Finance Act 2001

2001 CHAPTER 9

PART 3

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 1

CHARGE AND RATES

Income tax

50 Charge and rates for 2001-02

Income tax shall be charged for the year 2001-02, and for that year—

(a) the starting rate shall be 10%,

(b) the basic rate shall be 22%, and

(c) the higher rate shall be 40%.

51 Starting rate limit for 2001-02

(1) For the year 2001-02 the amount specified in section 1(2)(aa) of the Taxes Act 1988 (the starting rate limit) shall be £1,880.

(2) Accordingly, section 1(4) of that Act (indexation), so far as it relates to the amount so specified, does not apply for that year.

52 Children's tax credit: amount for 2001-02 and subsequent years

(1) In section 257AA(2) of the Taxes Act 1988 (which specifies the amount by reference to which the children's tax credit is calculated) for "£4,420" substitute " £5,200 ".

(2) This section has effect for the year 2001-02 and subsequent years of assessment.

53 Children's tax credit: baby rate

(1) After section 257AA(2) of the Taxes Act 1988 (which specifies the amount by reference to which the children's tax credit is calculated) insert—

"(2A) For a year of assessment during the whole or part of which a qualifying baby (or more than one) is resident with the claimant, subsection (2) above has effect as if the amount specified there were increased by £5,200.".

(2) After subsection (3) of that section (reduction of amount where claimant has income within the higher rate band) insert—

"(3A) Where subsection (2A) above applies, the reference in subsection (3) above to the amount specified in subsection (2) above is to the higher amount applicable by virtue of subsection (2A) above.".

(3) After subsection (4) of that section (meaning of "qualifying child") insert—

"(4A) In this section "qualifying baby", in relation to a year of assessment, means a qualifying child born in that year.".

(4) In section 257C(1) and (3) of the Taxes Act 1988 (indexation) for "257AA(2)" substitute " 257AA(2) and (2A) ".

(5) Schedule 13B to the Taxes Act 1988 (children's tax credit: provisions applicable where child lives with more than one adult in a year of assessment) is amended in accordance with Schedule 11 to this Act.

(6) Subsections (1) to (3) and (5) above have effect for the year 2002-03 and subsequent years of assessment.

(7) Subsection (4) above has effect for the purposes of the application of section 257AA of the Taxes Act 1988 for the year 2003-04 and subsequent years of assessment.

Corporation tax

54 Charge and main rate for financial year 2002

Corporation tax shall be charged for the financial year 2002 at the rate of 30%.

55 Small companies' rate and fraction for financial year 2001

For the financial year 2001—

(a) the small companies' rate shall be 20%, and

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

56 Corporation tax starting rate and fraction for financial year 2001

For the financial year 2001—

(a) the corporation tax starting rate shall be 10%, and

(b) the fraction mentioned in section 13AA(3) of the Taxes Act 1988 (marginal relief for small companies) shall be one fortieth.

CHAPTER 2

OTHER PROVISIONS

Employment

57 Mileage allowances: exemptions and relief

(1) In Chapter 4 of Part 5 of the Taxes Act 1988 (provisions relating to the Schedule E charge: other exemptions and reliefs), after section 197AC insert—

" Mileage allowances

197AD Mileage allowance payments

(1) There is no charge to tax under Schedule E in respect of approved mileage allowance payments for a qualifying vehicle.

(2) Mileage allowance payments are amounts (other than passenger payments within the meaning of section 197AE(2)) paid to an employee in respect of expenses in connection with the use by him for business travel of a qualifying vehicle.

(3) Mileage allowance payments are approved only if, or to the extent that, for a tax year, the total amount of all the mileage allowance payments made to the employee for the kind of vehicle in question does not exceed the approved amount for mileage allowance payments applicable to that kind of vehicle.

(4) Subsection (1) above does not apply if—

(a) the employee is a passenger in the vehicle, or

(b) the vehicle is a company vehicle.

197AE Passenger payments

(1) There is no charge to tax under Schedule E in respect of approved passenger payments made to an employee for a car or van (whether or not it is a company vehicle) if—

(a) mileage allowance payments (within the meaning of section 197AD(2)) are made to the employee for the car or van, and

(b) if the car or van is made available to the employee by reason of his employment, he is chargeable to tax in respect of it under section 157 or 159AA (cars and vans made available for private use).

(2) Passenger payments are amounts paid to an employee because, while using a car or van for business travel, he carries one or more qualifying passengers in it.

"Qualifying passenger" means a passenger who is also an employee for whom the travel is business travel.

(3) Passenger payments are approved only if, or to the extent that, for a tax year, the total amount of all the passenger payments made to the employee does not exceed the approved amount for passenger payments.

(4) Section 168(6) (when cars and vans are made available by reason of employment) applies for the purposes of subsection (1)(b) above.

197AF Mileage allowance relief

(1) An employee is entitled to mileage allowance relief for a tax year if the employee uses a qualifying vehicle for business travel and—

(a) no mileage allowance payments are made to him for the kind of vehicle in question for the tax year, or

(b) the total amount of all the mileage allowance payments made to him for the kind of vehicle in question for the tax year is less than the approved amount for mileage allowance payments applicable to that kind of vehicle.

(2) Subsection (1) above does not apply if—

(a) the employee is a passenger in the vehicle, or

(b) the vehicle is a company vehicle.

(3) The amount of mileage allowance relief to which an employee is entitled for a tax year is—

(a) if subsection (1)(a) above applies, the approved amount for mileage allowance payments applicable to the kind of vehicle in question;

(b) if subsection (1)(b) above applies, the difference between the total amount of all the mileage allowance payments made to the employee for the kind of vehicle in question and the approved amount for mileage allowance payments applicable to that kind of vehicle.

(4) In this section "mileage allowance payments" has the meaning given by section 197AD(2).

