These notes refer to the Income Tax (Trading and Other Income) Act 2005 (c.5) which received Royal Assent on 24 March 2005

INCOME TAX (TRADING AND OTHER INCOME) ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6: Exempt income

Overview

2645. This Part groups all of the sections which provide exemption for income otherwise charged to income tax by this Act. A signpost in each charging section points the user to the main exemptions from that particular charge contained in this Part.

2646. For the most part each Chapter in this Part relates to a particular type of income but there are also Chapters that deal with exemptions relevant to certain types of annual payment and to miscellaneous other income.

2647. The exemptions, where relevant, apply to both United Kingdom and foreign income unless one of these kinds of income is expressly excluded in the section.

2648. The wording of the exemption sections follows the “no liability approach” adopted in ITEPA.

Chapter 1: Introduction

Section 690: Overview of Part 6

2649. This section lists the Chapters in this Part. These provide for exemption from income tax for:

- National savings income (Chapter 2);
- Income from individual investment plans (Chapter 3);
- SAYE interest (Chapter 4);
- Venture capital trust dividends (Chapter 5);
- Income from FOTRA securities (Chapter 6);
- Purchased life annuity payments (Chapter 7);
- Other annual payments (Chapter 8); and
- Other income (Chapter 9).

2650. *Subsection (3)* explains the purpose of Chapter 10 (general). This Chapter provides that any exemption in this Part, unless there is specific provision to the contrary, is disregarded for all income tax purposes.

2651. S*ubsection (4)* indicates that there are exemptions in other Acts relating to particular categories of person which could be relevant to the charges in this Act. For example see section 505 of ICTA which provides a general exemption for charities.

2652. *Subsection (5)* explains that the exemptions in this Act may apply, where relevant, to charges outside this Act.

Chapter 2: National savings income

Overview

2653. This Chapter deals with the exemptions from income tax relating to National Savings Bank ordinary account interest and income from savings certificates (including Ulster Savings Certificates).

Section 691: National Savings Bank ordinary account interest

2654. This section is based on section 325 of ICTA, which exempts from income tax the first £70 of interest on National Savings Bank ordinary account deposits arising in a tax year. The exemption, which is not available for interest on National Savings Bank investment account deposits, applies only to interest of individuals. Although the interest is exempt from income tax, certain returns of information may need to be made in respect of it (for example, information returns by the National Savings Bank under section 17 of TMA – see section 783(2) of this Act).

2655. It has not been possible to open a National Savings Bank ordinary account since 28 January 2004. And since 31 July 2004, existing ordinary account customers will not be able to transact on their accounts, unless it is to close the account or transfer into an Easy Access savings account. Even though the ordinary account has closed, any money which is left dormant in these accounts will continue to earn interest. The first £70 of interest for each tax year will still be tax free and customers will be able to come forward at any time to claim their money. So the tax exemption contained in this section will be needed for the foreseeable future.

2656. Two minor changes have been made to the wording of section 325 of ICTA. These are:

- to remove the reference to “total income” (which dates back to the days of surtax) as it is no longer relevant to this particular section; and
- to remove the reference to investment accounts and make it clearer that the exemption applies only to ordinary account interest.

2657. *Subsection (2)* makes it clear that a charge to income tax does apply where the interest exceeds £70 in a tax year. But the charge is only on the excess of the interest over £70 in the tax year.

Section 692: Income from savings certificates

2658. This section provides an exemption for income from savings certificates, provided that the holding of savings certificates is within specified limits. Income from any certificates purchased or held in excess of these limits is chargeable to tax. The section is based on section 46 of ICTA (excluding section 46(2) of ICTA which relates to Tax Reserve Certificates and is dealt with in section 750 of this Act).

2659. Most income from savings certificates would otherwise be taxable under the charge to tax on interest. However, income from certain savings certificates falls within the charge on profits from deeply discounted securities. This exemption therefore applies to income chargeable under both Chapters 2 and 8 of Part 4 of this Act.

2660. The detailed rules governing these certificates, including the maximum holding limits, are in regulations. The source legislation refers to the limits in terms of purchase by, or on behalf of, an individual. This could be confusing for situations such as joint ownership or inheritance, where special regulations apply. Also, the regulations are written in terms of a holding limit, but in practice this translates into a prohibition on purchasing in some situations.

