subsection (2), for “in respect of industrial life assurance business” there shall be substituted “for persons who collect premiums from house to house”.

(4) In section 832 of the Taxes Act 1988 (interpretation), in the definition of “industrial assurance business” for “has” there shall be substituted “means any such business carried on before the day appointed for the coming into force of section 167(4) of the Finance Act 1996 as was industrial assurance business within”.

(5) In Schedule 14 to the Taxes Act 1988 (ancillary provisions about relief in respect of life assurance premiums), in paragraph 8, at the beginning of sub-paragraph (4) (policy which is varied so as to increase benefits, etc. to be treated as issued after 13th March 1984) there shall be inserted “Subject to sub-paragraph (8) below,”.

(6) After sub-paragraph (7) of that paragraph there shall be inserted the following sub-paragraph—

“(8) Sub-paragraph (4) above does not apply in the case of a variation so as to increase the benefits secured, if the variation is made—

(a) on or after such day as the Board may by order appoint, and

(b) in consideration of a change in the method of payment of premiums from collection by a person collecting premiums from house to house to payment by a different method.”

(7) In Schedule 15 to the Taxes Act 1988 (qualifying policies)—

(a) in paragraph 1(6) (calculation of amount included in premiums of whole life and term insurances in respect of their payment otherwise than annually), for “and if the policy is issued in the course of an industrial assurance business,” there shall be substituted “and if the policy provides for payment otherwise than annually without providing for the amount of the premiums if they are paid annually,”; and

(b) in paragraph 2(2) (the equivalent calculation for endowment assurances), for “issued in the course of an industrial assurance business” there shall be substituted “that provides for the payment of premiums otherwise than annually without providing for the amount of the premiums if they are paid annually,”.

(8) After paragraph 8 of that Schedule there shall be inserted the following paragraph—

“8A (1) Paragraphs 7 and 8 above shall have effect in relation to any policy issued on or after the appointed day as if the references to the issue of a policy in the course of an industrial assurance business were references to the issue of a policy by any company in a case in which—

(a) the company, before that day and in the course of such a business, issued any policy which was a qualifying policy by virtue of either of those paragraphs; and

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- (b) the policies which on 28th November 1995 were being offered by the company as available to be issued included policies of the same description as the policy issued on or after the appointed day.
- (2) In this paragraph “the appointed day” means such day as the Board may by order appoint.”
- (9) In paragraph 18(3) of that Schedule (certain variations of a policy not to affect whether policy is a qualifying policy), after paragraph (b) there shall be inserted “or
  - (c) any variation so as to increase the benefits secured or reduce the premiums payable which is effected—
    - (i) on or after such day as the Board may by order appoint, and
    - (ii) in consideration of a change in the method of payment of premiums from collection by a person collecting premiums from house to house to payment by a different method.”
- (10) Subsections (1) to (3) above have effect in relation to accounting periods beginning on or after 1st January 1996.
- (11) Subsection (4) above shall come into force on such day as the Board may by order appoint.
- (12) Subsection (7) above shall have effect in relation to policies issued on or after such day as the Board may by order appoint.

## **168 Capital redemption business**

- (1) For subsection (3) of section 458 of the Taxes Act 1988 (meaning of capital redemption business) there shall be substituted the following subsection—
  - “(3) In this section “capital redemption business” means any business in so far as it—
    - (a) is insurance business for the purposes of the Insurance Companies Act 1982, but not life assurance business; and
    - (b) consists in effecting on the basis of actuarial calculations, and carrying out, contracts under which, in return for one or more fixed payments, a sum or series of sums of a specified amount become payable at a future time or over a period.”
- (2) Schedule 33 to this Act (which makes provision for the application of the I minus E basis of charging tax to companies carrying on capital redemption business) shall have effect.
- (3) In Chapter I of Part XII of the Taxes Act 1988, after section 458 (capital redemption business) there shall be inserted the following section—

### **“458A Capital redemption business: power to apply life assurance provisions**

- (1) The Treasury may by regulations provide for the life assurance provisions of the Corporation Tax Acts to have effect in relation to companies carrying on capital redemption business as if capital redemption business were, or were a category of, life assurance business.

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- (2) Regulations under this section may provide that the provisions applied by the regulations are to have effect as respects capital redemption business with such modifications and exceptions as may be provided for in the regulations.
- (3) Regulations under this section may—
  - (a) make different provision for different cases;
  - (b) include such incidental, supplemental, consequential and transitional provision (including provision modifying provisions of the Corporation Tax Acts other than the life assurance provisions) as the Treasury consider appropriate; and
  - (c) include retrospective provision.
- (4) In this section references to the life assurance provisions of the Corporation Tax Acts are references to the following—
  - (a) the provisions of this Chapter so far as they relate to life assurance business or companies carrying on such business; and
  - (b) any other provisions of the Corporation Tax Acts making separate provision by reference to whether or not the business of a company is or includes life assurance business or any category of insurance business that includes life assurance business.
- (5) In this section “capital redemption business” has the same meaning as in section 458.”
- (4) In section 539(3) of that Act, in the definition of “capital redemption policy” for “insurance” there shall be substituted “contract”.
- (5) In section 553(10) of that Act, in paragraph (a) of the definition of “new offshore capital redemption policy”, for “an insurance” there shall be substituted “a contract”.
- (6) Subsection (1) above shall have effect as respects accounting periods ending on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions), and subsections (4) and (5) above shall have effect as respects contracts effected on or after that day.

