# Finance Act 2003

**2003 CHAPTER 14**

## PART 7

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX: GENERAL

*Employment income and related matters*

### 136 Provision of services through intermediary

(1) Chapter 8 of Part 2 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (provision of services through an intermediary) is amended as follows.

(2) In section 49(1)(a) (services to which the Chapter applies), for "for the purposes of a business carried on by another person" substitute "for another person".

(3) In consequence of the above amendment—

(a) omit section 49(2) of that Act, and

(b) in section 56(7) of that Act—

(i) at the end of paragraph (a) insert ", and", and

(ii) omit paragraph (c) and the word "and" preceding it.

(4) This section applies in relation to services performed or due to be performed on or after 10th April 2003.

### 137 Exemption where homeworker's additional expenses met by employer

(1) In Part 4 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (employment income: exemptions), after section 316 insert—

"**316A Homeworker's additional household expenses**

(1) This section applies where an employer makes a payment to an employee in respect of reasonable additional household expenses which the employee

incurs in carrying out duties of the employment at home under homeworking arrangements.

(2) No liability to income tax arises in respect of the payment.

(3) In this section, in relation to an employee—

"homeworking arrangements" means arrangements between the employee and the employer under which the employee regularly performs some or all of the duties of the employment at home; and

"household expenses" means expenses connected with the day to day running of the employee's home.".

(2) This section applies to payments which the employer makes on or after 6th April 2003 in respect of expenses which the employee incurs on or after that date.

### 138 Taxable benefits: lower threshold for cars with a $CO_2$ emissions figure

(1) In section 139 of the Income Tax (Earnings and Pensions) Act 2003 (cash equivalent of the benefit of a car: calculation of the appropriate percentage for a year for cars with a $CO_2$ emissions figure) the table in subsection (4) (which specifies the lower threshold for each year for the purposes of that calculation) is amended as follows.

(2) In the entry relating to 2004-05 and subsequent tax years omit "and subsequent tax years".

(3) After that entry insert—

| | |
|---|---|
| "2005-06 and subsequent tax years | 140". |

(4) In section 170(3) of that Act (power to provide by order for a lower threshold different from that specified in the table in section 139(4) to apply for tax years beginning on or after 6th April 2005) for "6th April 2005" substitute "6th April 2006".

### 139 Approved share plans and schemes

Schedule 21 to this Act (which contains amendments relating to share incentive plans, SAYE option schemes and CSOP schemes) has effect.

### 140 Employee securities and options

Schedule 22 to this Act (which makes provision about securities, and options to acquire securities, acquired by reason of employment) has effect.

### 141 Corporation tax relief for employee share acquisitions

Schedule 23 to this Act has effect with respect to deductions allowable for corporation tax purposes in respect of employee share acquisitions.

### 142 Ending of relief for contributions to QUESTS

(1) Section 67 of the Finance Act 1989 (c. 26) (tax relief for contributions to trustees of qualifying employee share ownership trust) does not apply in relation to sums

expended by a company in an accounting period of the company beginning on or after 1st January 2003.

(2) In section 69 of that Act (chargeable events)—

(a) the definitions in subsections (3AC) and (3AD) (by virtue of which certain transfers of shares by trustees of an employee share ownership trust to a SIP trust are not chargeable events) have effect in relation to 26th November 2002 as they had effect in relation to 20th March 2000;

(b) in relation to shares that are relevant shares by virtue of paragraph (a) above, subsection (3AB) (deemed order of disposal of shares) has effect as if the reference there to 21st March 2000 were to 27th November 2002; and

(c) the other provisions of that section have effect accordingly.

(3) In consequence of subsection (2), in paragraph 78(2)(b) of Schedule 2 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (reference to section 69(3AA) of the Finance Act 1989) after "21st March 2000" insert "or, by virtue of section 142(2) of the Finance Act 2003, 27th November 2002".

## 143 Restriction of deductions for employee benefit contributions

Schedule 24 to this Act (which makes provision restricting deductions for contributions by employers to third parties for the benefit of employees) has effect.

## 144 PAYE on notional payments: reimbursement period

(1) In section 222(1)(c) of the Income Tax (Earnings and Pensions) Act 2003 (period within which employee must reimburse employer for amount to be accounted for to Inland Revenue in respect of income tax on notional payment), for "30 days" substitute "90 days".

(2) This section has effect in relation to payments of income treated as made on or after 9th April 2003.

## 145 PAYE: regulations and notional payments

(1) In the list in subsection (2) of section 684 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (PAYE regulations)—

(a) for item 2 substitute—

Provision—

(a) for deductions to be made, if and to the extent that the payee does not object, with a view to securing that income tax payable in respect of any income of a payee for a tax year which is not PAYE income is deducted from PAYE income of the payee paid during that year; and

(b) as to the circumstances and manner in which a payee may object to the making of deductions.

Provision—

(a) for repayments or deductions to be made, if and to the extent that the payee does not object, in respect of any amounts overpaid or remaining unpaid (or treated as overpaid or remaining unpaid) on account of—

(i) income tax in respect of income for a previous tax year, or

(ii) capital gains tax in respect of chargeable gains for such a year; and

(b) as to the circumstances in which repayments or deductions may be made, and the circumstances and manner in which a payee may object to the making of repayments or deductions.";

(b) after item 4 insert —

Provision authorising the recovery from the payee rather than the payer of any amount that the Inland Revenue considers should have been deducted by the payer.";

(c) for item 8 substitute as items 7A and 8—

Provision for excluding payments of such description as may be specified from the operation of the regulations in such circumstances as may be specified.

Provision for the making of decisions by the Board or the Inland Revenue as to any matter required to be decided for the purposes of the regulations and for appeals against such decisions.".

(2) After subsection (7) of that section insert—

"(7A) Nothing in PAYE regulations may be read—

(a) as preventing the making of arrangements for the collection of tax in such manner as may be agreed by, or on behalf of, the payer and the Inland Revenue, or

(b) as requiring the payer to comply with the regulations in circumstances in which the Inland Revenue is satisfied that it is unnecessary or not appropriate for the payer to do so.

(7B) References in this section and section 685 to income tax in respect of PAYE income are references to income tax in respect of that income if reasonable assumptions are (when necessary) made about other income.

(7C) In this section and section 685—

"payer" means any person paying PAYE income and "payee" means any person in receipt of such income;

"specified" means specified in PAYE regulations.".

(3) In subsection (2) of section 685 of that Act (tax tables), for paragraph (b) substitute—

"(b) subject to an adjustment in respect of amounts required to be deducted or repaid by PAYE regulations made under item 1A or 2 in the list in section 684(2).".

(4) After subsection (3) of that section insert—

"(4) PAYE regulations may make provision, where it appears to the Inland Revenue that it is impracticable for a payer to deduct tax by reference to tax tables—

(a) for deductions to be made by the payer in accordance with other arrangements agreed as mentioned in section 684(7A)(a), or

(b) for the payee to be required to keep records and make payments and returns as if he were the payer.".

(5) In section 707 of that Act (interpretation of Chapter 5 of Part 11), in the definition of "employment", for "this section" substitute "this Chapter".

(6) In section 710 of that Act (notional payments: accounting for tax)—

(a) in subsections (1) and (4), after "must" insert ", subject to and in accordance with PAYE regulations,";

(b) in subsection (5)(b) and (c), for "accounted for" substitute "deducted or accounted for (or required to be deducted or accounted for)"; and

(c) in subsection (6), for "an amount which" substitute "an amount of tax which" and for "is paid by the employee" substitute "is deducted".

(7) Substitute "PAYE regulations"—

(a) for "the said section 203" in subsection (8) of section 59A of the Taxes Management Act 1970 (c. 9) (payments on account of income tax); and

(b) for "that section" in subsection (10) of that section and subsections (2) and (8) of section 59B of that Act (payments of income tax and capital gains tax).

## 146 Payroll giving: extension of 10% supplement to 5th April 2004

In section 38 of the Finance Act 2000 (c. 17) (which provides for a 10% supplement on donations under the payroll deduction scheme), in subsection (6) (which limits the provision by reference to sums withheld by employers before 6th April 2003, and requires claims for reimbursement to be made before 6th April 2004)—

(a) for "6th April 2003" substitute "6th April 2004", and

(b) for "6th April 2004" substitute "6th April 2005".

## 147 Sub-contractor deductions etc: interest on late payment or repayment

(1) In section 566 of the Taxes Act 1988 (construction industry scheme: powers to make regulations) after subsection (1) insert—

"(1A) Interest required to be paid by regulations under subsection (1) above shall be paid without any deduction of income tax and shall not be taken into account in computing any income, profits or losses for any tax purposes.".

(2) In the Social Security Contributions and Benefits Act 1992 (c. 4) and the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7), in paragraph 6 of Schedule 1 (power to combine collection of national insurance contributions with tax) after sub-paragraph (4A) insert—

"(4B) Interest required to be paid, by virtue of sub-paragraph (2)(a) or (b) above, by regulations under sub-paragraph (1) above shall be paid without any deduction of income tax and shall not be taken into account in computing any income, profits or losses for any tax purposes.".

(3) In section 22 of the Teaching and Higher Education Act 1998 (c. 30) (student loans), after subsection (9) insert—

"(10) Interest required to be paid, by virtue of subsection (5)(d), by regulations under this section shall be paid without any deduction of income tax and shall

not be taken into account in computing any income, profits or losses for any tax purposes.".