2661. *Subsection (2)* avoids this confusion by using "acquisition" rather than purchase and by referring to the regulations as limiting a person's holding, in line with the way the regulations are written.

2662. Although section 46 of ICTA was simply written in terms of certificates, it is possible to purchase multiple certificates. The regulations say that a multiple certificate is to be treated as a number of unit certificates for the purposes of determining whether the holding limit has been exceeded. On a strict reading of section 46 of ICTA none of the income from a multiple certificate which is partially outside the permitted limit would be exempt. The section introduces the words "so far as" in subsection (2) to clarify that the exemption is available for the income from the permitted part of a multiple certificate. In practice section 46 of ICTA was applied in this way. See *Change 112* in Annex 1.

2663. *Subsection (3)* defines savings certificates. It is not possible to define savings certificates by reference to their characteristics; indeed, some savings certificates are not even called savings certificates. The only way of providing a completely accurate definition is by reference to the provisions under which the certificates are issued.

2664. *Subsection (4)* excludes Ulster Savings Certificates from the general definition of savings certificates, and then signposts the special rules for such certificates in section 693. Ulster Savings Certificates have been dealt with in a separate section, so that holders of other savings certificates do not have to work through material which is not relevant for their type of certificate.

Section 693: Income from Ulster Savings Certificates

2665. This section provides an exemption for income from Ulster Savings Certificates, for holdings within specified limits. Income from any certificates purchased or held in excess of these limits is chargeable to tax. The section is based on section 46 of ICTA, which also deals with savings certificates generally (see section 692).

2666. The basic provisions for Ulster Savings Certificates are the same as those for other types of savings certificate, but there are some additional rules. Although Ulster Savings Certificates have not been issued since March 1997, there are still holdings which have not been redeemed. Consequently it is necessary to rewrite this provision to ensure that interest continuing to be paid in respect of these holdings is exempt from income tax.

2667. *Subsections (2)* to *(4)* set out the residence conditions, one of which has to be satisfied in order for the income to qualify for exemption. Subsection (4) enacts ESC A34, which extends the exemption to a repayment made after the death of a holder who had been resident and ordinarily resident at the time the certificates were purchased. See *Change 113* in Annex 1.

2668. *Subsection (5)* uses "acquisition" rather than purchase and refers to a person's holding, in line with the way the regulations are written. In the case of Ulster Savings Certificates, the regulations which limit a person's holding are made by the Department of Finance and Personnel in Northern Ireland, rather than by the Treasury.

2669. Although section 46 of ICTA was simply written in terms of certificates, it is possible to purchase multiple certificates. The regulations say that a multiple certificate is to be treated as a number of unit certificates for the purposes of determining whether the holding limit has been exceeded. On a strict reading of section 46 of ICTA none of the income from a multiple certificate which is partially outside the permitted limit would be exempt. The section introduces the words "so far as" in subsection (5) to clarify that the exemption is available for the income from the permitted part of a multiple certificate. In practice section 46 of ICTA was applied in this way. See *Change 112* in Annex 1.

2670. *Subsection (6)* does not specify that the claim for exemption is to be made to the Board. Section 46(5) of ICTA requires such a claim to be made to the Board but it is not considered necessary for a claim to be made at this level. Section 878(4) of this Act draws attention to the rules in TMA, which apply for the purposes of this Act. Those rules require claims to be made to "an officer of the Board". See *Change 149* in Annex 1.

2671. *Subsection (7)* is based on section 832(1) of ICTA, which provides some general definitions. As these certificates are not mentioned elsewhere in this Act, it is more helpful to incorporate a definition in this section rather than have a general definition elsewhere which applies to the whole Act.

Chapter 3: Income from individual investment plans

Overview

2672. This Chapter gives the powers for regulations on individual investment plans – better known as PEPs and ISAs – to exempt income from tax. The regulations made so far are Personal Equity Plan Regulations (SI 1989/469) and Individual Savings Account Regulations (SI 1998/1870).