197AG Giving effect to mileage allowance relief

(1) Mileage allowance relief to which an employee is entitled for a tax year is given effect as follows.

(2) Where any emoluments of the employment fall within Case I or IIof Schedule E, the relief is allowed as a deduction from those emoluments in calculating the amount chargeable to tax for that tax year.

(3) In the case of emoluments chargeable under Case III of Schedule E for a tax year there may be deducted from those emoluments the amount of any mileage allowance relief—

(a) for that tax year, and

(b) for any earlier tax year in which the employee was resident in the United Kingdom,

which might have been deducted from the emoluments of the employment for the tax year for which the employee is entitled to the relief if those emoluments had been chargeable under Case I of Schedule E.

(4) Subsection (3) above applies only to the extent that the mileage allowance relief cannot be deducted under subsection (2) above.

(5) A deduction shall not be made twice, whether under subsection (2) or (3) above, in respect of the same mileage allowance relief.

197AH Interpretation of sections 197AD to 197AG

Schedule 12AA to this Act defines terms used in sections 197AD to 197AG.".

(2) In the Taxes Act 1988 insert as Schedule 12AA the Schedule set out in Part 1 of Schedule 12 to this Act.

(3) The consequential amendments in Part 2 of Schedule 12 to this Act have effect.

(4) This section has effect for the year 2002-03 and subsequent years of assessment.

58 Mileage allowances: nil liability notices

(1) This section applies if—

(a) mileage allowance payments are made to an employee or office-holder in respect of the use of a vehicle that is not a company vehicle, or

(b) mileage allowance relief is available in respect of the use by an employee or office-holder of a vehicle.

(2) A nil liability notice in force immediately before 6th April 2002 shall cease to have effect in relation to—

(a) payments made, or

(b) benefits, facilities, non-cash vouchers, credit-tokens or cash vouchers provided,

in respect of expenses incurred in connection with the use of the vehicle by the employee or office-holder for business travel.

(3) In subsection (2) "nil liability notice" means a notice under—

(a) section 144(1) of the Taxes Act 1988 (notice of nil liability in respect of non-cash vouchers, credit-tokens or cash vouchers), or

(b) section 166(1) of that Act (notice of nil liability in respect of payments, benefits or facilities).

(4) In this section—

"business travel" has the meaning given by paragraph 2 of Schedule 12AA to the Taxes Act 1988;

"company vehicle" has the meaning given by paragraph 6 of Schedule 12AA to that Act; and

"mileage allowance payments" has the meaning given by section 197AD(2) of that Act.

59 Employees' vehicles: withdrawal of capital allowances

(1) In Chapter 3 of Part 2 of the Capital Allowances Act 2001 (c. 2) (plant and machinery: qualifying expenditure), for section 36 (restriction on qualifying expenditure in case of employment or office) substitute—

"**36 Restriction on qualifying expenditure in case of employment or office**

(1) Where the qualifying activity consists of an employment or office—

(a) expenditure on the provision of a mechanically propelled road vehicle, or a cycle, is not qualifying expenditure, and

(b) other expenditure is qualifying expenditure only if the plant or machinery is necessarily provided for use in the performance of the duties of the employment or office.

(2) In this section "cycle" has the meaning given by section 192(1) of the Road Traffic Act 1988.".

(2) Section 80 of that Act (vehicles provided for purposes of employment or office) is repealed.

(3) The above amendments apply to expenditure incurred on or after 6th April 2002.

(4) Where immediately before 6th April 2002—

(a) expenditure incurred by an employee on the provision of a mechanically propelled road vehicle, or a cycle, was qualifying expenditure for the purposes of Part 2 of the Capital Allowances Act 2001 (c. 2) , and

(b) the employee is treated for the purposes of that Part as owning an asset as a result of that expenditure having been incurred,

the employee shall be treated for the purposes of that Part of that Act as if he had ceased to own the asset at that time.

(5) In subsection (4)—

"employee" includes an office-holder; and

"cycle" has the meaning given by section 192(1) of the Road Traffic Act 1988 (c. 52).

60 Exemption for works bus services: extension to minibuses

(1) Section 197AA of the Taxes Act 1988 (works bus services: exemption from charge on benefits) is amended as follows.

(2) In subsection (1) (which confers the exemption), after "section 154 (taxable benefits: general charging provision)" insert " , or under section 157 (charge on provision of car for private use), ".

(3) In subsection (2) (meaning of works bus service), after "by means of a bus" insert " , or a minibus, ".

(4) In subsection (3) after the definition of "bus" insert—

""minibus" means a vehicle constructed or adapted for the carriage of passengers which has a seating capacity of 9 or more, but less than 12;".

(5) In subsection (6) after "154" insert " or 157 ".

(6) After subsection (8) (determination of seating capacity) insert—

"(9) In determining whether a vehicle is a minibus for the purposes of this section, no account shall be taken of seats in relation to which relevant construction and use requirements are not met.

In this subsection "construction and use requirements" has the same meaning as in Part 2 of the Road Traffic Act 1988 or, in Northern Ireland, Part III of the Road Traffic (Northern Ireland) Order 1995.".

(7) This section has effect for the year 2002-03 and subsequent years of assessment.

61 Employee share ownership plans

The provisions relating to employee share ownership plans are amended in accordance with Schedule 13 to this Act.

Enterprise incentives

62 Enterprise management incentives

Schedule 14 to this Act (which amends Schedule 14 to the Finance Act 2000 (c. 17) (enterprise management incentives)) has effect.

63 Enterprise investment scheme

Schedule 15 to this Act (which makes amendments relating to the enterprise investment scheme) has effect.

64 Venture capital

(1) Schedule 16 to this Act has effect.

(2) In that Schedule—

Part 1 makes amendments relating to venture capital trusts; and

Part 2 makes amendments relating to the corporate venturing scheme.