(4) In Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 (S.I. 1998/1760 (N.I. 14)) (student loans), after paragraph (9) insert—

"(10) Interest required to be paid, by virtue of paragraph (5)(d), by regulations under this Article shall be paid without any deduction of income tax and shall not be taken into account in computing any income, profits or losses for any tax purposes.".

(5) In its application to the computation of income, profits or losses for an accounting period (in the case of a company) or a year of assessment (in the case of a person who is not a company), this section has effect in relation to—

(a) accounting periods ending on or after 9th April 2003, or

(b) 2003-04 and subsequent years of assessment.

*Taxation of non-resident companies and related matters*

### 148 Meaning of "permanent establishment"

(1) For the purposes of the Tax Acts a company has a permanent establishment in a territory if, and only if—

(a) it has a fixed place of business there through which the business of the company is wholly or partly carried on, or

(b) an agent acting on behalf of the company has and habitually exercises there authority to do business on behalf of the company.

This general definition is subject to the following provisions.

(2) For this purpose a "fixed place of business" includes (without prejudice to the generality of that expression)—

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

(f) an installation or structure for the exploration of natural resources;

(g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;

(h) a building site or construction or installation project.

(3) A company is not regarded as having a permanent establishment in a territory by reason of the fact that it carries on business there through an agent of independent status acting in the ordinary course of his business.

(4) A company is not regarded as having a permanent establishment in a territory by reason of the fact that—

(a) a fixed place of business is maintained there for the purpose of carrying on activities for the company, or

(b) an agent carries on activities there for and on behalf of the company,

if, in relation to the business of the company as a whole, the activities carried on are only of a preparatory or auxiliary character.

(5) For this purpose "activities of a preparatory or auxiliary character" include (without prejudice to the generality of that expression)—

(a) the use of facilities for the purpose of storage, display or delivery of goods or merchandise belonging to the company;

(b) the maintenance of a stock of goods or merchandise belonging to the company for the purpose of storage, display or delivery;

(c) the maintenance of a stock of goods or merchandise belonging to the company for the purpose of processing by another person;

(d) purchasing goods or merchandise, or collecting information, for the company.

(6) In section 832(1) of the Taxes Act 1988 (interpretation of the Tax Acts), at the appropriate place insert—

> ""permanent establishment", in relation to a company, has the meaning given by section 148 of the Finance Act 2003;".

(7) In section 288(1) of the Taxation of Chargeable Gains Act 1992 (c. 12) (interpretation), at the appropriate place insert—

> ""permanent establishment", in relation to a company, has the meaning given by section 148 of the Finance Act 2003;".

### 149 Non-resident companies: basis of charge to corporation tax

(1) In section 11 of the Taxes Act 1988 (corporation tax: companies not resident in the United Kingdom), for subsections (1) and (2) (basis of taxation) substitute—

"(1) A company not resident in the United Kingdom is within the charge to corporation tax if, and only if, it carries on a trade in the United Kingdom through a permanent establishment in the United Kingdom.

(2) If it does so, it is chargeable to corporation tax, subject to any exceptions provided for by the Corporation Tax Acts, on all profits, wherever arising, that are attributable to its permanent establishment in the United Kingdom.

These profits, and these only, are the company's "chargeable profits" for the purposes of corporation tax.

(2A) The profits attributable to a permanent establishment for the purposes of corporation tax are—

(a) trading income arising directly or indirectly through or from the establishment,

(b) income from property or rights used by, or held by or for, the establishment, and

(c) chargeable gains falling within section 10B of the 1992 Act—

(i) by virtue of assets being used in or for the purposes of the trade carried on by the company through the establishment, or

(ii) by virtue of assets being used or held for the purposes of the establishment or being acquired for use by or for the purposes of the establishment.".

(2) After that section insert—

"**11AA Determination of profits attributable to permanent establishment**

(1) This section provides for determining for the purposes of corporation tax the amount of the profits attributable to a permanent establishment in the United Kingdom of a company that is not resident in the United Kingdom ("the non-resident company").

(2) There shall be attributed to the permanent establishment the profits it would have made if it were a distinct and separate enterprise, engaged in the same or similar activities under the same or similar conditions, dealing wholly independently with the non-resident company.

(3) In applying subsection (2)—

(a) it shall be assumed that the permanent establishment has the same credit rating as the non-resident company, and

(b) it shall also be assumed that the permanent establishment has such equity and loan capital as it could reasonably be expected to have in the circumstances specified in that subsection.

No deduction may be made in respect of costs in excess of those that would have been incurred on those assumptions.

(4) There shall be allowed as deductions any allowable expenses incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the United Kingdom or elsewhere.

"Allowable expenses" means expenses of a kind in respect of which a deduction would be allowed for corporation tax purposes if incurred by a company resident in the United Kingdom.

(5) The Board may by regulations make provision as to the application of subsection (2) in relation to insurance companies.

The regulations may, in particular, make provision in place of subsection (3)(b) as to the basis on which, in the case of insurance companies, capital is to be attributed to a permanent establishment in the United Kingdom.

In this subsection "insurance company" has the meaning given by section 431(2).

(6) Schedule A1 to this Act contains provisions supplementing the provisions of this section.".

(3) At the beginning of the Schedules to the Taxes Act 1988 insert as Schedule A1 the Schedule set out in Schedule 25 to this Act.

(4) After section 10A of the Taxation of Chargeable Gains Act 1992 (c. 12) insert—

"**10B Non-resident company with United Kingdom permanent establishment**

(1) Subject to any exceptions provided by this Act, the chargeable profits for the purposes of corporation tax of a company not resident in the United

Kingdom but carrying on a trade in the United Kingdom through a permanent establishment there include chargeable gains accruing to the company on the disposal of—

(a) assets situated in the United Kingdom and used in or for the purposes of the trade at or before the time the gain accrued, or

(b) assets situated in the United Kingdom and used or held for the purposes of the permanent establishment at or before the time the gain accrued or acquired for use by or for the purposes of the permanent establishment.

(2) Subsection (1) does not apply unless the disposal is made at a time when the company is carrying on a trade in the United Kingdom through a permanent establishment there.

(3) This section does not apply to a company that, by virtue of Part 18 of the Taxes Act (double taxation relief arrangements), is exempt from corporation tax for the chargeable period in respect of the profits of the permanent establishment.

(4) In this section "trade" has the meaning given by section 6(4)(b) of the Taxes Act.".

(5) In section 834(1) of the Taxes Act 1988 (interpretation of the Corporation Tax Acts), at the appropriate place insert—

""chargeable profits", in relation to a company that is not resident in the United Kingdom—

(a) for corporation tax purposes generally, has the meaning given by section 11(2), and

(b) for the purposes of Chapter 4 of Part 17 (controlled foreign companies), has the meaning given by section 747(6);".

(6) This section has effect in relation to accounting periods (of the non-resident company) beginning on or after 1st January 2003, and regulations under section 11AA(5) of the Taxes Act 1988 (inserted by subsection (2) above) may be made so as to have effect from that date.

### 150 Non-resident companies: assessment, collection and recovery of corporation tax

(1) The enactments relating to corporation tax, so far as they make provision for or in connection with the assessment, collection and recovery of tax, or of interest on tax, have effect, in accordance with this section, as if the obligations and liabilities of a non-resident company were also obligations and liabilities of its UK representative.

(2) For this purpose a permanent establishment in the United Kingdom through which a non-resident company carries on a trade—

(a) is the UK representative of the company in relation to chargeable profits of the company attributable to that establishment,

(b) continues to be the company's UK representative in relation to those profits even after ceasing to be a permanent establishment through which the company carries on a trade, and

(c) shall be treated, if it would not otherwise be so treated, as a distinct and separate person from the non-resident company.

As to the chargeable profits attributable to a permanent establishment, see section 11(2A) of the Taxes Act 1988.

(3) Subject to the following provisions of this section—

(a) the discharge by the UK representative of a non-resident company, or by the company itself, of an obligation or liability that corresponds to one to which the other is subject discharges the corresponding obligation or liability of the other, and

(b) a non-resident company is bound, as if they were its own, by acts or omissions of its UK representative in the discharge of the obligations and liabilities imposed on the representative by this section.

(4) An obligation or liability attaching to a non-resident company—

(a) by reason of its having been given or served with a notice or other document, or

(b) by reason of its having received a request or demand,

does not also attach to its UK representative unless the notice or document, or a copy of it, has been given to or served on the representative or, as the case may be, unless the representative has been notified of the request or demand.

(5) A non-resident company is not bound by mistakes in information provided by its UK representative in pursuance of an obligation imposed on the representative by this section, unless the mistake is the result of an act or omission of the company itself, or to which the company consented or in which it connived.

(6) The UK representative of a non-resident company is not by virtue of this section liable to be proceeded against for a criminal offence unless the representative committed the offence itself, or consented to or connived in its commission.

(7) In this section—

"enactment" includes an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978 (c. 30);

"information" includes anything contained in a return, self-assessment, account, statement or report required to be provided to the Board or any officer of the Board;

"non-resident company" means a company that is not resident in the United Kingdom; and

"trade" has the meaning given by section 6(4)(b) of the Taxes Act 1988.

(8) This section has effect for accounting periods (of the non-resident company) beginning on or after 1st January 2003.