Section 694: Income from individual investment plans

2673. This section contains the general powers for the Treasury to make regulations providing for the income of individuals from certain types of investment plan to be exempt from income tax and defines the scope of the exemption. It is based on section 333 of ICTA.

Section 695: Investment plans

2674. This section contains the powers under which regulations may be made to provide rules about the form of the investment plans in which investments are held and about the investments which may be held in them. It is based on section 333 of ICTA.

2675. *Subsections (3)* and *(4)* provide for approval and registration by the Board of Inland Revenue respectively. References to "the Board of Inland Revenue" (rather than to the Inland Revenue) must remain as the power to make regulations is conferred on the Board under the Inland Revenue Regulation Act 1890 and not on the Inland Revenue or its officers.

Section 696: Plan managers

2676. This section contains the powers under which regulations may be made to provide rules for the investments to be held by plan managers on behalf of investors. It is based on section 333 of ICTA.

Section 697: Special requirements for certain foreign managers

2677. This section contains the powers under which regulations may be made to provide rules for foreign institutions to be plan managers if they fulfil certain requirements. It is based on section 333A of ICTA.

2678. *Subsection (2)* defines "foreign institution". Subsection (2)(c) includes non-UK resident insurance companies within the definition. Non-resident insurance companies are now included here rather than in a rewrite of section 333B(4) of ICTA, which provides for regulations to be made about non-resident insurance companies appointing United Kingdom tax representatives. See *Change 114* in Annex 1.

Section 698: Requirements for discharge of foreign institution's duties

2679. This section contains the requirements which have to be fulfilled for a "foreign institution" in section 697 to be a plan manager. It is based on section 333A of ICTA.

Section 699: Non-entitlement to exemption

2680. Under section 694(3) regulations may specify "the description of individuals who may invest" in a plan. This section contains the powers under which regulations may be made to provide rules for an investor in a plan ceasing to be entitled to the exemption from income tax. It is based on section 333 of ICTA.

Section 700: Information

2681. This section contains the powers under which regulations may be made to provide rules for documents and information to be provided within specified time limits to the Inland Revenue by the investor or the plan manager. It is based on section 333(4) of ICTA.

Section 701: General and supplementary powers

2682. This section contains some general powers under which regulations may be made to provide administrative rules. The regulations may specify how the exemption is to be claimed, either by the investor or by the plan manager on behalf of the investor. It is based on section 333 of ICTA.

Chapter 4: SAYE interest

Overview

2683. This Chapter rewrites the exemption for interest arising under certain contractual savings schemes, commonly known as SAYE schemes. The sections are based on section 326 of and Schedule 15A to ICTA and on Schedule 12 to FA 1995.

2684. An eligible employee who is granted options under a *SAYE option scheme* must agree to enter into a *linked savings arrangement* operated either by the National Savings Bank or by an authorised financial institution. Where the Treasury are satisfied that the arrangement is a linked savings arrangement, and meets any appropriate conditions, they certify it. Such an arrangement is called a "certified SAYE savings arrangement".

2685. For the meaning of "SAYE option scheme", see section 516 of and Schedule 3 to ITEPA.

2686. Under a linked savings arrangement, the employee agrees to save a specific amount each month, which may be between £5 and £250. At the end of the contract period (three, five or seven years) the contributions made will be repaid to the employee together with a bonus (based on the length of the contract and the level of contributions made). The employee may then use the money to exercise his or her share options under the SAYE option scheme. If the employee does not complete the contract, the contributions made are repaid together with interest (where this is due). In both cases, providing the institution operating the linked savings arrangement is authorised (where necessary), and the scheme complies with any Treasury requirements regarding certification, the bonus and interest payments are exempt from income tax.

2687. Exemption was also available for interest and bonuses paid under "ordinary" SAYE schemes, which are not share option linked, where the contract was entered into before 1 December 1994. But any contract entered into before that date will have run its course before 2005-06. The transitional provisions in paragraph 7(1) of Schedule 12 to FA 1995 have therefore not been rewritten in this Chapter.

2688. The exemption from tax is set out in section 702. The remainder of the Chapter defines terms and sets out the administrative requirements for linked savings arrangements and for providers of arrangements.