## **169 Provisional repayments in connection with pension business**

- (1) Schedule 19AB to the Taxes Act 1988 (pension business: payments on account of tax credits and deducted tax) shall be amended in accordance with the provisions of Part I of Schedule 34 to this Act.
- (2) Schedule 19AC to the Taxes Act 1988 (modification of that Act in relation to overseas life insurance companies) shall be amended in accordance with the provisions of Part II of Schedule 34 to this Act.
- (3) The amendments made by Schedule 34 to this Act shall have effect in relation to provisional repayment periods, within the meaning of Schedule 19AB to the Taxes Act 1988, falling in accounting periods ending on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions).

## 170 Time for amending and enquiring into returns

- (1) After section 11AB of the Taxes Management Act 1970 there shall be inserted the following sections—

### **“11AC Modifications of sections 11AA and 11AB in relation to non-annual accounting of general insurance business**

- (1) This section applies in any case where a company carrying on insurance business in any period delivers a return for that period under section 11 of this Act which is based wholly or partly on accounts which the company is required or permitted to draw up using the method described in paragraph 52 of Schedule 9A to the Companies Act 1985 (accounting for general insurance business on a non-annual basis).
- (2) Where this section applies, section 11AA(2) of this Act shall have effect as if after paragraph (b) there were added “and
- (c1) where a company has delivered a return which is based wholly or partly on accounts drawn up as mentioned in section 11AC(1) of this Act, then, at any time before the end of the period of twelve months beginning with the date on which any particular technical provision constituted in the case of those accounts as described in paragraph 52 of Schedule 9A to the Companies Act 1985 is replaced as described in sub-paragraph (4) of that paragraph, the company may by notice to an officer of the Board so amend its self-assessment as to give effect to any amendments to the return—
- (i) which arise from the replacement of that technical provision, and
- (ii) which the company has notified to such an officer.”
- (3) Where this section applies, section 11AB of this Act shall have effect—
- (a) as if in subsection (1)(b) after “subsection (2)(b)” there were inserted “or (c1)”; and
- (b) as if in subsection (2) for the words from “is” to the end of paragraph (b) there were substituted—
- “(a1) in the case of a return (whenever delivered) which is based wholly or partly on accounts drawn up as mentioned in section 11AC(1) of this Act, is whichever of the following periods ends the later, that is to say—
- (i) the period of two years beginning with the date (or, if there is more than one such date, the latest date) on which any technical provision constituted in the case of those accounts as described in paragraph 52 of Schedule 9A to the Companies Act 1985 is replaced as mentioned in sub-paragraph (4) of that paragraph; or

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- (ii) the period ending with the quarter day next following the first anniversary of the day on which the return was delivered; and
- (b1) in the case of an amendment of such a return—
  - (i) if the amendment is made on or before the filing date, is the period of twelve months beginning with that date; or
  - (ii) if the amendment is made after that date, is the period ending with the quarter day next following the first anniversary of the day on which the amendment was made;”.

**11AD Modifications of sections 11AA and 11AB for insurance companies with non-annual actuarial investigations**

- (1) This section applies in any case where a return under section 11 of this Act is delivered by an insurance company which is permitted by an order under section 68 of the Insurance Companies Act 1982 to cause investigations to be made into its financial condition less frequently than is required by section 18 of that Act.
- (2) Where this section applies, section 11AA(2) of this Act shall have effect as if, after paragraph (b), there were added “and
  - (c2) where a company falling within section 11AD(1) of this Act has delivered a return for any period, then, at any time before the end of the period of twelve months beginning with the date as at which the relevant investigation is carried out, that is to say—
    - (i) if the return is for a period as at the end of which there is carried out an investigation under section 18 of the Insurance Companies Act 1982 into the financial condition of the company, that investigation, or
    - (ii) if the return is not for such a period, the first such investigation to be made into the financial condition of the company as at the end of a subsequent period, the company may by notice to an officer of the Board so amend its self-assessment as to give effect to any amendments to its return which arise from that investigation and which the company has notified to such an officer.”
- (3) Where this section applies, section 11AB of this Act shall have effect—
  - (a) as if in subsection (1)(b) after “subsection (2)(b)” there were inserted “or (c2)”; and
  - (b) as if in subsection (2) for the words from “is” to the end of paragraph (b) there were substituted—
    - “(a2) in the case of a return delivered at any time by a company falling within section 11AD(1) of this Act, is the period of two years beginning with the date as at which the relevant investigation, as defined in section 11AA(2)(c2) of this Act, is carried out; and
    - (b2) in the case of an amendment of such a return—



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- (i) if the amendment is made on or before the filing date, is the period of twelve months beginning with that date; or
- (ii) if the amendment is made after that date, is the period ending with the quarter day next following the first anniversary of the day on which the amendment was made;”.