### 151 Non-resident companies: extent of charge to income tax

(1) The income tax chargeable for a year of assessment on the total income of a company that is not resident in the United Kingdom is limited to the sum of the following amounts—

(a) the amount of tax that, apart from this section, would be chargeable on that total income if—

(i) the amount of that income were reduced by the amount of any income to which this section applies, and

(ii) there were disregarded any relief to which that company is entitled by virtue of arrangements having effect under section 788 of the Taxes Act 1988 (double taxation relief), and

(b) the amount of tax deducted from so much of any income to which this section applies as is income the tax on which is deducted at source.

(2) The income to which this section applies is—

(a) income chargeable to tax under Case III of Schedule D or Schedule F;

(b) income chargeable to tax under Case VI of Schedule D by virtue of section 56 of the Taxes Act 1988 (transactions in deposits);

(c) income arising from a transaction carried out through a broker or investment manager in the United Kingdom acting as an agent of independent status in the ordinary course of his business; or

(d) income of such other description as the Treasury may by regulations designate for the purposes of this subsection.

Regulations under paragraph (d) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

(3) In subsection (1)(b) above—

(a) the reference to tax deducted at source is to tax that is or is treated as deducted, or is treated as paid, or in respect of which there is a tax credit, and

(b) the reference to the amount of tax deducted at source is to the amount that is or is treated as deducted, or is treated as paid, or, as the case may be, to the amount of that credit.

(4) This section does not apply to the income tax chargeable for a year of assessment on income of a company as a trustee.

(5) This section applies—

(a) in relation to the year 2002-03, as regards income arising on or after 1st January 2003, and

(b) in relation to the year 2003-04 and subsequent years of assessment.

## 152 Non-resident companies: transactions carried out through broker, investment manager or Lloyd's agent

Schedule 26 to this Act contains provisions supplementing—

(a) section 148(3) (meaning of "permanent establishment": not to include independent agent), and

(b) section 151(2)(c) (limit on income tax chargeable on non-resident company: income arising from transactions carried out through independent agent),

as regards transactions carried out through a broker, investment manager or Lloyd's agent.

## 153 General replacement of references to branch or agency of company

(1) In the following provisions (which relate only to companies) for "branch or agency" or "branches or agencies", wherever occurring, substitute "permanent establishment" or "permanent establishments".

The provisions are—

(a) in the Taxes Act 1988, sections 115(4)(b), 338B(2)(d) and (4)(b), 349B(2)(b) and (7)(b)(ii), 402(3B), 403E(1)(a), (2), (4), (5) and (6), 442(1), 444BB(3)(b), 547(6A), 748A(1)(c) and (2), 790(6A)(b), 801(1A)(b), 804A(1)(a), 806L(1), (2), (4), and (5), 806M(2) to (5) and 815A(6); in Schedule 15, paragraphs 17(3)(c) and 25(2)(c); in Schedule 19AA, paragraph 5(5)(c); in Schedule 24, paragraphs 1 and 8; and in Schedule 25, paragraphs 6(2A) and (2C), 8 and 11(3);

(b) in the Taxation of Chargeable Gains Act 1992 (c. 12), sections 140(1), 140C(1)(a), 173(3)(b), 175(1A)(b), 185(4) and 213(5A);

(c) in the Finance Act 2000 (c. 17), section 107(7);

(d) in the Capital Allowances Act 2001 (c. 2), sections 560(2) and 561(1)(c);

(e) in the Finance Act 2002 (c. 23), in Schedule 22, paragraph 10(1)(b)(ii); and in Schedule 29, paragraphs 66(5) and (8)(b), 68(2)(b), 86(1)(a), 87(1)(a), 109(1)(b) and 110(1)(b).

(2) In the following provisions (which relate to companies and other persons), any reference to a branch or agency shall be read, in relation to a company, as a reference to a permanent establishment.

The provisions are—

(a) in the Taxes Act 1988, sections 606(13), 794(2)(bb), 806K(1), 814(1) and 830(4), and in Schedule 23A, paragraphs 3 and 4;

(b) in the Taxation of Chargeable Gains Act 1992, sections 25(2), (3) and (5), 80(4)(a) and (b) and (7)(b), 199(2) and (4) and 276(7);

(c) in the Finance Act 1999 (c. 16), section 85(2)(a);

(d) in the Finance Act 2002, in Schedule 26, paragraph 31(6)(a).

(3) Any reference to a branch or agency—

(a) in subordinate legislation made under an enactment contained in the Tax Acts or relating to chargeable gains, or

(b) that is to be construed as having the same meaning as in any such enactment,

shall be read, in relation to a company, as a reference to a permanent establishment.

"Subordinate legislation" here has the same meaning as in the Interpretation Act 1978 (c. 30).

(4) This section has effect in relation to accounting periods beginning on or after 1st January 2003.

### 154 Double taxation relief: profits attributable to overseas permanent establishment

(1) In Part 18 of the Taxes Act 1988 (double taxation relief), section 797 (limits on credit: corporation tax) is amended as follows.

(2) In subsection (1) for "subsections (2) and (3)" substitute "the following provisions of this section".

(3) In subsection (2) for "subsection (3)" substitute "subsections (2A) and (3)".

(4) After subsection (2) insert—

"(2A) The provisions of section 11AA (profits attributable to permanent establishment), and of any regulations made under that section, apply, with the necessary modifications, in determining for the purposes of this section how

much of the chargeable profits of a company resident in the United Kingdom is attributable to a permanent establishment of the company outside the United Kingdom.".

(5) The amendments in this section have effect in relation to accounting periods beginning on or after 1st January 2003.

### 155 Consequential amendments

(1) Schedule 27 to this Act provides for amendments consequential on the provisions of sections 148 to 153.

(2) The amendments made by that Schedule have effect in relation to accounting periods beginning on or after 1st January 2003.

### 156 Overseas life insurance companies

(1) The enactments relating to corporation tax have effect in relation to overseas life insurance companies subject to such modifications and exceptions as the Treasury may prescribe by regulations.

(2) The power to make regulations under this section includes power to make provision in place of, and in consequence to repeal or revoke, all or any of the enactments relating to corporation tax that on the passing of this Act make provision in relation to overseas life insurance companies.

(3) Regulations under this section—

(a) may make different provision for different cases, and

(b) may make such consequential amendments of other enactments as appear to the Treasury to be necessary or expedient.

(4) Regulations under this section providing for the application to overseas life insurance companies of sections 148 to 154 of this Act, Schedules 26 and 27 to this Act or any enactment amended by those sections or Schedules may be made so as to have effect from 1st January 2003.

(5) In this section—

"enactment" includes an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978 (c. 30), and

"overseas life insurance company" means an insurance company (as defined in section 431(2) of the Taxes Act 1988) that is not resident in the United Kingdom but carrying on life assurance business (as so defined) through a permanent establishment in the United Kingdom.

*Chargeable gains*

### 157 Life insurance policies and deferred annuity contracts

(1) For section 210 of the Taxation of Chargeable Gains Act 1992 (c. 12) substitute—

"**210 Life insurance and deferred annuities**

(1) This section has effect in relation to any policy of insurance or contract for a deferred annuity on the life of any person.

(2) A gain accruing on a disposal of, or of an interest in, the rights conferred by the policy of insurance or contract for a deferred annuity is not a chargeable gain unless subsection (3) below applies.

(3) This subsection applies if—

(a) (in the case of a disposal of the rights) the rights or any interest in the rights, or

(b) (in the case of a disposal of an interest in the rights) the rights, the interest or any interest from which the interest directly or indirectly derives (in whole or in part),

have or has at any time been acquired by any person for actual consideration (as opposed to consideration deemed to be given by any enactment relating to the taxation of chargeable gains).

(4) For the purposes of subsection (3) above —

(a) (in the case of a policy of insurance) amounts paid under the policy by way of premiums, and

(b) (in the case of a contract for a deferred annuity) amounts paid under the contract, whether by way of premiums or as lump sum consideration,

do not constitute actual consideration.

(5) And for those purposes actual consideration for—

(a) a disposal which is made by one spouse to the other or is an approved post-marriage disposal, or

(b) a disposal to which section 171(1) applies,

is to be treated as not constituting actual consideration.

(6) For the purposes of subsection (5)(a) above a disposal is an approved post-marriage disposal if—

(a) it is made in consequence of the dissolution or annulment of a marriage by one person who was a party to the marriage to the other,

(b) it is made with the approval, agreement or authority of a court (or other person or body) having jurisdiction under the law of any country or territory or pursuant to an order of such a court (or other person or body), and

(c) the rights disposed of were, or the interest disposed of was, held by the person by whom the disposal is made immediately before the marriage was dissolved or annulled.

(7) Subsection (8) below applies for the purposes of tax on chargeable gains where—

(a) (if that subsection did not apply) a loss would accrue on a disposal of, or of an interest in, the rights conferred by the policy of insurance or contract for a deferred annuity, but

(b) if sections 37 and 39 were disregarded, there would accrue on the disposal a loss of a smaller amount, a gain or neither a loss nor a gain.

(8) If (disregarding those sections) a loss of a smaller amount would accrue, that smaller amount is to be taken to be the amount of the loss accruing on the disposal; and in any other case, neither a loss nor a gain is to be taken to accrue on the disposal.

(9) But subsection (8) above does not affect the treatment for the purposes of tax on chargeable gains of the person who acquired rights, or an interest in rights, on the disposal.

(10) The occasion of—

(a) the receipt of the sum or sums assured by the policy of insurance,

(b) the transfer of investments or other assets to the owner of the policy of insurance in accordance with the policy, or

(c) the surrender of the policy of insurance,

is for the purposes of tax on chargeable gains an occasion of a disposal of the rights (or of all of the interests in the rights) conferred by the policy of insurance.