Section 702: Interest under certified SAYE savings arrangements

2689. This section is based on section 326 of ICTA. It introduces the key term "certified SAYE savings arrangement". The definition of that term in section 703 introduces both the various conditions to be met by the savings schemes (and the financial institutions who provide them) and the certification machinery.

2690. *Subsection (3)* qualifies the exemption by reference to:

- the rules in section 707 for authorisation of institutions providing arrangements; and
- a provision in FA 1988 in respect of building societies.

2691. Schedule 12 to FA 1988 contains provisions which apply when the business of a building society is transferred to a company in accordance with the Building Societies Act 1986 (that is, when a building society turns itself into a bank). Paragraph 7 of Schedule 12 to FA 1988 ensures that any interest payable after the transfer continues to be eligible for exemption, notwithstanding the fact that the transfer means the savings arrangement ceases to be a certified SAYE savings arrangement.

2692. *Subsection (4)* defines "interest" for the purposes of the Chapter. Although section 326(1) of ICTA refers to "any terminal bonus, or interest or other sum", in practice only bonuses and interest are payable under SAYE schemes.

2693. It is not clear why the source legislation refers to "other sum". The only other sums involved are contributions returned to the employee. But these are deposits - capital - being returned to an investor and are not themselves taxable. The words "other sum" add nothing to the provision (indeed, they might cause confusion) and are not rewritten.

2694. All bonuses are computed by reference to the level of contribution made by the employee and to the length of the savings contract. Despite the expression "terminal bonuses", a bonus is interest for tax purposes. A separate reference to the terminal bonus might put beyond doubt that the bonus is exempt from tax. But such a reference might also cast doubt on whether the bonus is in fact interest. That would in turn create uncertainty as to how the bonus would be taxed if the SAYE scheme should lose the status necessary for the income from it to qualify for the exemption in section 326 of ICTA. The section therefore simply uses "interest" throughout as including "bonus".

2695. Paragraphs 184(2) and 445(3) of Schedule 1 to this Act follow suit in amending section 477A(4) of ICTA (building societies: regulations for deduction of tax) and section 271(4) of TCGA (other miscellaneous exemptions), both of which refer to the source legislation for these sections.

Section 703: Meaning of "certified SAYE savings arrangement"

2696. This section is based on section 326 of and Schedule 15A to ICTA. It introduces the term "linked savings arrangement", defined in subsection (2). The source legislation refers to "contractual savings schemes" but this is only one of a number of names by which these arrangements are known. As any arrangement entered into since 1994 must be linked to a SAYE option scheme, "linked savings arrangement" reflects the present position.

2697. *Subsection (2)* introduces the various types of arrangement (set out in section 704) and the required link between the savings arrangement and the SAYE option scheme. Paragraphs 139 to 141 of Schedule 2 to this Act preserve the commencement rules for the amendments to this relief introduced by Schedule 12 to FA 1995. Those paragraphs affect what is or is not a certified SAYE savings arrangement.

2698. The definitions in *subsection (3)* are based on terms used and definitions provided by Schedule 15A to ICTA.

Section 704: Types of arrangements and providers

2699. This section sets out what types of arrangement may be linked savings arrangements. It provides definitions of each type of arrangement. These definitions are based on section 326 of and Schedule 15A to ICTA.

2700. *Subsection (1)* indicates that linked saving arrangements are either a “national savings arrangement” (defined in *subsection (2)*), or an “institutional arrangement”, that is, one provided by a financial institution (defined in *subsections (3)* to *(6)*). The main distinction between a national savings arrangement and an institutional arrangement is that the provider of an institutional arrangement must be authorised (see section 707). The Treasury may also impose requirements on an institutional arrangement before they certify it under section 705.

Section 705: Certification of arrangements

2701. This section sets out the administrative provisions for the certification by the Treasury of linked savings arrangements. It also provides the powers for the Treasury to impose further requirements on an institutional arrangement. In practice, this means that arrangements must correspond to the Treasury model scheme for these arrangements. It is based on section 326 of and Schedule 15A to ICTA.