### **11AE Modifications of sections 11AA and 11AB for friendly societies with non-annual actuarial investigations**

- (1) This section applies in any case where a return under section 11 of this Act is delivered by a friendly society which is required by section 47 of the Friendly Societies Act 1992 to cause an investigation to be made into its financial condition at least once in every period of three years.
- (2) Where this section applies, section 11AA(2) of this Act shall have effect as if, after paragraph (b), there were added “and
  - (c3) where a friendly society falling within section 11AE(1) of this Act has delivered a return for any period, then, at any time before the end of the period of fifteen months beginning with the date as at which the relevant investigation is carried out, that is to say—
    - (i) if the return is for a period as at the end of which there is carried out an investigation under section 47 of the Friendly Societies Act 1992 into the financial condition of the society, that investigation, or
    - (ii) if the return is not for such a period, the first such investigation to be made into the financial condition of the society as at the end of a subsequent period,the society may by notice to an officer of the Board so amend its self-assessment as to give effect to any amendments to its return which arise from that investigation and which the society has notified to such an officer.”
- (3) Where this section applies, section 11AB of this Act shall have effect—
  - (a) as if in subsection (1)(b) after “subsection (2)(b)” there were inserted “or (c3)”; and
  - (b) as if in subsection (2) for the words from “is” to the end of paragraph (b) there were substituted—
    - “(a3) in the case of a return delivered at any time by a friendly society falling within section 11AE(1) of this Act, is the period of twenty seven months beginning with the date as at which the relevant investigation, as defined in section 11AA(2)(c3) of this Act, is carried out; and
    - (b3) in the case of an amendment of such a return—
      - (i) if the amendment is made on or before the filing date, is the period of twelve months beginning with that date; or

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- (ii) if the amendment is made after that date, is the period ending with the quarter day next following the first anniversary of the day on which the amendment was made;”.”
- (2) The amendment made by subsection (1) above shall have effect as respects accounting periods ending on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions).

*Friendly societies*

**171 Life or endowment business**

- (1) In section 466 of the Taxes Act 1988 (interpretation of Chapter II of Part XII) for subsection (1) (meaning of “life or endowment business”) there shall be substituted—

“(1) In this Chapter “life or endowment business” means, subject to subsections (1A) and (1B) below,—

- (a) any business within Class I, II or III of Head A of Schedule 2 to the Friendly Societies Act 1992;
- (b) pension business;
- (c) any other life assurance business;
- (d) any business within Class IV of Head A of that Schedule, if—
  - (i) the contract is one made before 1st September 1996; or
  - (ii) the contract is one made on or after 1st September 1996 and the effecting and carrying out of the contract also constitutes business within Class I, II or III of Head A of that Schedule.

(1A) Life or endowment business does not include the issue, in respect of a contract made before 1st September 1996, of a policy affording provision for sickness or other infirmity (whether bodily or mental), unless—

- (a) the policy also affords assurance for a gross sum independent of sickness or other infirmity;
- (b) not less than 60 per cent. of the amount of the premiums is attributable to the provision afforded during sickness or other infirmity; and
- (c) there is no bonus or addition which may be declared or accrue upon the assurance of the gross sum.

(1B) Life or endowment business does not include the assurance of any annuity the consideration for which consists of sums obtainable on the maturity, or on the surrender, of any other policy of assurance issued by the friendly society, being a policy of assurance forming part of the tax exempt life or endowment business of the friendly society.”

- (2) In subsection (2) of that section (other definitions) there shall be inserted at the appropriate places—

- “(a) “insurance company” shall be construed in accordance with section 431;” and
- “(b) “long term business” shall be construed in accordance with section 431;”.

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- (3) In section 266 of that Act (life assurance premium relief) in subsection (6) (deduction from total income where relief given for part of certain payments to friendly societies) after paragraph (b) there shall be inserted “and
- (c) the insurance or contract is not excluded by subsection (6A) below,”.
- (4) After that subsection there shall be inserted—
- “(6A) For the purposes of subsection (6)(c) above, an insurance or contract is excluded by this subsection if it is made on or after 1st September 1996 and affords provision for sickness or other infirmity (whether bodily or mental), unless—
- (a) it also affords assurance for a gross sum independent of sickness or other infirmity;
- (b) not less than 60 per cent. of the amount of the premiums is attributable to the provision afforded during sickness or other infirmity; and
- (c) there is no bonus or addition which may be declared or accrue upon the assurance of the gross sum.”
- (5) In section 463(1) of that Act (Corporation Tax Acts to apply to friendly societies' life or endowment business as they apply to insurance companies' mutual life assurance business) after “mutual life assurance business” there shall be inserted “(or other long term business)”.
- (6) The amendment made by subsection (5) above shall have effect in relation to accounting periods ending on or after 1st September 1996.

#### *Personal pension schemes*

### **172 Return of contributions on or after death of member**

- (1) In section 633(1) of the Taxes Act 1988 (Board not to approve a personal pension scheme which makes provision for any benefit other than those specified in paragraphs (a) to (e)) in paragraph (e) (payment on or after the death of a member of a lump sum satisfying the conditions in section 637A) for the words following “a lump sum” there shall be substituted “with respect to which the conditions in section 637A (return of contributions) are satisfied”.
- (2) For section 637A of that Act (return of contributions on or after death of member) there shall be substituted—

#### **“637A Return of contributions on or after death of member**

- (1) The lump sum payable under the arrangements in question (or, where two or more lump sums are so payable, those lump sums taken together) must represent no more than the return of contributions together with reasonable interest on contributions or bonuses out of profits, after allowing for—
- (a) any income withdrawals, and
- (b) any purchases of annuities such as are mentioned in section 636.