(11) The occasion of—

(a) the receipt of the first instalment of the annuity under the contract for a deferred annuity, or

(b) the surrender of the rights conferred by the contract for a deferred annuity,

is for the purposes of tax on chargeable gains an occasion of a disposal of the rights (or of all of the interests in the rights) conferred by the contract for a deferred annuity.

(12) Where there is a disposal on the occasion of the receipt of the first instalment of the annuity under the contract for a deferred annuity—

(a) in the case of a disposal of the rights conferred by the contract, the consideration for the disposal is the aggregate of the amount or value of the first instalment and the market value at the time of the disposal of the right to receive the further instalments of the annuity, and

(b) in the case of a disposal of an interest in the rights, the consideration for the disposal is such proportion of that aggregate as is just and reasonable;

and no gain accruing on any subsequent disposal of, or of any interest in, the rights is a chargeable gain (even if subsection (3) above applies).

(13) In this section "interest", in relation to rights conferred by a policy of insurance or contract for a deferred annuity, means an interest as a co-owner of the rights (whether the rights are owned jointly or in common and whether or not the interests of the co-owners are equal).".

(2) This section has effect in relation to disposals on or after 9th April 2003.

### 158 Application of market value rule in case of exercise of option

(1) In Chapter 3 of Part 4 of the Taxation of Chargeable Gains Act 1992 (c. 12) (miscellaneous provisions relating to options and other matters), after section 144 insert—

"**144ZA Application of market value rule in case of exercise of option**

(1) This section applies where—

(a) an option is exercised, so that by virtue of section 144(2) or (3) the grant or acquisition of the option and the transaction resulting from its exercise are treated as a single transaction, and

(b) section 17(1) ("the market value rule") applies, or would apply but for this section, in relation to—

(i) the grant of the option,

(ii) the acquisition of the option (whether directly from the grantor or not) by the person exercising it, or

(iii) the transaction resulting from its exercise.

(2) If the option binds the grantor to sell—

(a) the market value rule does not apply for determining the consideration for the sale, except, where the rule applies for determining the consideration for the option, to that extent (in accordance with section 144(2)(a));

(b) the market value rule does not apply for determining the cost to the person exercising the option of acquiring what is sold, except, where the rule applies for determining the cost of acquiring the option, to that extent (in accordance with section 144(3)(a)).

(3) If the option binds the grantor to buy—

(a) the market value rule does not apply for determining the cost of acquisition incurred by the grantor, but without prejudice to its application (in accordance with section 144(2)(b)) where the rule applies for determining the consideration for the option;

(b) the market value rule does not apply for determining the consideration for the disposal of what is bought, but without prejudice to its application (in accordance with section 144(3)(b)) where the rule applies for determining the cost of the option.

(4) To the extent that, by virtue of this section, the market value rule does not apply for determining an amount or value, the amount or value to be taken into account is (subject to section 120) the actual amount or value.

(5) In this section "option" has the same meaning as in section 144.".

(2) This section applies in relation to the exercise of an option on or after 10th April 2003.

### 159 Reporting limits and annual exempt amount

(1) The Taxation of Chargeable Gains Act 1992 (c. 12) is amended in accordance with Schedule 28 to this Act.

(2) In that Schedule—

Part 1 makes provision as to the cases in which a return of information about chargeable gains is required,

Part 2 contains minor and consequential amendments of the provisions relating to the annual exempt amount, and

Part 3 provides for commencement.

### 160 Taper relief: assets qualifying as business assets

(1) In Schedule A1 to the Taxation of Chargeable Gains Act 1992 (taper relief), paragraph 5 (conditions for assets other than shares to qualify as business assets) is amended as follows.

(2) In sub-paragraph (1) (application of paragraph), after "in the case of the disposal of any asset" insert "by an individual, the trustees of a settlement or an individual's personal representatives".

(3) For sub-paragraphs (2) to (5) substitute—

"(1A) The asset was a business asset at that time if at that time it was being used, wholly or partly, for the purposes of a trade carried on by—

(a) an individual or a partnership of which an individual was at that time a member, or

(b) the trustees of a settlement or a partnership whose members at that time included—

(i) the trustees of a settlement, or

(ii) any one or more of the persons who at that time were the trustees of a settlement (so far as acting in their capacity as trustees), or

(c) the personal representatives of a deceased person or a partnership whose members at that time included—

(i) the personal representatives of a deceased person, or

(ii) any one or more of the persons who at that time were the personal representatives of a deceased person (so far as acting in their capacity as personal representatives).

(2) Where the disposal is made by an individual, the asset was a business asset at that time if at that time it was being used, wholly or partly, for the purposes of a trade carried on by—

(a) a company which at that time was a qualifying company by reference to that individual,

(b) a company which at that time was a member of a trading group the holding company of which was at that time a qualifying company by reference to that individual, or

(c) a partnership whose members at that time included a company within paragraph (a) or (b),

or for the purposes of any office or employment held by that individual with a person carrying on a trade.

(3) Where the disposal is made by the trustees of a settlement, the asset was a business asset at that time if at that time it was being used, wholly or partly, for the purposes of a trade carried on by—

(a) a company which at that time was a qualifying company by reference to the trustees of the settlement or an eligible beneficiary,

(b) a company which at that time was a member of a trading group the holding company of which was at that time a qualifying company by reference to the trustees of the settlement or an eligible beneficiary, or

(c) a partnership whose members at that time included a company within paragraph (a) or (b),

or for the purposes of any office or employment held by an eligible beneficiary with a person carrying on a trade.

(4) Where the disposal is made by an individual's personal representatives, the asset was a business asset at that time if at that time it was being used, wholly or partly, for the purposes of a trade carried on by—

(a) a company which at that time was a qualifying company by reference to the deceased's personal representatives,

(b) a company which at that time was a member of a trading group the holding company of which was at that time a qualifying company by reference to the deceased's personal representatives, or

(c) a partnership whose members at that time included a company within paragraph (a) or (b).

(5) Where the disposal is made by an individual who acquired the asset as legatee (as defined in section 64), the asset shall be taken to have been a business asset at that time if at that time it was—

(a) being held by the personal representatives of the deceased, and

(b) being used, wholly or partly, for the purposes of a trade carried on by—

(i) a company which at that time was a qualifying company by reference to the deceased's personal representatives,

(ii) a company which at that time was a member of a trading group the holding company of which was at that time a qualifying company by reference to the deceased's personal representatives, or

(iii) a partnership whose members at that time included a company within sub-paragraph (i) or (ii).".

(4) The following amendments in Schedule A1 to the Taxation of Chargeable Gains Act 1992 (c. 12) are consequential on those above—

(a) in paragraphs 9(1)(a) and 19(1) for "paragraph 5(2) to (5)" substitute "any provision of paragraph 5";

(b) in paragraph 15(4)(a) for "paragraph 5(2)" substitute "paragraph 5(1) and (2)".

(5) The amendments in this section apply to disposals on or after 6th April 2004 and as they so apply have effect in relation to periods of ownership on or after that date.

## 161 Earn-out rights to be treated as securities unless contrary election

(1) Section 138A of the Taxation of Chargeable Gains Act 1992 (c. 12) (use of earn-out rights for exchange of securities) is amended as follows.

(2) In subsection (2) (seller's right to elect for earn-out right to be treated as security of new company)—

(a) at the end of paragraph (a) insert "and"; and

(b) omit paragraph (c) (the seller's right of election) and the word "and" immediately preceding it.

(3) After subsection (2) insert—

"(2A) Subsection (2) above does not have effect if the seller elects under this section for the earn-out right not to be treated as a security of the new company.".

(4) In subsection (4) (election for corresponding treatment where old right extinguished in consideration of new right)—

(a) at the end of paragraph (c) insert "and";

(b) omit paragraph (e) (right of election of person on whom the new right is conferred) and the word "and" immediately preceding it; and

(c) in the closing words, for "that person" substitute "the person on whom the new right is conferred".

(5) After subsection (4) insert—

"(4A) Subsection (4) above does not have effect if the person on whom the new right is conferred elects under this section for it not to be treated as a security of the new company.".

(6) The amendments made by this section have effect in relation to rights conferred on or after 10th April 2003.

## 162 Deferred unascertainable consideration: election for treatment of loss

(1) After section 279 of the Taxation of Chargeable Gains Act 1992 insert—

"**279A Deferred unascertainable consideration: election for treatment of loss**

(1) Where—

(a) a person ("the taxpayer") makes a disposal of a right to which this section applies (see subsection (2) below),

(b) on that disposal an allowable loss ("the relevant loss") would, apart from section 279C, accrue to him in any year ("the year of the loss"), and

(c) the year of the loss is a year in which the taxpayer is within the charge to capital gains tax (see section 279B(1)),

the taxpayer may make an election under this section for the relevant loss to be treated as accruing in an earlier year in accordance with section 279C if condition 1 in subsection (3) below and condition 2 in subsection (5) below are satisfied.

(2) This section applies to a right if each of the following conditions is satisfied—

(a) the right was, in whole or in part, acquired by the taxpayer as the whole or part of the consideration for a disposal (the "original disposal") by him of another asset (the "original asset"),

(b) the original disposal was made in a year ("the year of the original disposal") earlier than the year in which the disposal mentioned in subsection (1)(a) above is made ("the year of the right's disposal"),

(c) where the right was acquired by the taxpayer as the whole or part of the consideration for two or more disposals (each of which is accordingly an "original disposal"), the condition in paragraph (b) above is satisfied with respect to each of those disposals (the "original disposals"),

(d) on the taxpayer's acquisition of the right, there was no corresponding disposal of it,

(e) the right is a right to unascertainable consideration (see section 279B(2) to (6)).