Capital allowances

65 Energy-saving plant and machinery

Schedule 17 to this Act (first-year allowances in respect of expenditure on energy-saving plant and machinery) has effect—

(a) for income tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 6th April 2001, and

(b) for corporation tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 1st April 2001.

66 Fixtures provided in connection with energy management services

(1) Schedule 18 to this Act (fixtures provided in connection with provision of energy management services) has effect in relation to expenditure incurred on or after 1st April 2001.

(2) The Schedule has effect—

(a) for income tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 6th April 2001, and

(b) for corporation tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 1st April 2001.

67 Conversion of parts of business premises into flats

Schedule 19 to this Act (capital allowances in respect of expenditure on the conversion of parts of business premises into flats) has effect in relation to expenditure incurred on or after the day on which this Act is passed.

68 Decommissioning of offshore oil infrastructure

Schedule 20 to this Act (capital allowances in respect of expenditure incurred on decommissioning offshore infrastructure) has effect.

69 Minor amendments

(1) Schedule 21 (which makes minor amendments to the Capital Allowances Act 2001 (c. 2)) has effect.

(2) The amendments made by the Schedule have effect—

(a) for income tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 6th April 2001, and

(b) for corporation tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 1st April 2001.

Other relieving provisions

70 Relief for expenditure on remediation of contaminated land

(1) Schedule 22 to this Act (tax relief for expenditure on land remediation) has effect for accounting periods ending on or after 1st April 2001.

(2) In that Schedule—

Part 1 provides for a deduction for certain capital expenditure in computing the profits of a Schedule A business or the profits of a trade for the purposes of Case I of Schedule D,

Part 2 provides for entitlement to relief,

Part 3 provides for the manner of giving effect to the relief,

Part 4 makes special provision for companies carrying on life assurance business, and

Part 5 contains supplementary provisions.

(3) Schedule 23 to this Act (which contains consequential amendments) has effect accordingly.

71 Creative artists: relief for fluctuating profits

(1) In Chapter 5 of Part 4 of the Taxes Act 1988 (computational provisions relating to the Schedule D charge), before section 96 and after the cross-heading "*Special provisions*" insert—

"95A **Creative artists: relief for fluctuating profits**

Schedule 4A (which enables individuals to make an averaging claim in respect of profits derived wholly or mainly from creative works) shall have effect.

The provisions of that Schedule apply for the year 2000-01 and subsequent years of assessment (so that the first years which may be the subject of an averaging claim are 2000-01 and 2001-02).".

(2) After Schedule 4 to that Act insert the Schedule 4A set out in Part 1 of Schedule 24 to this Act.

(3) The following provisions of the Taxes Act 1988 are repealed—

section 534 (relief for copyright payments etc.);

section 535 (relief where copyright sold after ten years or more);

section 537A (relief for payments in respect of designs);

section 538 (relief for painters, sculptors and other artists).

The repeals have effect in relation to payments actually receivable on or after 6th April 2001.

(4) Part 2 of Schedule 24 to this Act contains amendments consequential on the preceding provisions of this section.

72 Expenditure on film production etc

In section 48(2)(a) of the Finance (No.2) Act 1997 (c. 58) (favourable tax treatment for certain expenditure on film production, etc. incurred before 2nd July 2002) for "2nd July 2002" substitute " 2nd July 2005 ".

73 Deductions for business gifts: yearly limit

(1) Section 577 of the Taxes Act 1988 (prohibition on deduction of expenses in providing business entertainment or gifts) is amended as follows.

(2) In subsection (8)(b) (under which gifts not amounting to more than £10 in any year are disregarded)—

(a) for "year" substitute " relevant tax period ", and

(b) for "£10" substitute "£50".

(3) After that subsection insert—

"(8A) In subsection (8)(b) "relevant tax period" means—

(a) for the purposes of corporation tax, an accounting period;

(b) for the purposes of income tax—

(i) for a year of assessment in relation to which sections 60 to 63 apply and give a basis period, that basis period;

(ii) in any other case, a year of assessment.".

(4) This section applies in relation to the year 2001-02 and subsequent years of assessment or, in the case of companies, in relation to accounting periods beginning on or after 1st April 2001.

Pension funds

74 Payments to employers out of pension funds

(1) Section 601 of the Taxes Act 1988 (charge on payment to employer out of funds held for purposes of exempt approved scheme) is amended as follows.

(2) In subsection (2) (amount recoverable by Board from employer) for "40 per cent. of the payment" substitute " the relevant percentage of the payment ".

(3) After that subsection insert—

"(2A) The relevant percentage is 35% or such other percentage (whether higher or lower) as may be prescribed.".

(4) This section applies to payments made to employers after the passing of this Act.

Limited liability partnerships

75 Limited liability partnerships: general

(1) For section 118ZA of the Taxes Act 1988 (treatment of limited liability partnerships) substitute—

"**118ZA Treatment of limited liability partnerships**

(1) For the purposes of the Tax Acts, where a limited liability partnership carries on a trade, profession or other business with a view to profit—

(a) all the activities of the partnership are treated as carried on in partnership by its members (and not by the partnership as such),

(b) anything done by, to or in relation to the partnership for the purposes of, or in connection with, any of its activities is treated as done by, to or in relation to the members as partners, and

(c) the property of the partnership is treated as held by the members as partnership property.

References in this subsection to the activities of the limited liability partnership are to anything that it does, whether or not in the course of carrying on a trade, profession or other business with a view to profit.

(2) For all purposes, except as otherwise provided, in the Tax Acts—

(a) references to a partnership include a limited liability partnership in relation to which subsection (1) above applies,

(b) references to members of a partnership include members of such a limited liability partnership,

(c) references to a company do not include such a limited liability partnership, and

(d) references to members of a company do not include members of such a limited liability partnership.