To the extent that contributions are invested in units under a unit trust scheme, the lump sum (or lump sums) may represent the sale or redemption price of the units.

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- (2) A lump sum must be payable only if, in the case of the arrangements in question,—
  - (a) no such annuity as is mentioned in section 634 has been purchased by the member;
  - (b) no such annuity as is mentioned in section 636 has been purchased in respect of the relevant interest; and
  - (c) no election in accordance with subsection (5)(a) of section 636 has been made in respect of the relevant interest.
- (3) Where the member’s death occurs after the date which is his pension date in relation to the arrangements in question, a lump sum must not be payable more than two years after the death unless, in the case of that lump sum, the person entitled to such an annuity as is mentioned in section 636 in respect of the relevant interest—
  - (a) has elected in accordance with section 636A to defer the purchase of an annuity; and
  - (b) has died during the period of deferral.
- (4) In this section “the relevant interest” means the interest, under the arrangements in question, of the person to whom or at whose direction the payment in question is made, except where there are two or more such interests, in which case it means that one of them in respect of which the payment is made.
- (5) Where, under the arrangements in question, there is a succession of interests, any reference in subsection (2) or (3) above to the relevant interest includes a reference to any interest (other than that of the member) in relation to which the relevant interest is a successive interest.”
- (3) This section—
  - (a) has effect in relation to approvals, of schemes or amendments, given under Chapter IV of Part XIV of the Taxes Act 1988 (personal pension schemes) after the passing of this Act; and
  - (b) does not affect any approval previously given.

*Participators in close companies*

**173 Loans to participators etc**

- (1) Section 419 of the Taxes Act 1988 (loans to participators etc.) shall be amended in accordance with subsections (2) to (4) below.
- (2) For subsection (3) (time when tax becomes due) there shall be substituted the following subsection—
  - “(3) Tax due by virtue of this section in relation to any loan or advance shall be due and payable on the day following the expiry of nine months from the end of the accounting period in which the loan or advance was made.”
- (3) After subsection (4) (relief in respect of repayment) there shall be inserted the following subsection—

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- “(4A) Where the repayment of the whole or any part of a loan or advance occurs on or after the day on which tax by virtue of this section becomes due in relation to that loan or advance, relief in respect of the repayment shall not be given under subsection (4) above at any time before the expiry of nine months from the end of the accounting period in which the repayment occurred.”
- (4) In subsection (6) (application to loans and advances to certain companies who are participators etc.), the words “and to a company not resident in the United Kingdom” shall be omitted.
- (5) In section 826(4) of that Act (interest on repayment of tax by virtue of section 419), for paragraph (a) there shall be substituted the following paragraph—
- “(a) the date when the entitlement to relief in respect of the repayment accrued, that is to say—
- (i) where the repayment of the loan or advance (or part thereof) occurred on or after the day mentioned in section 419(4A), the date nine months after the end of that accounting period; and
- (ii) in any other case, the date nine months after the end of the accounting period in which the loan or advance was made;
- or”.
- (6) This section has effect in relation to any loan or advance made in an accounting period ending on or after 31st March 1996.

#### **174 Attribution of gains to participators in non-resident companies**

- (1) Section 13 of the Taxation of Chargeable Gains Act 1992 (attribution of gains to members of non-resident companies) shall be amended in accordance with subsections (2) to (9) below.
- (2) In subsection (2) (persons subject to charge on gain to company), for “holds shares” there shall be substituted “is a participator”.
- (3) For subsections (3) and (4) (part of gain attributed to person subject to charge) there shall be substituted the following subsections—
- “(3) That part shall be equal to the proportion of the gain that corresponds to the extent of the participator’s interest as a participator in the company.
- (4) Subsection (2) above shall not apply in the case of any participator in the company to which the gain accrues where the aggregate amount falling under that subsection to be apportioned to him and to persons connected with him does not exceed one twentieth of the gain.”
- (4) In subsection (5), paragraph (a) (section not to apply where gain distributed within two years) shall be omitted; and after that subsection there shall be inserted the following subsection—
- “(5A) Where—
- (a) any amount of capital gains tax is paid by a person in pursuance of subsection (2) above, and