(3) Condition 1 for making an election in relation to the relevant loss is that a chargeable gain accrued to the taxpayer on any one or more of the following events—

(a) the original disposal,

(b) an earlier disposal of the original asset by the taxpayer in the year of the original disposal,

(c) a later disposal of the original asset by the taxpayer in a year earlier than the year of the right's disposal,

or would have so accrued but for paragraph 2(2)(a) of Schedule 5B or 5C (postponement of original gain).

This subsection is subject to subsection (4) below.

(4) If the right to which this section applies was acquired by the taxpayer as the whole or part of the consideration for two or more original disposals (including cases where there are two or more original assets (the "original assets"))—

(a) any reference in subsection (3) above to the original disposal is a reference to any of the original disposals,

(b) any reference in that subsection to the original asset is a reference to the asset which is the original asset in relation to that original disposal, and

(c) any reference in that subsection to the year of the original disposal shall be construed accordingly.

(5) Condition 2 for making an election in relation to the relevant loss is that there is a year (an "eligible year")—

(a) which is earlier than the year of the loss but not earlier than the year 1992-93,

(b) in which a chargeable gain falling within subsection (3) above or subsection (6) below accrued to the taxpayer, and

(c) for which, immediately before the election, there remains a relevant amount on which capital gains tax is chargeable (see subsection (7) below).

(6) A chargeable gain falling within this subsection accrues to the taxpayer in a year if—

(a) in that year a chargeable gain (the "revived gain") is treated as accruing to the taxpayer in accordance with paragraphs 4 and 5 of

Schedule 5B or 5C (chargeable gain accruing to person on chargeable event), and

(b) the gain which, in determining the amount of the revived gain in accordance with those paragraphs, is the original gain consists of or represents the whole or some part of a gain that would have accrued as mentioned in subsection (3) above but for paragraph 2(2)(a) of Schedule 5B or 5C.

(7) For the purposes of subsection (5)(c) above, a year is one for which, immediately before an election, there remains a relevant amount on which capital gains tax is chargeable if, immediately before the making of that election, there remains an amount in respect of which the taxpayer is chargeable to capital gains tax for the year—

(a) after taking account of any previous elections made by the taxpayer under this section,

(b) after excluding any amounts that fall to be brought into account for that year under section 2(4)(b) by virtue of section 2(5)(b), and

(c) on the assumption that no part of the relevant loss (or of any other loss in respect of which an election under this section may be, but has not been, made) falls to be deducted in consequence of an election under this section from the chargeable gains accruing to the taxpayer in that year.

(8) In this section "year" means year of assessment.

(9) This section and sections 279B to 279D are to be construed as one.

**279B Provisions supplementary to section 279A**

(1) For the purposes of section 279A(1)(c) a person is within the charge to capital gains tax in any year if—

(a) he is chargeable to capital gains tax in respect of chargeable gains accruing to him in that year, or

(b) on the assumption that there accrue to him in that year any chargeable gains (excluding amounts in relation to which section 2(4)(a) applies), he would be so chargeable apart from—

(i) any deductions that fall to be made from the total amount referred to in section 2(2), and

(ii) section 3 (annual exempt amount).

(2) Subsections (3) to (6) below have effect for the purposes of section 279A(2)(e) (right to unascertainable consideration).

(3) A right is a right to unascertainable consideration if, and only if,—

(a) it is a right to consideration the amount or value of which is unascertainable at the time when the right is conferred, and

(b) that amount or value is unascertainable at that time on account of its being referable, in whole or in part, to matters which are uncertain at that time because they have not yet occurred.

This subsection is subject to subsections (4) to (6) below.

(4) The amount or value of any consideration is not to be regarded as being unascertainable by reason only—

(a) that the right to receive the whole or any part of the consideration is postponed or contingent, if the consideration or, as the case may be, that part of it is, in accordance with section 48, brought into account in the computation of the gain accruing to the taxpayer on the disposal of an asset, or

(b) in a case where the right to receive the whole or any part of the consideration is postponed and is to be, or may be, to any extent satisfied by the receipt of property of one description or property of some other description, that some person has a right to select the property, or the description of property, that is to be received.

(5) A right is not to be taken to be a right to unascertainable consideration by reason only that either the amount or the value of the consideration has not been fixed, if—

(a) the amount will be fixed by reference to the value, and the value is ascertainable, or

(b) the value will be fixed by reference to the amount, and the amount is ascertainable.

(6) A right which is by virtue of subsection (2) or (4) of section 138A (use of earn-out rights for exchange of securities) assumed in accordance with subsection (3)(a) of that section to be a security, within the definition in section 132, is not to be regarded as a right to unascertainable consideration.

(7) For the purposes of section 279A, any question as to—

(a) whether a chargeable gain or a loss is one that accrues (or would, apart from any particular provision, accrue) on a particular disposal or a disposal of any particular description, or

(b) the time at which, or year in which, any particular disposal takes place,

is to be determined without regard to section 10A(2) (chargeable gains and losses accruing during temporary non-residence to be treated as accruing in year of return).

This subsection is subject to subsection (8) below.

(8) Subsection (7) above does not affect the determination of any question—

(a) as to the year in which the chargeable gain or loss is, by virtue of section 10A(2), to be treated as accruing (apart from section 279C), or

(b) where (apart from section 279C) a loss is to be treated by virtue of section 10A(2) as accruing in a particular year, whether the loss is an allowable loss.

### 279C Effect of election under section 279A

(1) This section applies where an election is made under section 279A by the taxpayer for the relevant loss to be treated as accruing in an earlier year in accordance with this section.

(2) Where this section applies, the relevant loss shall be treated for the purposes of capital gains tax as if it were a loss accruing to the taxpayer in the earliest

year which is an eligible year (the "first eligible year"), instead of in the year of the loss (but subject to, and in accordance with, the following provisions of this section).

(3) The amount of the relevant loss that falls to be deducted from chargeable gains of the first eligible year in accordance with section 2(2)(a) is limited to the amount (the "first year limit") found by taking the following steps—

*Step 1:* take the total amount of chargeable gains accruing to the taxpayer in the first eligible year,

*Step 2:* exclude from that amount any amounts that fall to be disregarded in accordance with section 2(4)(a) for that year,

*Step 3:* deduct from the amount remaining any amounts in respect of allowable losses (other than the relevant loss or any part of it) that fall to be deducted from that amount in accordance with section 2(2) otherwise than by virtue of section 2(5)(aa)(i) (taking account of any previous elections under section 279A).

The amount so found is the first year limit, unless the first eligible year is a year in relation to which section 2(5)(aa) has effect, in which case the further steps in subsection (4) below must also be taken.

(4) Those further steps are—

*Step 4:* add to the amount found by taking steps 1 to 3 in subsection (3) above every amount which is treated by virtue of section 77 or 86 as an amount of chargeable gains accruing to the taxpayer for the first eligible year (the "attributed amounts"),

*Step 5:* deduct from the resulting amount any amounts (other than the relevant loss or any part of it) that fall to be deducted from the attributed amounts in accordance with section 2(5)(aa)(i) (taking account of any previous elections under section 279A).

The amount so found is the first year limit in a case where section 2(5)(aa) applies in relation to the first eligible year.

(5) As respects any later year before the year of the loss, the relevant loss (so far as not previously allowed as a deduction from chargeable gains accruing in any previous year) falls to be deducted in accordance with section 2(2)(b) only if that later year is an eligible year.

(6) The amount of the relevant loss that falls to be deducted from chargeable gains of that later eligible year in accordance with section 2(2)(b) is limited to the amount (the "later year limit") in respect of which the taxpayer would be chargeable to capital gains tax for that later year—

(a) on the assumption in subsection (7) below,

(b) taking account of any previous elections under section 279A, and

(c) apart from the provisions specified in subsection (8) below.

(7) The assumption is that no part of—

(a) the relevant loss, or

(b) any loss in respect of which an election under section 279A may be, but has not been, made,

falls to be deducted, in consequence of an election under section 279A, from any chargeable gains accruing to the taxpayer in that later eligible year.

The assumption falls to be made immediately after the making of the election in respect of the relevant loss.

(8) The provisions are—

(a) section 2(5)(a)(ii) (taper relief),

(b) section 2(5)(aa)(ii) (taper relief),

(c) section 2(5)(b) (addition of certain amounts treated as amounts of chargeable gains), and

(d) section 2A (taper relief),

except that paragraphs (b) and (d) above are not to affect the operation of section 2(7) for the purposes of subsection (6) above.

(9) All such adjustments shall be made, whether by discharge or repayment of tax, the making of assessments or otherwise, as are required to give effect to the election under section 279A made by the taxpayer for the relevant loss to be treated as accruing in an earlier year in accordance with this section.

(10) Any reference in this section or section 279D to deduction in accordance with section 2(2)(a), section 2(2)(b) or section 2(2) includes a reference to such deduction by virtue of section 2(5)(a)(i) or (aa)(i).

### 279D Elections under section 279A

(1) An election under section 279A is irrevocable.

(2) Any election under that section must be made by giving a notice in accordance with this section.

(3) The notice must be given to an officer of the Board.

(4) Subsections (5) to (8) below have effect in relation to the notice given by the taxpayer in respect of the relevant loss.