(3) Subsection (1) above continues to apply in relation to a limited liability partnership which no longer carries on any trade, profession or other business with a view to profit—

(a) if the cessation is only temporary, or

(b) during a period of winding up following a permanent cessation, provided—

(i) the winding up is not for reasons connected in whole or in part with the avoidance of tax, and

(ii) the period of winding up is not unreasonably prolonged,

but subject to subsection (4) below.

(4) Subsection (1) above ceases to apply in relation to a limited liability partnership—

(a) on the appointment of a liquidator or (if earlier) the making of a winding-up order by the court, or

(b) on the occurrence of any event under the law of a country or territory outside the United Kingdom corresponding to an event specified in paragraph (a) above."

(2) In the Taxation of Chargeable Gains Act 1992 (c. 12), for section 59A (limited liability partnerships) substitute—

"**59A Limited liability partnerships**

(1) Where a limited liability partnership carries on a trade or business with a view to profit—

(a) assets held by the limited liability partnership are treated for the purposes of tax in respect of chargeable gains as held by its members as partners, and

(b) any dealings by the limited liability partnership are treated for those purposes as dealings by its members in partnership (and not by the limited liability partnership as such);

and tax in respect of chargeable gains accruing to the members of the limited liability partnership on the disposal of any of its assets shall be assessed and charged on them separately.

(2) For all purposes, except as otherwise provided, in the enactments relating to tax in respect of chargeable gains—

(a) references to a partnership include a limited liability partnership in relation to which subsection (1) above applies,

(b) references to members of a partnership include members of such a limited liability partnership,

(c) references to a company do not include such a limited liability partnership, and

(d) references to members of a company do not include members of such a limited liability partnership.

(3) Subsection (1) above continues to apply in relation to a limited liability partnership which no longer carries on any trade or business with a view to profit—

(a) if the cessation is only temporary, or

(b) during a period of winding up following a permanent cessation, provided—

(i) the winding up is not for reasons connected in whole or in part with the avoidance of tax, and

(ii) the period of winding up is not unreasonably prolonged,

but subject to subsection (4) below.

(4) Subsection (1) above ceases to apply in relation to a limited liability partnership—

(a) on the appointment of a liquidator or (if earlier) the making of a winding-up order by the court, or

(b) on the occurrence of any event under the law of a country or territory outside the United Kingdom corresponding to an event specified in paragraph (a) above.

(5) Where subsection (1) above ceases to apply in relation to a limited liability partnership with the effect that tax is assessed and charged—

(a) on the limited liability partnership (as a company) in respect of chargeable gains accruing on the disposal of any of its assets, and

(b) on the members in respect of chargeable gains accruing on the disposal of any of their capital interests in the limited liability partnership,

it shall be assessed and charged on the limited liability partnership as if subsection (1) above had never applied in relation to it.

(6) Neither the commencement of the application of subsection (1) above nor the cessation of its application in relation to a limited liability partnership shall be taken as giving rise to the disposal of any assets by it or any of its members.".

(3) In Chapter 2 of Part 5 of the Taxation of Chargeable Gains Act 1992 (c. 12) (relief for gifts of business assets), after section 169 insert—

"**169A Cessation of trade by limited liability partnership**

(1) This section applies where section 59A(1) ceases to apply to a limited liability partnership.

(2) A member of the partnership who immediately before the time at which section 59A(1) ceases to apply holds an asset, or an interest in an asset, acquired by him—

(a) on a disposal to members of a partnership, and

(b) for a consideration which is treated as reduced under section 165(4)(b) or 260(3)(b),

shall be treated as if a chargeable gain equal to the amount of the reduction accrued to him immediately before that time."

(4) In section 170(9) of the Taxation of Chargeable Gains Act 1992 (groups of companies: meaning of "company"), in paragraph (b) after "company" insert " (other than a limited liability partnership) ".

(5) Subsection (3) above shall be deemed to have come into force on 3rd May 2001 and applies where section 59A(1) of the Taxation of Chargeable Gains Act 1992 ceased or ceases to apply as mentioned in section 169A of that Act (as inserted by that subsection) on or after that date.

(6) The other provisions of this section shall be deemed to have come into force on 6th April 2001.

76 Limited liability partnerships: investment LLPs and property investment LLPs

(1) Schedule 25 to this Act has effect with respect to limited liability partnerships whose business consists wholly or mainly in the making of investments.

(2) The provisions of that Schedule shall be deemed to have come into force on 6th April 2001.

Chargeable gains

77 Notional transfers within a group

(1) Section 171A of the Taxation of Chargeable Gains Act 1992 (notional transfers within a group) shall be deemed to have been enacted with the following amendments.

(2) In subsection (2) (corporation tax consequences of election for asset disposed of by member A of a group to be treated as if, immediately before the disposal, it had been transferred to member B of the group) omit the word "and" immediately preceding paragraph (c) and at the end of that paragraph add—

"; and

(d) any incidental costs to A of making the actual disposal to C shall be deemed to be incidental costs to B of making the deemed disposal to C.".

(3) In subsection (4) (election to be made before second anniversary of end of accounting period of A in which disposal made) for "before" substitute " on or before ".

78 Taper relief: assets qualifying as business assets

(1) Schedule A1 to the Taxation of Chargeable Gains Act 1992 (c. 12) (application of taper relief) shall have effect with the amendments specified in Schedule 26 to this Act.

(2) Those amendments shall have effect, and be deemed always to have had effect, as if they had been included among the amendments made by section 67 of the Finance Act 2000 (c. 17).