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- (b) an amount in respect of the chargeable gain is distributed (either by way of dividend or distribution of capital or on the dissolution of the company) within 2 years from the time when the chargeable gain accrued to the company,  
that amount of tax (so far as neither reimbursed by the company nor applied as a deduction under subsection (7) below) shall be applied for reducing or extinguishing any liability of that person to income tax in respect of the distribution or (in the case of a distribution falling to be treated as a disposal on which a chargeable gain accrues to that person) to any capital gains tax in respect of the distribution.”
- (5) In subsection (7) (deduction of tax paid in computing gain on shares in the company)—
- (a) for “not reimbursed by the company)” there shall be inserted “neither reimbursed by the company nor applied under subsection (5A) above for reducing any liability to tax”); and
  - (b) for “the shares by reference to which the tax was paid” there shall be substituted “any asset representing his interest as a participator in the company.”
- (6) After subsection (7) there shall be inserted the following subsection—
- “(7A) In ascertaining for the purposes of subsection (5A) or (7) above the amount of capital gains tax or income tax chargeable on any person for any year on or in respect of any chargeable gain or distribution—
- (a) any such distribution as is mentioned in subsection (5A)(b) above and falls to be treated as income of that person for that year shall be regarded as forming the highest part of the income on which he is chargeable to tax for the year;
  - (b) any gain accruing in that year on the disposal by that person of any asset representing his interest as a participator in the company shall be regarded as forming the highest part of the gains on which he is chargeable to tax for that year;
  - (c) where any such distribution as is mentioned in subsection (5A)(b) above falls to be treated as a disposal on which a gain accrues on which that person is so chargeable, that gain shall be regarded as forming the next highest part of the gains on which he is so chargeable, after any gains falling within paragraph (b) above; and
  - (d) any gain treated as accruing to that person in that year by virtue of subsection (2) above shall be regarded as the next highest part of the gains on which he is so chargeable, after any gains falling within paragraph (c) above.”
- (7) In subsection (9) (cases where person charged is a company)—
- (a) for “the person owning any of the shares in the company” there shall be substituted “a person who is a participator in the company”); and
  - (b) for the words from “to the shares” onwards there shall be substituted “to the participating company’s interest as a participator in the company to which the gain accrues shall be further apportioned among the participators in the participating company according to the extent of their respective interests as participators, and subsection (2) above shall apply to them accordingly in relation to the amounts further apportioned, and so on through any number of companies.”

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- (8) In subsection (10) (application to trustees), for “owning shares in the company” there shall be substituted “who are participators in the company, or in any company amongst the participators in which the gain is apportioned under subsection (9) above.”.
- (9) After subsection (11) there shall be inserted the following subsections—
- “(12) In this section “participator”, in relation to a company, has the meaning given by section 417(1) of the Taxes Act for the purposes of Part XI of that Act (close companies).
- (13) In this section—
- (a) references to a person’s interest as a participator in a company are references to the interest in the company which is represented by all the factors by reference to which he falls to be treated as such a participator; and
- (b) references to the extent of such an interest are references to the proportion of the interests as participators of all the participators in the company (including any who are not resident or ordinarily resident in the United Kingdom) which on a just and reasonable apportionment is represented by that interest.
- (14) For the purposes of this section, where—
- (a) the interest of any person in a company is wholly or partly represented by an interest which he has under any settlement (“his beneficial interest”), and
- (b) his beneficial interest is the factor, or one of the factors, by reference to which that person would be treated (apart from this subsection) as having an interest as a participator in that company,
- the interest as a participator in that company which would be that person’s shall be deemed, to the extent that it is represented by his beneficial interest, to be an interest of the trustees of the settlement (and not of that person), and references in this section, in relation to a company, to a participator shall be construed accordingly.
- (15) Any appeal under section 31 of the Management Act involving any question as to the extent for the purposes of this section of a person’s interest as a participator in a company shall be to the Special Commissioners.”
- (10) In paragraph 1(3) of Schedule 5 to the Taxation of Chargeable Gains Act 1992 (application of section 86 to section 13 gains)—
- (a) in paragraph (a), for “hold shares in a company which originate” there shall be substituted “are participators in a company in respect of property which originates”;
- (b) in paragraph (b), for “the shares” there shall be substituted “so much of their interest as participators as arises from that property”; and
- (c) at the end there shall be added—
- “Subsections (12) and (13) of section 13 shall apply for the purposes of this sub-paragraph as they apply for the purposes of that section.”
- (11) This section applies to gains accruing on or after 28th November 1995.

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### *Cancellation of tax advantages*

#### **175 Transactions in certain securities**

- (1) In section 704 of the Taxes Act 1988 (which relates to the cancellation of tax advantages and specifies the circumstances mentioned in section 703(1)) in paragraph D(2)(b) (companies which do not satisfy the conditions there specified with respect to their shares or stocks) for “are authorised to be dealt in on the Stock Exchange, and are so dealt in (regularly or from time to time)” there shall be substituted “are listed in the Official List of the Stock Exchange, and are dealt in on the Stock Exchange regularly or from time to time”.
- (2) The reference in paragraph D(2)(b) of section 704 of the Taxes Act 1988 to being listed in the Official List of the Stock Exchange and being dealt in on the Stock Exchange regularly or from time to time shall be taken to include a reference to being dealt in on the Unlisted Securities Market regularly or from time to time, but this subsection is subject to subsection (3) below.
- (3) Subsection (2) above—
  - (a) so far as relating to sub-paragraph (2) of paragraph D of section 704 of the Taxes Act 1988 as it applies for the purposes of sub-paragraph (1) of that paragraph or paragraph E of that section, shall not have effect where the relevant transaction takes place after the date on which the Unlisted Securities Market closes;
  - (b) so far as relating to paragraph D of that section as it applies for the purposes of section 210(3) or 211(2) of that Act (which relate to bonus issues following, and other matters to be treated or not treated as, repayment of share capital) shall not have effect—
    - (i) in the case of section 210(3), in relation to share capital issued after that date; or
    - (ii) in the case of section 211(2), in relation to distributions made after that date.
- (4) Except as provided by subsection (3) above, this section—
  - (a) so far as relating to sub-paragraph (2) of paragraph D of section 704 of the Taxes Act 1988 as it applies for the purposes of sub-paragraph (1) of that paragraph or paragraph E of that section, shall have effect where the relevant transaction takes place after the passing of this Act; and
  - (b) so far as relating to paragraph D of that section as it applies for the purposes of section 210(3) or 211(2) of that Act, shall have effect—
    - (i) in the case of section 210(3), in relation to share capital issued after the passing of this Act; or
    - (ii) in the case of section 211(2), in relation to distributions made after the passing of this Act.
- (5) In this section “the relevant transaction” means—
  - (a) the transaction in securities mentioned in paragraph (b) of section 703(1) of the Taxes Act 1988, or
  - (b) the first of the two or more such transactions mentioned in that paragraph, as the case may be.