(5) The notice must specify each of the following—

(a) the amount of the relevant loss;

(b) the right disposed of;

(c) the year of the right's disposal;

(d) the year of the loss (if different from the year of the right's disposal);

(e) the year in which the right was acquired;

(f) the original asset or assets.

(6) The notice must also specify each of the following—

(a) the eligible year in which the relevant loss is to be treated in accordance with section 279C(2) as accruing to the taxpayer;

(b) the first year limit (see section 279C(3) and (4));

(c) how much of the relevant loss falls to be deducted in accordance with section 2(2)(a) from chargeable gains accruing to the taxpayer in that year.

(7) If, in accordance with section 279C, any part of the relevant loss falls to be deducted in accordance with section 2(2)(b) from chargeable gains accruing to the taxpayer in any later eligible year, the notice must also specify—

(a) each such year;

(b) in the case of each such year, the later year limit (see section 279C(6));

(c) how much of the relevant loss falls to be deducted in accordance with section 2(2)(b) in each such year from chargeable gains accruing to the taxpayer in that year.

(8) The notice must be given on or before the first anniversary of the 31st January next following the year of the loss.

(9) An election under section 279A is made on the date on which the notice of the election is given.

(10) Different notices must be given in respect of different losses.

(11) Where a person makes two or more elections under section 279A on the same day, the notices must specify the order in which the elections are made.

(12) For the purposes of any provisions of sections 279A to 279C whose operation is affected by the order in which any elections under section 279A are made, elections made by a person on the same day shall be treated as made at different times and in the order specified in accordance with subsection (11) above.".

(2) Where—

(a) on the disposal of a right to which section 279A of the Taxation of Chargeable Gains Act 1992 (c. 12) applies, an allowable loss would, apart from section 279C of that Act, accrue to a person in any year of assessment,

(b) an election is made under section 279A of that Act for the loss to be treated as accruing in an earlier year in accordance with section 279C, and

(c) the right is an earn-out right, within the meaning of section 138A of that Act, which was conferred before 10th April 2003,

no election may be made under section 138A of that Act (election for earn-out right to be treated as security etc) in respect of the right, whether at the same time as the election under section 279A or subsequently.

(3) The amendment made by subsection (1) has effect in relation to allowable losses that would, apart from that amendment, accrue on or after 10th April 2003.

For this purpose, losses that would, apart from that amendment, be treated by virtue of section 10A of the Taxation of Chargeable Gains Act 1992 as accruing in the year 2003-04 shall be treated as so accruing on or after 10th April 2003.

(4) Subsection (2) shall be deemed to have come into force on 10th April 2003.

## 163 Transfers of value: attribution of gains to beneficiaries

(1) For section 85A of the Taxation of Chargeable Gains Act 1992 (c. 12) substitute—

"**85A Transfers of value: attribution of gains to beneficiaries and treatment of losses**

(1) Schedule 4C to this Act has effect with respect to the attribution of gains to beneficiaries where there has been a transfer of value to which Schedule 4B applies.

(2) Sections 86A to 95 have effect subject to the provisions of Schedule 4C.

(3) No account shall be taken of any chargeable gains or allowable losses accruing by virtue of Schedule 4B in computing the trust gains for a year of assessment in accordance with sections 87 to 89, except in computing for the purposes of paragraph 7A(2) of Schedule 4C the amount on which the trustees would have been chargeable to tax under section 2(2) if they had been resident or ordinarily resident in the United Kingdom.

(4) No account shall be taken of any chargeable gains or allowable losses to which sections 87 to 89 apply in computing the gains or losses accruing by virtue of Schedule 4B.".

(2) Schedule 4C to that Act (transfers of value: attribution of gains to beneficiaries) is amended in accordance with Schedule 29 to this Act.

(3) In section 90 of that Act (transfers between settlements), for subsection (5) substitute—

"(5) This section does not apply—

(a) to a transfer to which Schedule 4B applies, or

(b) to gains to which Schedule 4C applies (that is, to "Schedule 4C gains" within the meaning of that Schedule).".

(4) The following provisions have effect with respect to the coming into force of the amendments made by this section and Schedule 29—

(a) the amendments apply where the trustees of a settlement have made a transfer to which Schedule 4B applies at any time on or after 21st March 2000;

(b) where there has been a transfer of value to which Schedule 4B applies before 9th April 2003, the transferor settlement shall be treated as having a Schedule 4C pool as from that date containing such Schedule 4C gains as would fall to be included in the pool if—

(i) a year of assessment had ended with 8th April 2003, and

(ii) the reference in paragraph 1(2)(b) of Schedule 4C as amended to the end of the year of assessment in which the transfer of value was made were to that date;

(c) where a transferor settlement ceased to exist on or after 21st March 2000 and before 9th April 2003, Schedule 4C as amended applies as if it had ceased to exist on 8th April 2003 (so that paragraph (b) above applies);

(d) so much of Schedule 4C as amended as provides—

(i) that gains treated as accruing to beneficiaries who are not chargeable to tax are treated as outstanding section 87/89 gains, or

(ii) that gains in a settlement's Schedule 4C pool are not to be treated as accruing to such beneficiaries,

applies only in relation to capital payments made on or after 9th April 2003;

(e) gains included in a settlement's Schedule 4C pool by virtue of paragraph 1(2)(b) of that Schedule as amended shall only be attributed in accordance with the provisions of that Schedule to beneficiaries who receive capital payments on or after 9th April 2003.

(5) Paragraph 8A(3) and (4) of Schedule 4C, inserted by paragraph 4 of Schedule 29 to this Act, applies only where the transfer referred to in that provision occurs on or after 9th April 2003.

(6) Expressions used in subsection (4) that are defined for the purposes of Schedule 4C to the Taxation of Chargeable Gains Act 1992 (c. 12) as amended by Schedule 29 to this Act have the same meaning as in that Schedule.

*Capital allowances and related matters*

## 164 Avoidance affecting proceeds of balancing event

(1) In Chapter 5 of Part 12 of the Capital Allowances Act 2001 (c. 2) (miscellaneous supplementary provisions), after section 570 insert—

*"Anti-avoidance*

### 570A Avoidance affecting proceeds of balancing event

(1) This section applies where an event occurs in relation to an asset (a "balancing event") as a result of which a balancing allowance would (but for this section) fall to be made to a person ("the taxpayer") under Part 3, 4, 4A, 5 or 10.

(2) The taxpayer is not entitled to any balancing allowance if, as a result of a tax avoidance scheme, the amount to be brought into account as the proceeds from the event is less than it would otherwise have been.

(3) In subsection (2) a "tax avoidance scheme" means a scheme or arrangement the main purpose, or one of the main purposes, of which is the obtaining of a tax advantage by the taxpayer.

(4) Where this section applies to deny a balancing allowance, the residue of qualifying expenditure immediately after the balancing event is nevertheless calculated as if the balancing allowance had been made.

(5) In this section as it applies for the purposes of Part 5 (mineral extraction allowances)—

(a) the references to the proceeds from the balancing event that are to be brought into account shall be read as references to the disposal value to be brought into account, and

(b) the reference to the residue of qualifying expenditure shall be read as a reference to the unrelieved qualifying expenditure.".

(2) This section applies in relation to any balancing event (within the meaning of section 570A, inserted by subsection (1) above) occurring on or after 27th November 2002, except where the event—

(a) occurs in pursuance of a contract entered into before that date, and

(b) does not occur in consequence of the exercise on or after that date of an option, right of pre-emption or similar right.

### 165 Extension of first-year allowances for ICT expenditure by small enterprises

In section 45(1) of the Capital Allowances Act 2001 (c. 2) (ICT expenditure incurred by small enterprises: first-year qualifying expenditure), in paragraph (a) (under which the expenditure must be incurred on or before 31st March 2003) for "31st March 2003" substitute "31st March 2004".

### 166 Expenditure on software for sub-licensing

(1) Section 45 of the Capital Allowances Act 2001 (first-year allowances for ICT expenditure incurred by small enterprises) is amended as follows.

(2) In subsection (1)(d) (expenditure must not be excluded by general exclusions in section 46) at the end insert "or subsection (4) below".

(3) After subsection (3) insert—

"(4) Expenditure on an item within Class C is not first-year qualifying expenditure under this section if the person incurring it does so with a view to granting to another person a right to use or otherwise deal with any of the software in question.".

(4) This section applies in relation to expenditure incurred on or after 26th March 2003.

### 167 First-year allowances for expenditure on environmentally beneficial plant or machinery

Schedule 30 to this Act (first-year allowances for expenditure on environmentally beneficial plant or machinery) has effect in relation to expenditure incurred on or after 1st April 2003.

### 168 Relief for research and development

(1) Schedule 31 to this Act (which makes amendments relating to relief for expenditure on research and development) shall have effect.

(2) In that Schedule—

Part 1 amends Schedule 20 to the Finance Act 2000 (c. 17) (relief for small and medium-sized enterprises);

Part 2 amends Part 1 of Schedule 12 to the Finance Act 2002 (c. 23) (relief for large companies);

Part 3 amends Part 2 of that Schedule (work sub-contracted to small or medium-sized enterprise);

Part 4 inserts a new Part 2A into that Schedule (entitlement of small or medium-sized enterprise to additional relief available to large companies in respect of subsidised expenditure);

Part 5 makes supplementary amendments to Parts 3 to 6 of that Schedule; and

Part 6 amends Schedule 13 to the Finance Act 2002 (expenditure on vaccine research etc).