79 De-grouping charge: transitional relief

Schedule 29 to the Finance Act 2000 (chargeable gains: non-resident companies and groups etc) shall be deemed to have been enacted with the following paragraph added at the end of Part 3 (transitional provisions) after paragraph 46—

47 "**De-grouping charge: deferral until company leaves new group**

(1) This paragraph has effect for the purposes of section 179 of the Taxation of Chargeable Gains Act 1992 as that section has effect in relation to assets acquired before 1st April 2000 ("old section 179").

(2) Where—

(a) a company would (apart from this paragraph) fall to be regarded for the purposes of old section 179 as ceasing to be a member of an old group at any time, but

(b) immediately before that time, it is also a member of a new group for the purposes of new section 179,

the company shall not be regarded for the purposes of old section 179 as ceasing to be a member of the old group unless or until it also ceases to be a member of the new group for the purposes of new section 179.

(3) Sub-paragraph (2) above does not prevent the company from being or becoming a member of another old group at any time.

(4) Where a company ceases to be a member of a new group on any occasion, it shall not by virtue of sub-paragraph (2) above be treated for the purposes of old section 179 as if it had on that occasion ceased to be a member of the same old group more than once.

(5) For the purposes of this paragraph—

(a) references to a company being a member of an old group are references to its being, for the purposes of old section 179, a member of a group of companies within the meaning given by old section 170;

(b) references to a company being a member of a new group are references to its being, for the purposes of new section 179, a member of a group of companies within the meaning given by new section 170; and

(c) references to a company ceasing to be a member of an old group or a new group shall be construed in accordance with paragraph (a) or (b) above, as the case may be.

(6) Where, for the purposes of sub-paragraph (2)(b) above, a company is not a member of a new group by reason only that—

(a) the principal company of the old group is not the principal company of the new group, and

(b) the company in question is not an effective 51 per cent subsidiary of the principal company of the new group,

subsection (3)(b) of new section 170 shall not apply in relation to the company for the purposes of this paragraph for so long as it remains an effective 51 per cent subsidiary of the company which was the principal company of the old group.

(7) In this paragraph—

(a) "new section 179" means section 179 of the Taxation of Chargeable Gains Act 1992 (c. 12) as it has effect in relation to assets acquired on or after 1st April 2000;

(b) "new section 170" means section 170 of that Act, as amended by the main amendments;

(c) "old section 170" means section 170 of the Taxation of Chargeable Gains Act 1992, as it stands before the main amendments.

(8) Expressions used in this paragraph and in section 170 of the Taxation of Chargeable Gains Act 1992 shall be construed in accordance with that section.".

80 Attribution of gains of non-resident companies

(1) Section 13 of the Taxation of Chargeable Gains Act 1992 (attribution of gains to members of non-resident companies) is amended as follows.

(2) In subsection (4) (no attribution if amount does not exceed one twentieth of gain) for "one twentieth" substitute " one tenth ".

(3) In subsection (5) (gains to which the section does not apply) for paragraph (b) substitute—

"(b) a chargeable gain accruing on the disposal of an asset used, and used only—

(i) for the purposes of a trade carried on by the company wholly outside the United Kingdom, or

(ii) for the purposes of the part carried on outside the United Kingdom of a trade carried on by the company partly within and partly outside the United Kingdom,".

(4) For subsection (5A) (credit for tax on attributed gain in relation to later distribution) substitute—

"(5A) Where—

(a) an amount of tax is paid by a person in pursuance of subsection (2) above, and

(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) before the end of the period specified in subsection (5B) below,

the 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, capital gains tax or corporation tax in respect of the distribution.

(5B) The period referred to in subsection (5A)(b) above is the period of three years from—

(a) the end of the period of account of the company in which the chargeable gain accrued, or

(b) the end of the period of twelve months beginning with the date on which the chargeable gain accrued,

whichever is earlier.

In paragraph (a) above a "period of account" means a period for which the company makes up its accounts."

(5) After subsection (10A) insert—

"(10B) A chargeable gain that would be treated as accruing to a person under subsection (2) above shall not be so treated if—

(a) it would be so treated only if assets that are assets of a pension scheme were taken into account in ascertaining that person's interest as a participator in the company, and

(b) at the time the gain accrues a gain arising on a disposal of those assets would be exempt from tax by virtue of section 271(1)(b), (c), (d), (g) or (h) or (2).

In paragraph (a) above "assets of a pension scheme" means assets held for the purposes of a fund or scheme to which any of the provisions mentioned in paragraph (b) above applies.".

(6) This section applies to chargeable gains accruing as mentioned in section 13(1) of the Taxation of Chargeable Gains Act 1992 (c. 12) on or after 7th March 2001.

International matters

81 Double taxation relief

Schedule 27 to this Act (double taxation relief) has effect.

82 Controlled foreign companies: acceptable distribution policy

(1) Part 1 of Schedule 25 to the Taxes Act 1988 (acceptable distribution policy) is amended as follows.

(2) In paragraph 2 (meaning of acceptable distribution policy) at the end of sub-paragraph (1A) (requirement that payment of dividend is taken into account in computing corporation tax) add—

"and—

(a) it is chargeable neither under Case I of Schedule D nor under Case VI of that Schedule in circumstances where by virtue of section 436, 439B or 441 profits are computed in accordance with the provisions of this Act applicable to Case I; or

(b) if it is chargeable under Case I, or under Case VI in the circumstances described in paragraph (a) above, it is not involved in a UK tax avoidance scheme;

and paragraph 2B below has effect for the purposes of paragraph (b) above. "

(3) After paragraph 2A insert—

"2B (1) This paragraph has effect for the purposes of paragraph 2(1A)(b) above.

(2) No payment of dividend by a controlled foreign company for an accounting period shall be regarded as involved in a UK tax avoidance scheme by reason only that there is no charge to tax under section 747(4)(a) if the controlled foreign company pursues an acceptable distribution policy for that accounting period.