*Chargeable gains: reliefs*

**176 Retirement relief: age limits**

- (1) In each of sections 163 and 164 of, and paragraph 5 of Schedule 6 to, the Taxation of Chargeable Gains Act 1992 (retirement relief), for “the age of 55”, wherever occurring, there shall be substituted “the age of 50”.
- (2) The amendments made by this section shall apply in relation to disposals on or after 28th November 1995.

**177 Reinvestment relief on disposal of qualifying corporate bond**

Section 164A of the Taxation of Chargeable Gains Act 1992 (re-investment relief) shall have effect, and be deemed always to have had effect, as if the following subsections were inserted after subsection (2)—

- “(2A) Where the chargeable gain referred to in subsection (1)(a) above is one which (apart from this section) would be deemed to accrue by virtue of section 116(10) (b)—
- (a) any reduction falling to be made by virtue of subsection (2)(a) above shall be treated as one made in the consideration mentioned in section 116(10)(a), instead of in the consideration for the disposal of the asset disposed of; but
  - (b) if the disposal on which that gain is deemed to accrue is a disposal of only part of the new asset, it shall be assumed, for the purpose only of making a reduction affecting the amount of that gain—
    - (i) that the disposal is a disposal of the whole of a new asset,
    - (ii) that the gain accruing on that disposal relates to an old asset consisting in the corresponding part of what was in fact the old asset, and
    - (iii) that the corresponding part of the consideration deemed to be given for what was in fact the old asset is taken to be the consideration by reference to which the amount of that gain is computed;and in this subsection “new asset” and “old asset” have the same meanings as in section 116.
- (2B) Where a chargeable gain accrues in accordance with subsection (12) of section 116, this Chapter shall have effect—
- (a) as if that gain were a gain accruing on the disposal of an asset; and
  - (b) in relation to that deemed disposal, as if references in this Chapter to the consideration for the disposal were references to the sum of money falling, apart from this Chapter, to be used in computing the gain accruing under that subsection.”

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*Special cases*

**178 Sub-contractors in the construction industry**

- (1) In section 566 of the Taxes Act 1988 (powers to make regulations in connection with the provisions relating to sub-contractors in the construction industry), after subsection (2) there shall be inserted the following subsection—

“(2A) The Board may by regulations make provision—

- (a) for the issue of documents (to be known as “registration cards”) to persons who are parties, as sub-contractors, to any contract relating to construction operations or who are likely to become such parties;
- (b) for a registration card to contain all such information about the person to whom it is issued as may be required, for the purposes of any regulations under this section, by a person making payments under any such contract;
- (c) for a registration card to take such form and to be valid for such period as may be prescribed by the regulations;
- (d) for the renewal, replacement or cancellation of a registration card;
- (e) for requiring the surrender of a registration card in such circumstances as may be specified in the regulations;
- (f) for requiring the production of a registration card to such persons and in such circumstances as may be so specified;
- (g) for requiring any person who—
  - (i) makes or is proposing to make payments to which section 559 applies, and
  - (ii) is a person to whom a registration card has to be produced under the regulations,

to take steps that ensure that it is produced to him and that he has an opportunity of inspecting it for the purpose of checking that it is a valid registration card issued to the person required to produce it.

- (2B) A person who fails to comply with an obligation imposed on him by virtue of subsection (2A)(g) above shall be liable to a penalty not exceeding £3,000.

(2C) Subject to subsection (2D) below, where—

- (a) a person who is a party to a contract relating to any construction operations (“the contractor”) makes or is proposing to make payments to which section 559 applies,
- (b) the contractor is required by regulations under this section to make statements about another party to the contract (“the sub-contractor”) in any return, certificate or other document,
- (c) a registration card containing the information to be stated should have been produced, in accordance with any such regulations, to the contractor, and
- (d) the statements made in the return, certificate or other document, so far as relating to matters the information about which should have been obtainable from the card, are inaccurate or incomplete in any material respect,

the contractor shall be liable to a penalty not exceeding £3,000.

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- (2D) A person shall not be liable to a penalty under subsection (2C) above if—
- (a) a valid registration card issued to the sub-contractor, or a document which the contractor had reasonable grounds for believing to be such a card, was produced to the contractor and inspected by him before the statements in question were made; and
  - (b) the contractor took all such steps as were reasonable, in addition to the inspection of that card, for ensuring that the statements were accurate and complete.

(2E) A person liable to a penalty under subsection (2C) above shall not, by reason only of the matters in respect of which he is liable to a penalty under that subsection, be liable to any further penalty under section 98 of the Management Act.