(3) Except as provided by subsection (4)—

(a) the amendments made by Parts 1 and 6 of Schedule 31 have effect in relation to expenditure incurred on or after the appointed day, and

(b) the amendments made by Parts 2 to 5 of that Schedule have effect in relation to expenditure incurred on or after 9th April 2003.

(4) The exceptions are that—

(a) the amendments made by paragraphs 2 and 3 in Part 1 have effect for accounting periods beginning on or after the appointed day;

(b) in the application of paragraph 5 of Schedule 20 to the Finance Act 2000 (c. 17) (staffing costs) for any purpose of Schedule 12 to the Finance Act 2002 (c. 23) by virtue of paragraph 17(b) of that Schedule (meaning of "staffing costs"), the amendments made by paragraph 5 in Part 1 of Schedule 31 to this Act (persons partly engaged directly and actively in R&D) have effect in relation to expenditure incurred on or after 9th April 2003;

(c) the amendments made by paragraph 6 in Part 1 (qualifying expenditure on externally provided workers), in their application by virtue of paragraph 19 in Part 5 (application for purposes of Schedule 12 to the Finance Act 2002 (c. 23)), have effect in relation to expenditure incurred on or after 9th April 2003;

(d) the amendments made by—

(i) paragraph 9 in Part 2,

(ii) paragraphs 12 and 13 in Part 3, and

(iii) paragraph 15 in Part 4,

have effect for accounting periods beginning on or after 9th April 2003;

(e) the amendments made by paragraph 21 in Part 6 (reduction of company's required minimum qualifying expenditure in an accounting period from £25,000 etc to £10,000 etc) have effect for accounting periods beginning on or after the appointed day.

(5) In this section the "appointed day" means such day as the Treasury may by order appoint; and different days may be so appointed for different provisions or different purposes.

### 169 Tonnage tax: extension of capital allowance restrictions on lessors of ships

Schedule 32 to this Act (tonnage tax: restrictions on capital allowances for lessors of ships) has effect.

*Life insurance and pensions*

### 170 Insurance companies

Schedule 33 to this Act (which makes provision about the taxation of insurance companies, including companies which have ceased to be insurance companies after a transfer of business) has effect.

### 171 Policies of life insurance etc: miscellaneous amendments

(1) Schedule 34 to this Act (which makes provision relating to Chapter 2 of Part 13 of the Taxes Act 1988) has effect.

(2) In that Schedule—

Part 1 relates to group life policies;

Part 2 relates to charitable and non-charitable trusts;

Part 3 restricts the meaning of "life annuity"; and

Part 4 makes provision for and in connection with the repeal of section 540(2) of the Taxes Act 1988 (rollover of gain on maturity into new policy).

(3) This section and that Schedule shall be deemed to have come into force on 9th April 2003.

### 172 Charges under life insurance policies for exceptional risk of disability

(1) In Schedule 15 to the Taxes Act 1988 (provisions for determining whether an insurance policy is a "qualifying policy")—

(a) in paragraph 12(a) (disregard of so much of premium as is charged on the grounds of exceptional risk of death), and

(b) in paragraph 12(b) (disregard of provision in policy charging, on those grounds, a sum as a debt against capital sum guaranteed on death),

after "death" insert "or disability".

(2) Accordingly, in the heading before paragraph 12 of that Schedule, for "mortality risk" substitute "risk of death or disability".

(3) In paragraph 3 of that Schedule (friendly society policies), omit paragraphs (b)(iii) and (c) of sub-paragraph (8) (which make provision corresponding to paragraph 12(a) and (b) but are unnecessary).

(4) In paragraph 18 of that Schedule (rules about substituted policies applied where policies are varied) insert after sub-paragraph (3)—

"(4) For the purposes of this paragraph there is no variation in the terms of a policy where—

(a) an amount of premium chargeable on the grounds that an exceptional risk of death or disability is involved becomes or ceases to be payable, or

(b) the policy is amended by the insertion, variation or removal of a provision under which, on those grounds, any sum may become chargeable as a debt against the capital sum guaranteed by the policy on death or disability.".

(5) In section 460 of that Act (registered friendly societies: exemption from tax in respect of life or endowment business), in subsection (3)(b) (which makes provision corresponding to paragraph 12(a) of Schedule 15) after "death" insert "or disability".

(6) The amendments made by this section shall be deemed always to have had effect; but this section shall be disregarded to the extent that it would prevent a policy from being a qualifying policy at any time before 9th April 2003.

### 173 Gains on policies of life insurance etc: rate of tax

(1) Schedule 35 to this Act (which makes provision for and in connection with charging certain gains on policies of life insurance etc at the lower rate) has effect.

(2) The amendments made by that Schedule have effect in relation to gains treated as arising under Chapter 2 of Part 13 of the Taxes Act 1988 on the happening of chargeable events on or after 6th April 2004.

### 174 Personal pension arrangements: limit on contributions

(1) In section 640A(1) of the Taxes Act 1988 (personal pension arrangements: the earnings cap), for "for the purposes of section 640 above" substitute "for the purposes of section 638 or 640 above".

(2) In determining "the permitted maximum" for the purposes of any provision of an existing approved scheme designed to meet the requirements of section 638(3) of that Act (maximum annual amount of contributions), a member's net relevant earnings for the year shall be taken to be the amount of his net relevant earnings after applying section 640A (the earnings cap).

An "existing approved scheme" means a personal pension scheme approved under Chapter 4 of Part 14 of that Act before 9th April 2003.

(3) In section 641A(1) of that Act (election for contributions to be treated as paid in previous year), for "A person who pays a contribution under approved personal pension arrangements" substitute "An individual who under approved personal pension arrangements made by him pays a contribution".

(4) This section has effect in relation to contributions paid on or after 9th April 2003.

*Miscellaneous*

### 175 Payments to adopters

(1) After section 327 of the Taxes Act 1988 insert—

"**327A Payments to adopters**

(1) The following payments shall not be treated as income for any purpose of the Income Tax Acts—

(a) any payment or reward falling within section 57(3) of the Adoption Act 1976 (payments authorised by the court) which is made to a person who has adopted, or intends to adopt, a child;

(b) payments under section 57(3A)(a) of that Act (payments by adoption agencies of legal or medical expenses of persons seeking to adopt);

(c) payments of allowances under regulations under section 57A of that Act (permitted allowances to persons who have adopted, or intend to adopt, children) (as at 9th April 2003, see the Adoption Allowance Regulations 1991);

(d) any payment or reward falling within section 51(3) of the Adoption (Scotland) Act 1978 (payments authorised by the court) which is made to a person who has adopted, or intends to adopt, a child;

(e) payments under section 51(4)(a) of that Act (payments by adoption agencies of legal or medical expenses of persons seeking to adopt);

(f) payments of allowances by virtue of section 51B of that Act (transitional provisions) in accordance with a scheme approved by the Secretary of State under section 51(5) of that Act (schemes for payment of allowances to persons who have adopted, or intend to adopt, a child);

(g) payments of allowances in accordance with an adoption allowances scheme under section 51A of that Act;

(h) any payment or reward falling within Article 59(2)(b) of the Adoption (Northern Ireland) Order 1987 (payments authorised by the court) which is made to a person who has adopted, or intends to adopt, a child;

(i) any payment under Article 59(2)(c) of that Order (payments by registered adoption societies) which is made to a person who has adopted, or intends to adopt, a child;

(j) payments of allowances under regulations under Article 59A of that Order (permitted allowances to persons who have adopted, or intend to adopt, children) (as at 9th April 2003, see the Adoption Allowance Regulations (Northern Ireland) 1996);

(k) payments of financial support made in the course of providing adoption support services within the meaning of the Adoption and Children Act 2002 (see sections 2(6) and (7) and 4 of that Act);

(l) payments made under regulations under paragraph 3(1) of Schedule 4 to that Act (transitional and transitory provisions: adoption support services).

(2) The Treasury may by order amend this section for the purposes of—

(a) adding a description of payment, or

(b) removing a description of payment if the power to make a payment of that description has been repealed or revoked or has otherwise ceased to be exercisable.".

(2) The amendment made by this section has effect for the year 2003-04 and subsequent years of assessment.

### 176 Foster carers

(1) Schedule 36 to this Act (foster carers) has effect.

(2) This section has effect in relation to the year 2003-04 and subsequent years of assessment.

### 177 Currency contracts and currency options

(1) This section applies in any case where at any time on or after 30th September 2002—

(a) a qualifying company becomes party to a qualifying contract which is a currency contract or currency option, or

(b) the terms of such a qualifying contract held by such a company are varied,

and the conditions in subsection (2) are, or subsequently become, satisfied.

(2) The conditions are that—

(a) in accordance with generally accepted accounting practice, the company in preparing its statutory accounts uses the exchange rate implied by the qualifying contract ("the accounting rate");

(b) there is a difference between the accounting rate and the final payment rate; and

(c) the difference between those exchange rates is more than 1 per cent of the final payment rate.

(3) In subsection (2) "the final payment rate" means the exchange rate found by reference only to the amounts which fall or would, apart from this section and the provisions specified in subsection (4), fall to be regarded for the purposes of subsection (2) or, as the case may be, (7) of section 150 of the Finance Act 1994 (c. 9) as the amounts of the currency to be received, and the currency to be paid in exchange, under the qualifying contract as mentioned in that subsection.