(3) "UK tax avoidance scheme" means a scheme or arrangement the purpose, or one of the main purposes, of which is to achieve a reduction in United Kingdom tax.

(4) A scheme or arrangement achieves a reduction in United Kingdom tax if, apart from the scheme or arrangement, any company—

(a) would have been liable for any such tax or for a greater amount of any such tax; or

(b) would not have been entitled to a relief from or repayment of any such tax or would have been entitled to a smaller relief from or repayment of any such tax.

(5) In this paragraph—

"arrangement" means an arrangement of any kind, whether in writing or not;

"United Kingdom tax" means corporation tax or any tax chargeable as if it were corporation tax.".

(4) In paragraph 4 (controlled foreign company dividends passing up a chain of related companies) at the end of sub-paragraph (1) (which provides for a payment made by a controlled foreign company to be regarded as made to a United Kingdom resident) add "and shall be taken to satisfy the conditions in paragraph 2(1A) above".

(5) At the end of sub-paragraph (1A) of that paragraph (requirement that the subsequent dividend is taken into account in computing corporation tax) add—

"and—

(a) it is chargeable neither under Case I of Schedule D nor under Case VI of that Schedule in circumstances where by virtue of section 436, 439B or 441 profits are computed in accordance with the provisions of this Act applicable to Case I; or

(b) if it is chargeable under Case I, or under Case VI in the circumstances described in paragraph (a) above, it is not involved in a UK tax avoidance scheme;

and paragraph 4A below has effect for the purposes of paragraph (b) above. ".

(6) In sub-paragraph (2) of that paragraph (interpretation) after "one company is related to another if" insert " neither is resident in the United Kingdom and ".

(7) After paragraph 4 insert—

"4A (1) This paragraph has effect for the purposes of paragraph 4(1A)(b) above.

(2) No payment to a company resident in the United Kingdom which represents the whole or part of a dividend paid by a controlled foreign company for an

accounting period shall be regarded as involved in a UK tax avoidance scheme by reason only that—

(a) there is no charge to tax under section 747(4)(a) if the controlled foreign company pursues an acceptable distribution policy for that accounting period, and

(b) so much of the dividend as is represented by that payment will (if paragraph 4(1) above has effect) fall to be brought into account in determining whether the controlled foreign company has done so.

(3) "UK tax avoidance scheme" means a scheme or arrangement the purpose, or one of the main purposes, of which is to achieve a reduction in United Kingdom tax.

(4) A scheme or arrangement achieves a reduction in United Kingdom tax if, apart from the scheme or arrangement, any company—

(a) would have been liable for any such tax or for a greater amount of any such tax; or

(b) would not have been entitled to a relief from or repayment of any such tax or would have been entitled to a smaller relief from or repayment of any such tax.

(5) In this paragraph—

"arrangement" means an arrangement of any kind, whether in writing or not;

"United Kingdom tax" means corporation tax or any tax chargeable as if it were corporation tax."

(8) This section applies to dividends paid on or after 7th March 2001 by a controlled foreign company for any accounting period of that controlled foreign company which ends on or after that date.

(9) In this section "accounting period" and "controlled foreign company" have the same meaning as they have in Chapter 4 of Part 17 of the Taxes Act 1988.

Miscellaneous

83 Life policies, life annuity contracts and capital redemption policies

(1) Schedule 28 to this Act (which makes amendments relating to Chapter 2 of Part 13 of the Taxes Act 1988) has effect.

(2) The amendments made by Part 1 of that Schedule (which relate to the assignment or surrender of part of, or a share in, the rights conferred by a policy or contract) have effect, in the case of any policy or contract, in relation to any year (within the meaning given by section 546(4) of the Taxes Act 1988) beginning on or after 6th April 2001.

(3) The amendments made by Part 2 of that Schedule (which relate to the provision by insurers etc of information relating to chargeable events happening in connection with a policy or contract) have effect in relation to chargeable events happening on or after 6th April 2002.

84 Exclusion of deductions for deemed manufactured payments

(1) Section 736B of the Taxes Act 1988 (deemed manufactured payments in case of stock lending arrangements) is amended as follows.

(2) In subsection (2) (application of provisions to deemed manufactured payments) after "shall apply" insert " , subject to subsection (2A) below, ".

(3) After that subsection insert—

"(2A) The borrower is not entitled, by virtue of anything in Schedule 23A or any provision of regulations under that Schedule, or otherwise—

(a) to any deduction in computing profits or gains for the purposes of income tax or corporation tax, or

(b) to any deduction against total income or, as the case may be, total profits,

in respect of any such deemed requirement or payment as is provided for by subsection (2) above.

Where the borrower is a company, an amount may not be surrendered by way of group relief if a deduction in respect of it is prohibited by this subsection."

(4) This section applies to payments treated under section 736B as made on or after 3rd October 2000.

85 Deduction of tax: payments between companies etc

(1) After section 349 of the Taxes Act 1988 (certain payments to be made under deduction of tax) insert—

"**349A Exceptions to section 349 for payments between companies etc**

(1) The provisions specified in subsection (3) below (which require tax to be deducted on making certain payments) do not apply to a payment made by a company if, at the time the payment is made, the company reasonably believes that one of the conditions specified in section 349B is satisfied.

(2) Subsection (1) above has effect subject to any directions under section 349C.

(3) The provisions are—

section 349(1) (certain annuities and other annual payments, and royalties and other sums paid for use of UK patents),

section 349(2)(a) and (b) (UK interest),

section 349(3A) (dividend or interest on securities issued by building societies), and

section 524(3)(b) (which provides for section 349(1) to apply to proceeds of sale of UK patent rights).

(4) References in subsection (3) above to any provision of section 349 do not include that provision as applied—

(a) under section 777(9) (directions applying section 349(1) to certain payments to non-residents), or

(b) by paragraph 4(2) of Schedule 23A (manufactured overseas dividends to be treated as annual payments within section 349).