(2F) Regulations under this section may make different provision for different cases.”

- (2) In the second column of the Table in section 98 of the Taxes Management Act 1970 (penalties in respect of certain information provisions), for the entry relating to regulations under section 566(1) and (2) of the Taxes Act 1988 there shall be substituted the following entry—

“regulations under section 566(1), (2) or (2A);”.

#### **179 Roll-over relief in respect of ships**

Schedule 35 to this Act (which amends sections 33A to 33F of the Capital Allowances Act 1990) shall have effect.

#### **180 Scientific research expenditure: oil licences**

- (1) The Capital Allowances Act 1990 shall have effect, and be deemed always to have had effect, with the following sections inserted after section 138 (assets ceasing to belong to traders)—

##### **“138A Disposal of oil licences etc**

- (1) For the purposes of section 138 where—
- (a) a person (“the transferor”) disposes of any interest in an oil licence to another (“the transferee”), and
  - (b) part of the value of that interest is attributable to any allowable exploration expenditure incurred by the transferor,
- that disposal shall be deemed (subject to section 138B) to be a disposal by which an asset representing the allowable exploration expenditure to which that part of the value is attributable ceases to belong to the transferor.
- (2) Section 138 shall have effect in relation to the disposal of an interest in an oil licence, to the extent that the disposal is treated by virtue of subsection (1) above as a disposal of an asset representing allowable exploration expenditure, as if the disposal value of the asset were an amount equal to such part of the transferee’s expenditure on acquiring the interest as it is just and reasonable

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to attribute to the part of the value of that interest that is attributable to the allowable exploration expenditure.

(3) In this section and section 138B references to allowable exploration expenditure are references to any allowable scientific research expenditure of a capital nature incurred on mineral exploration and access.

(4) In this section and section 138B—

“foreign oil concession” means any right to search for or win overseas petroleum, being a right conferred or exercisable (whether or not by virtue of a licence) in relation to a particular area;

“interest” in relation to an oil licence, includes, where there is an agreement which—

(a) relates to oil from the whole or any part of the area to which the licence applies, and

(b) was made before the extraction of the oil to which it relates, any entitlement under that agreement to, or to a share of, either that oil or the proceeds of its sale;

“mineral exploration and access” has the same meaning as in Part IV;

“oil”—

(a) except in relation to a UK licence, means any petroleum; and

(b) in relation to such a licence, has the same meaning as in Part I of the Oil Taxation Act 1975;

“oil licence” means any UK licence or foreign oil concession;

“overseas petroleum” means any petroleum that exists in its natural condition at a place to which neither the Petroleum (Production) Act 1934 nor the Petroleum (Production) Act (Northern Ireland) 1964 applies;

“petroleum” has the same meaning as in the Petroleum (Production) Act 1934; and

“UK licence” means a licence within the meaning of Part I of the Oil Taxation Act 1975.

### **138B Disposal of oil licences: election for alternative tax treatment**

(1) Subsections (2) and (3) below apply where—

(a) a person (“the transferor”) disposes of any interest in an oil licence to another (“the transferee”) during the transitional period;

(b) part of the value of the interest is attributable to allowable exploration expenditure incurred by the transferor; and

(c) an election is made in accordance with this section specifying an amount as the amount to be treated as so attributable.

(2) Section 138 shall have effect in relation to the disposal as if—

(a) the disposal were a disposal by which an asset representing the allowable exploration expenditure ceases to belong to the transferor; and

(b) the disposal value of that asset were an amount equal to the amount specified in the election.

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- (3) For the purposes of Part IV, the amount of any expenditure incurred—
- (a) by the transferee in acquiring the interest from the transferor, or
  - (b) by any person subsequently acquiring the interest (or an interest deriving from the interest),
- which is taken to be attributable to expenditure incurred, before the disposal to the transferee, on mineral exploration and access shall be the lesser of the amount specified in the election and the amount which, apart from this subsection, would be taken to be so attributable.
- (4) An election—
- (a) shall be made by notice to the Board given by the transferor; and
  - (b) subject to subsection (5) below, shall not have effect unless a copy of it is served on the transferee and the transferee consents to it.
- (5) If the Special Commissioners are satisfied—
- (a) that the disposal was made under or in pursuance of an agreement entered into by the transferor and the transferee on the mutual understanding that a quantified (or quantifiable) part of the value of the interest disposed of was attributable to allowable exploration expenditure, and
  - (b) that the part quantified in accordance with that understanding and the amount specified in the election are the same,
- they may dispense with the need for the transferee to consent to the election.
- (6) Any question falling to be determined by the Special Commissioners under subsection (5) above shall be determined by them in like manner as if it were an appeal; but both the transferor and the transferee shall be entitled to appear and be heard by those Commissioners or to make representations to them in writing.
- (7) Subject to subsection (8) below, an election may specify any amount, including a nil amount, as the amount to be treated as mentioned in subsection (1)(c) above.
- (8) Where—
- (a) a return has been made for a chargeable period of the transferor, and
  - (b) the return includes, at the time when it is made, an amount which, disregarding the provisions of this section, would be treated under section 138 as a trading receipt accruing in that period,
- the election must not specify an amount less than the amount included in the return unless the Board agrees the lesser amount in question.
- (9) An election made in accordance with this section—
- (a) is irrevocable; and
  - (b) shall not be varied after it is made.
- (10) For the purposes of this section a disposal is a disposal made during the transitional period if it is one made—
- (a) before 13th September 1995; or
  - (b) on or after that date in pursuance of any obligation to make the disposal which, immediately before that date, was an unconditional obligation.