(4) Where this section first applies in relation to the qualifying contract in an accounting period of the company which begins before 1st October 2002 ("the relevant contract period"), the following provisions of the Finance Act 2002 (c. 23), namely—

(a) section 79(1)(b) (repeal of forex),

(b) section 80 and Schedule 24 (corporation tax: currency), and

(c) section 83 and Schedules 26 and 27 (derivative contracts),

shall be taken to have effect in the case of the company, so far as relating to that contract, in relation to that accounting period and any subsequent accounting periods.

(5) Where—

(a) the qualifying contract is a currency contract which arises from the exercise of a currency option which is or was itself a qualifying contract (or a series of such currency options), and

(b) that currency option was entered into or varied on or after 30th September 2002 (or, in the case of a series of currency options, any of them was entered into or varied on or after that date),

the provisions specified in subsection (4) shall be taken to have effect in the case of the company, so far as relating to the currency option (or, in the case of a series of currency options, each of the options entered into or varied on or after 30th September 2002), in relation to the earliest accounting period ("the relevant options period") in which the option (or any of the options) was so entered into or varied and any subsequent accounting periods.

(6) Where the provisions specified in subsection (4) have effect by virtue of this section in relation to a currency contract or currency option the following provisions of the Finance Act 2002, namely—

(a) section 81 (transitional provision), so far as relating to section 80 and Schedule 24, and

(b) Schedule 28 (derivative contracts: transitional provisions etc),

shall have effect accordingly.

(7) In the application of Schedule 28 to the Finance Act 2002 by virtue of this section, any reference to the company's commencement day is to be taken—

(a) in the case of a currency contract, as a reference to the first day of the relevant contract period; or

(b) in the case of a currency option, as a reference to the first day of the relevant options period.

(8) This section does not apply in relation to any contract entered into or varied in an accounting period beginning on or after 1st October 2002 unless the contract arises from the exercise of a currency option which was entered into or varied on or after 30th September 2002 and in an accounting period beginning on or before that date.

(9) In this section the following expressions, namely—

(a) qualifying company,

(b) qualifying contract,

(c) currency contract,

(d) currency option,

have the same meaning as in Chapter 2 of Part 4 of the Finance Act 1994 (c. 9), (disregarding for this purpose the provisions specified in subsection (4)) and references to the exercise of an option shall be construed accordingly.

(10) In this section "statutory accounts" has the meaning given by paragraph 52 of Schedule 26 to the Finance Act 2002 (c. 23).

(11) This section shall be deemed to have come into force on 30th September 2002.

## 178 Loan relationships: amendments

Schedule 37 to this Act (which makes amendments in relation to loan relationships) has effect.

## 179 Derivative contracts: transactions within groups

(1) In paragraph 28 of Schedule 26 to the Finance Act 2002 (c. 23), in sub-paragraph (3)(a) (credits and debits to be brought into account: disregard of the transaction or series of transactions except for certain purposes) after "except" insert—

"(i) for the purpose of determining the credits and debits to be brought into account in respect of exchange gains or losses and identifying the company which is to bring them into account, or

(ii)".

(2) In sub-paragraph (3)(b) of that paragraph (transferor and transferee deemed to be the same person, except for that purpose) for "that purpose" substitute "those purposes".

(3) For sub-paragraph (4) of that paragraph substitute—

"(4) References in this paragraph to one company replacing another as party to a derivative contract shall include references to a company becoming party to any derivative contract which—

(a) confers rights or imposes liabilities, or

(b) both confers rights and imposes liabilities,

where those rights or liabilities, or rights and liabilities, are equivalent to those of the other company under a derivative contract to which that other company has previously ceased to be party.".

(4) For paragraph 30 of that Schedule (amount to be brought into account on transaction within a group where transferor uses mark to market basis of accounting) substitute—

"30 (1) Paragraph 28 does not apply where the transferor company uses an authorised mark to market basis of accounting as respects the derivative contract in question, but in any such case—

(a) the amount to be brought into account by the transferor company in respect of the transaction referred to in that paragraph, or

in respect of the series of transactions there referred to, taken together, must be the fair value of the derivative contract as at the date of transfer to the transferee company; and

(b) the amount to be brought into account by the transferee company in respect of the transaction referred to in that paragraph, or in respect of the series of transactions there referred to, taken together, must be the same as the amount brought into account by the transferor company in respect of that transaction or, as the case may be, that series of transactions, taken together.

(2) In this paragraph "transferor company" and "transferee company" have the same meaning as in paragraph 28.".

(5) The amendments made by this section have effect where the date of transfer to the transferee company falls on or after 9th April 2003.

## 180 Contributions to urban regeneration companies

(1) After section 79A of the Taxes Act 1988 (contributions to training and enterprise councils and local enterprise companies) insert—

"**79B Contributions to urban regeneration companies**

(1) Notwithstanding anything in section 74, but subject to the provisions of this section, where a person carrying on a trade, profession or vocation makes any contribution (whether in cash or in kind) to a designated urban regeneration company, any expenditure incurred by him in making the contribution may be deducted as an expense in computing the profits of the trade, profession or vocation if it would not otherwise be so deductible.

(2) Where any such contribution is made by an investment company, any expenditure allowable as a deduction under subsection (1) above shall for the purposes of section 75 be treated as expenses of management.

(3) Subsection (1) above does not apply in relation to a contribution made by any person if either he or any person connected with him receives or is entitled to receive a benefit of any kind whatsoever for or in connection with the making of that contribution, whether from the urban regeneration company concerned or from any other person.

(4) In any case where—

(a) relief has been given under subsection (1) above in respect of a contribution, and

(b) any benefit received in any chargeable period by the contributor or any person connected with him is in any way attributable to that contribution,

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

(5) In this section "urban regeneration company" means any body of persons (whether corporate or unincorporate) which the Treasury by order designates as an urban regeneration company for the purposes of this section.

(6) The Treasury may only make an order under subsection (5) above designating a body as an urban regeneration company for the purposes of this section if they consider that each of the criteria in subsection (7) below is satisfied in the case of the body.

(7) The criteria are that—

(a) the sole or main function of the body is to co-ordinate the regeneration of a specific urban area in the United Kingdom;

(b) the body is expected to seek to perform that function by creating a plan for the development of that area and endeavouring to secure that the plan is carried into effect;

(c) in co-ordinating the regeneration of that area, the body is expected to work together with some or all of the public or local authorities which exercise functions in relation to the whole or part of that area.

(8) An order under subsection (5) above may be framed so as to take effect on a date earlier than the making of the order, but not earlier than—

(a) 1st April 2003, in the case of the first order under that subsection, or

(b) three months before the date on which the order is made, in the case of any subsequent order.

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

(10) This section applies to contributions made on or after 1st April 2003.".

(2) In section 828(4) of the Taxes Act 1988 (orders or regulations under specified provisions not to be subject to Commons negative resolution parliamentary procedure) after "section 1(6)," insert "79B(5),".

### 181 Repos etc

Schedule 38 to this Act (which contains amendments relating to arrangements for the sale and repurchase of securities etc) has effect.

### 182 Relevant discounted securities: withdrawal of relief for costs and losses, etc

Schedule 39 to this Act (relevant discounted securities: withdrawal of relief for costs and losses, and extension of definition of "strip") has effect.

### 183 Court common investment funds

(1) Section 469A of the Taxes Act 1988 (court common investment funds) is amended as follows.

(2) In paragraph (c) of subsection (1) (persons entitled as against the Accountant General to share in fund's investments treated as unit holders in authorised unit trust) for "the persons whose interests entitle them, as against the Accountant General, to share in the fund's investments" substitute "the persons with qualifying interests".

(3) After that subsection insert—

"(1A) For the purposes of subsection (1)(c) above, the persons with qualifying interests are—

(a) in relation to shares in the fund held by the Accountant General, the persons whose interests entitle them, as against him, to share in the fund's investments;

(b) in relation to shares in the fund held by any other person authorised by the Lord Chancellor to hold such shares on behalf of others (an "authorised person")—

(i) if there are persons whose interests entitle them, as against the authorised person, to share in the fund's investments, those persons;

(ii) if not, the authorised person;

(c) in relation to shares in the fund held by persons authorised by the Lord Chancellor to hold such shares on their own behalf, those persons.".

(4) This section has effect in relation to income arising to a common investment fund on or after 6th April 2003.

(5) In this section "common investment fund" means a common investment fund established under section 42 of the Administration of Justice Act 1982 (c. 53).

### 184 Intangible fixed assets: tax avoidance arrangements and related parties

(1) Schedule 29 to the Finance Act 2002 (c. 23) (gains and losses of a company from intangible fixed assets) is amended as follows.

(2) In paragraph 111 (tax avoidance arrangements to be disregarded)—

(a) in sub-paragraph (1) for the words following "in determining" substitute "whether a debit or credit is to be brought into account under this Schedule or the amount of any such debit or credit", and

(b) in sub-paragraph (2)—

(i) for "under paragraph 9" in paragraph (a), and

(ii) for "under Part 4" in paragraph (b),

substitute "under this Schedule".

(3) In paragraph 95(1) (cases in which persons are "related parties") at the end add—

*"Case Four*

P is a company and C is another company in the same group."

(4) The amendments in this section—

(a) have effect in relation to the debits or credits to be brought into account for accounting periods beginning on or after 20th June 2003, and

(b) in relation to the debits or credits to be brought into account for any such period shall be deemed always to have had effect.

(5) For this purpose an accounting period beginning before, and ending on or after, that date is treated as if so much of that period as falls before that date, and so much of that period as falls on or after that date, were separate accounting periods.