(5) References in this section to the company by which a payment is made do not include a company acting as trustee or agent for another person.

(6) For the purposes of this section, a payment by a partnership is treated as made by a company if any member of the partnership is a company.

349B The conditions mentioned in section 349A(1)

(1) The first of the conditions mentioned in section 349A(1) is that the person beneficially entitled to the income in respect of which the payment is made is—

(a) a company resident in the United Kingdom, or

(b) a partnership each member of which is a company resident in the United Kingdom.

(2) The second of those conditions is that—

(a) the person beneficially entitled to the income in respect of which the payment is made is a company not resident in the United Kingdom ("the non-resident company"),

(b) the non-resident company carries on a trade in the United Kingdom through a branch or agency, and

(c) the payment falls to be brought into account in computing the chargeable profits (within the meaning given by section 11(2)) of the non-resident company.

349C Directions disapplying section 349A(1)

(1) The Board may give a direction to a company directing that section 349A(1) is not to apply in relation to any payment that—

(a) is made by the company after the giving of the direction, and

(b) is specified in the direction or is of a description so specified.

(2) Such a direction shall not be given unless the Board have reasonable grounds for believing as respects each payment to which the direction relates that it is likely that neither of the conditions specified in section 349B will be satisfied in relation to the payment at the time the payment is made.

(3) A direction under this section may be varied or revoked by a subsequent such direction.

(4) In this section "company" includes a partnership of which any member is a company.

349D Section 349A(1): consequences of reasonable but incorrect belief

(1) Where—

(a) a payment is made by a company without an amount representing the income tax on the payment being deducted from the payment,

(b) at the time the payment is made, the company reasonably believes that one of the conditions specified in section 349B is satisfied,

(c) if the company did not so believe, tax would be deductible from the payment under section 349, and

(d) neither of the conditions specified in section 349B is satisfied at the time the payment is made,

section 350 applies as if the payment were within section 349 (and Schedule 16 applies as if tax were deductible from the payment under section 349).

(2) In this section "company" includes a partnership of which any member is a company.".

(2) In section 98 of the Taxes Management Act 1970 (c. 9) (penalties for failing to make, or making incorrectly, certain returns etc.), after subsection (4) insert—

"(4A) If—

(a) a failure to comply with section 350(1) of, or Schedule 16 to, the principal Act arises from a person's failure to deliver an account, or show the amount, of a payment, and

(b) the payment is within subsection (4B) below,

subsection (1) above shall have effect as if for "£300" there were substituted "£3,000" and as if for "£60" there were substituted "£600".

(4B) A payment is within this subsection if—

(a) the payment is made by a company without an amount representing the income tax on the payment being deducted from the payment,

(b) at the time the payment is made, the company—

(i) does not believe that either of the conditions specified in section 349B of the principal Act is satisfied, or

(ii) where it believes that either of those conditions is satisfied, could not reasonably so believe,

(c) the payment is one from which tax is deductible under section 349 of the principal Act unless the company reasonably believes that one of those conditions is satisfied, and

(d) neither of those conditions is satisfied at the time the payment is made.

(4C) In subsection (4B) above "company" includes a partnership of which any member is a company.".

(3) In section 338(4) of the Taxes Act 1988 (when payment by company to non-resident to be treated as charge on income), after paragraph (a) insert—

"(aa) the person beneficially entitled to the income in respect of which the payment is made is a company not resident in the United Kingdom ("the non-resident company"), the non-resident company carries on a trade in the United Kingdom through a branch or agency and the payment falls to be brought into account in computing the chargeable profits (within the meaning given by section 11(2)) of the non-resident company, or".

(4) Subsections (1) to (3) apply to payments made on or after 1st April 2001.

(5) Sections 247 and 248 of the Taxes Act 1988 (companies within a group may elect for section 349 not to apply to payments between them) shall cease to have effect.

(6) Subsection (5) applies in relation to payments made after the day on which this Act is passed.

86 Profits for purposes of small companies' relief

(1) Section 13 of the Taxes Act 1988 (small companies' relief) is amended in accordance with subsections (2) to (4).

(2) In subsection (7) (profits of company for accounting period)—

(a) in paragraph (a), omit "resident in the United Kingdom", and

(b) in paragraph (b), for "section 247(1A)" substitute " subsection (7A) below ".

(3) After subsection (7) insert—

"(7A) A company falls within this subsection if—

(a) it is a 75 per cent subsidiary of any other company, or

(b) arrangements of any kind (whether in writing or not) are in existence by virtue of which it could become such a subsidiary.".

(4) For subsection (8AA) (interpretation of subsection (7)) substitute—

"(8AA) Section 13ZA applies for the interpretation of subsection (7) above.".

(5) After section 13 of the Taxes Act 1988 insert—

"**13Z AInterpretation of section 13(7)**

(1) In determining for the purposes of section 13(7) whether one body corporate is a 51 per cent subsidiary of another, that other shall be treated as not being the owner of any share capital—

(a) which it owns indirectly, and

(b) which is owned directly by a body corporate for which a profit on the sale of the shares would be a trading receipt.

(2) Notwithstanding that at any time a company ("the subsidiary company") is a 51 per cent subsidiary of another company ("the parent company") it shall not be treated at that time as such a subsidiary for the purposes of section 13(7) unless, additionally, at that time—

(a) the parent company would be beneficially entitled to more than 50 per cent of any profits available for distribution to equity holders of the subsidiary company, and

(b) the parent company would be beneficially entitled to more than 50 per cent of any assets of the subsidiary company available for distribution to its equity holders on a winding-up.