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- (11) For the purposes of subsection (10) above, the fact that a third party who is not connected with the transferor or the transferee may, by exercising any right or withholding any permission, prevent the fulfilment of an obligation does not prevent the obligation from being treated as unconditional.
- (12) In subsection (11) above the reference to a third party is a reference to any person, body, government or public authority, whether within or outside the United Kingdom; and section 839 of the principal Act (connected persons) applies for the purposes of that subsection.
- (13) All such assessments and adjustments of assessments shall be made as may be necessary to give effect to this section.”
- (2) Section 151(1) of the Capital Allowances Act 1990 (procedure on apportionments under Parts I, III to VI and Part VIII) shall have effect, and be deemed always to have had effect, as if for “VI” there were substituted “VII”.
- (3) In section 118 of the Capital Allowances Act 1990 (mineral extraction licences in the case of assets formerly owned by non-traders), the existing provisions shall become subsection (1) of that section and the following subsection shall be inserted after that subsection—
  - “(2) Section 138A shall have effect for the purposes of subsection (1) above in relation to expenditure on mineral exploration and access as it has effect for the purposes of section 138 in relation to allowable scientific research expenditure of a capital nature.”
- (4) Subsection (3) above applies in relation to any sale taking place on or after 13th September 1995.
- (5) In any case to which enactments re-enacted in the Capital Allowances Act 1990 apply instead of that Act, this section shall have effect as if it required amendments equivalent to those made by subsections (1) and (2) above to have effect, and be deemed always to have had effect, in relation to those enactments.

## **181 Overseas petroleum**

- (1) In subsection (1) of section 196 of the Taxation of Chargeable Gains Act 1992 (interpretation of sections 194 and 195), for “licence” there shall be substituted “UK licence”.
- (2) After subsection (1) of section 196 of that Act there shall be inserted the following subsection—
  - “(1A) For the purposes of section 194 a licence other than a UK licence relates to an undeveloped area at any time if, at that time—
    - (a) no development has actually taken place in any part of the licensed area; and
    - (b) no condition for the carrying out of development anywhere in that area has been satisfied—
      - (i) by the grant of any consent by the authorities of a country or territory exercising jurisdiction in relation to the area; or
      - (ii) by the approval or service on the licensee, by any such authorities, of any programme of development.”;

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and in subsection (2) of that section for “subsection (1) above” there shall be substituted “subsections (1) and (1A) above”.

- (3) For subsection (5) of section 196 of that Act there shall be substituted the following subsections—

“(5) In sections 194 and 195 and this section—

“foreign oil concession” means any right to search for or win overseas petroleum, being a right conferred or exercisable (whether or not by virtue of a licence) in relation to a particular area;

“interest” in relation to a licence, includes, where there is an agreement which—

- (a) relates to oil from the whole or any part of the licensed area, and
- (b) was made before the extraction of the oil to which it relates,

any entitlement under that agreement to, or to a share of, either that oil or the proceeds of its sale;

“licence” means any UK licence or foreign oil concession;

“licensed area” (subject to subsection (4) above)—

- (a) in relation to a UK licence, has the same meaning as in Part I of the Oil Taxation Act 1975; and
- (b) in relation to a foreign oil concession, means the area to which the concession applies;

“licensee”—

- (a) in relation to a UK licence, has the same meaning as in Part I of the Oil Taxation Act 1975; and
- (b) in relation to a foreign oil concession, means the person with the concession or any person having an interest in it;

“oil”—

- (a) except in relation to a UK licence, means any petroleum (within the meaning of the Petroleum (Production) Act 1934); and
- (b) in relation to such a licence, has the same meaning as in Part I of the Oil Taxation Act 1975;

“overseas petroleum” means any oil that exists in its natural condition at a place to which neither the Petroleum (Production) Act 1934 nor the Petroleum (Production) Act (Northern Ireland) 1964 applies; and

“UK licence” means a licence within the meaning of Part I of the Oil Taxation Act 1975.

(5A) References in sections 194 and 195 to a part disposal of a licence shall include references to the disposal of any interest in a licence.”

- (4) Subsections (1) to (3) above shall have effect in relation to any disposal on or after 13th September 1995 and subsection (3) shall also have effect, and be deemed always to have had effect, for the construction of section 195 of the Taxation of Chargeable Gains Act 1992 in its application to disposals before that date.
- (5) Where enactments re-enacted in the Taxation of Chargeable Gains Act 1992 apply, instead of that Act, in the case of any disposal before 13th September 1995, this section shall have effect as if it required amendments equivalent to those made by

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

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subsection (3) above to have effect, and be deemed always to have had effect, for the construction of any enactment corresponding to section 195 of that Act.

## **182 Controlled foreign companies**

Schedule 36 to this Act (which contains amendments of Chapter IV of Part XVII of the Taxes Act 1988) shall have effect in relation to accounting periods of a controlled foreign company, within the meaning of that Chapter, beginning on or after 28th November 1995.