(3) For the purposes of section 13(7) and this section—

(a) "trading or holding company" means a trading company or a company the business of which consists wholly or mainly in the holding of shares or securities of trading companies that are its 90 per cent subsidiaries;

(b) "trading company" means a company whose business consists wholly or mainly of the carrying on of a trade or trades;

(c) a company is owned by a consortium if 75 per cent or more of the ordinary share capital of the company is beneficially owned between them by companies of which none—

(i) beneficially owns less than 5 per cent of that capital,

(ii) would be beneficially entitled to less than 5 per cent of any profits available for distribution to equity holders of the company, or

(iii) would be beneficially entitled to less than 5 per cent of any assets of the company available for distribution to its equity holders on a winding up,

and those companies are called the members of the consortium.

(4) Schedule 18 (equity holders and assets etc. available for distribution) applies for the purposes of subsections (2) and (3)(c) above as it applies for the purposes of section 413(7)."

(6) The amendments made by this section apply for the purposes of accounting periods ending on or after 1st April 2001.

87 Tax deductions and credits: end of provisional repayment regime

(1) The provisions of section 438A of, and Schedule 19AB to, the Taxes Act 1988 (provisional repayments in respect of tax borne by deduction and tax credits) shall cease to have effect as follows.

(2) Those provisions shall not apply in relation to income tax borne by deduction from payments received after 30th September 2001.

(3) For the purposes of the following provisions (as they apply in relation to tax credits)—

(a) section 121 of the Finance Act 1993 (c. 34) (application of Schedule 19AB to tax exempt business of friendly societies) and any regulations under that section, and

(b) any regulations under section 333B of the Taxes Act 1988 (individual savings account business etc. of insurance companies and friendly societies),

that Schedule shall be deemed to continue to apply in relation to pension business of insurance companies as it would do so apart from subsection (2).

(4) The power to make regulations under each of the sections referred to in subsection (3) includes power to set out the text of that Schedule as applied by regulations under that section.

(5) The provisions of section 438A of, and Schedule 19AB to, the Taxes Act 1988 shall not apply in relation to tax credits in respect of distributions made on or after 6th April 2004.

General

88 Amendments to the machinery of self-assessment

(1) Schedule 29 to this Act (amendments to the machinery of self-assessment) has effect.

(2) In that Schedule—

Part 1 makes provision about the amendment or correction of returns,

Part 2 makes provision about enquiries into returns,

Part 3 makes provision for the referral of questions to the Special Commissioners during an enquiry,

Part 4 makes provision about the procedure on completion of an enquiry, and Part 5 contains minor and consequential amendments.

(3) Except as otherwise provided, the amendments in that Schedule have effect as from the passing of this Act in relation to returns—

(a) whether made before or after the passing of this Act, and

(b) whether relating to periods before or after the passing of this Act.

89 Recovery proceedings: minor amendments

(1) In sections 66(1) and 67(1) of the Taxes Management Act 1970 (c. 9) (proceedings in county court or sheriff court to recover tax due and payable under an assessment), omit the words "under any assessment".

This amendment applies in relation to proceedings begun after the passing of this Act.

(2) For section 69 of the Taxes Management Act 1970 substitute—

"**69 Recovery of penalty, surcharge or interest**

(1) This section applies to—

(a) penalties imposed under Part 2, 5A or 10 of this Act or Schedule 18 to the Finance Act 1998;

(b) surcharges imposed under Part 5A of this Act; and

(c) interest charged under any provision of this Act (or recoverable as if it were interest so charged).

(2) An amount by way of penalty, surcharge or interest to which this section applies shall be treated for the purposes of the following provisions as if it were an amount of tax.

(3) Those provisions are—

(a) sections 61, 63 and 65 to 68 of this Act;

(b) section 35(2)(g)(i) of the Crown Proceedings Act 1947 (rules of court: restriction of set-off or counterclaim where proceedings, or set-off or counterclaim, relate to tax) and any rules of court imposing any such restriction;

(c) section 35(2)(b) of that Act as set out in section 50 of that Act (which imposes corresponding restrictions in Scotland)."

This amendment applies—

(a) to proceedings begun (or a counterclaim made) after the passing of this Act, and

(b) to a set-off first claimed after the passing of this Act.

(3) In section 70 of the Taxes Management Act 1970 (c. 9) (evidence), in subsection (2)(a) (certificate of collector as to penalty, surcharge or interest payable), for "payable under Part 9 of this Act" substitute " payable under any provision of this Act or the principal Act ".

This amendment applies to certificates tendered in evidence after the passing of this Act.

90 Repayment supplements: claim for relief involving two or more years

(1) Section 824 of the Taxes Act 1988 (repayment supplements) is amended as follows.

(2) After subsection (2B) insert—

"(2C) Subsection (1) above shall apply to a repayment made by the Board as a result of a claim for relief under—

(a) paragraph 2 of Schedule 1B to the Management Act (carry back of loss relief),

(b) paragraph 3 of that Schedule (relief for fluctuating profits of farming etc.), or

(c) Schedule 4A to this Act (relief for fluctuating profits of creative artists etc.),

as if it were a repayment falling within that subsection.".

(3) In subsection (3), after paragraph (aa) insert—

"(ab) if the repayment is a repayment as a result of a claim for relief under any of the provisions mentioned in subsection (2C) above, the relevant time is the 31st January next following the year that is the later year in relation to the claim;".

(4) This section applies in relation to repayments made after the passing of this Act.

91 Power to revise excessive penalties

(1) In section 100 of the Taxes Management Act 1970 (determination of penalties by officer of the Board), in subsection (6) (revision of penalty if amount of tax taken into account discovered to be excessive), after "a penalty under" insert " section 93(2), (4) or (5) of this Act or ".

(2) This section applies in relation to penalties determined at any time whether before or after the passing of this Act.

Status:
Point in time view as at 11/05/2001.

Changes to legislation:
There are currently no known outstanding effects for the Finance Act 2001, Part 3.