2702. In the source legislation, the power to impose further requirements is in respect of requirements “for the purposes of” section 326 of ICTA. But Schedule 15A to ICTA has “effect for the purposes of section 326” (paragraph 1 of that Schedule), so that the section must be read with the Schedule. This Chapter incorporates both the section and the Schedule, so this section applies the power in respect of requirements for the purposes of the Chapter.

Section 706: Withdrawal and variation of certifications and connected requirements

2703. This section is based on Schedule 15A to ICTA.

Section 707: Authorisation of providers

2704. This section is based on section 326 of and Schedule 15A to ICTA.

Section 708: Withdrawal and variation of authorisations

2705. This section is based on Schedule 15A to ICTA.

Chapter 5: Venture capital trust dividends

Overview

2706. This Chapter rewrites the provisions exempting from income tax dividends from Venture Capital Trusts (“VCTs”). The sections are based on section 332A of and Schedule 15B to ICTA.

2707. The VCT scheme is one of three venture capital schemes (the other two being the Enterprise Investment Scheme and the Corporate Venturing Scheme).

2708. The VCT scheme is aimed at encouraging individuals to invest indirectly in unquoted trading companies. VCTs are companies listed on the London Stock Exchange and are a special type of investment trust approved for the purpose of the VCT scheme by the Inland Revenue.

2709. The exemption from income tax on dividends is one of the benefits of investing in a VCT. Schedule 15B to ICTA sets out the tax relief available on the investment in a VCT and sections 151A and 151B of and Schedule 5C to TCGA give certain reliefs from capital gains tax.

Section 709: Venture capital trust dividends

2710. This section is based on paragraphs 7 and 8 of Schedule 15B to ICTA and sets out the conditions that have to be met in order for a VCT dividend to be exempt from income tax.

2711. Paragraph 7(3)(a) refers to " … a dividend (including a capital dividend) …". This is rewritten simply as "a dividend". Section 209(2) of ICTA, which sets out the meaning of "distribution", also refers to "any dividend paid by the company, including a capital dividend" (see section 209(2)(a) of ICTA). However, the charging provision in the source legislation (see section 20(1) paragraph 1 of ICTA) refers simply to "all dividends and other distributions … which are not specifically excluded from income tax … however they fall to be dealt with in the hands of the recipient". Likewise the rewritten charging provision charges to tax "dividends and other distributions …" (see section 383 of this Act). Given that the charging provision does not specifically refer to capital dividends and an investor is unlikely to know that he or she is receiving a capital dividend, the reference to capital dividends is omitted.

2712. The conditions for exemption relate first to the dividend (*subsection (2)*), then to the investor (*subsection (3)*) and then to the circumstances surrounding the investment (*subsections (4)* to *(7)*).

2713. The exemption applies only to dividends paid on ordinary shares acquired within the annual acquisition limit of £200,000 (see *subsection (4)*). The value applied is market value as defined in section 272 and 273 of TCGA (see *subsection (8)*).

2714. The condition contained in subsection (6) is based on paragraph 7(3)(a)(ia) of Schedule 15B to ICTA which was inserted by FA 1999. The condition applies only to acquisitions made on or after 9 March 1999 (see *subsection (1)(b)*). Subsection (7) confirms that shares not acquired for genuine commercial reasons are not treated as using part of the annual acquisition limit whether those shares were acquired before or after 8 March 1999. Prior to the FA 1999 amendments, such shares were not "relevant acquisitions". Following the FA 1999 amendments, dividends paid on such shares cannot qualify for exemption and therefore the shares are disregarded for the purposes of determining whether the annual acquisition limit has been exceeded.

Section 710: Treatment of shares where annual acquisition limit exceeded

2715. This section is based on paragraph 8 of Schedule 15B to ICTA and provides an ordering rule to determine which shares are treated as within the annual acquisition limit (referred to as "exempt shares") if that limit is exceeded in a tax year.

2716. *Subsection (2)* provides the basic rule, that shares are treated as exempt shares if immediately after their acquisition the annual limit is not exceeded.

2717. *Subsection (4)* deals with the situation where the limit is exceeded on a day in which shares of different descriptions are acquired. In that case the appropriate proportion of shares of each description are treated as exempt shares.

Section 711: Identification of shares after disposals

2718. This section is based on paragraph 8 of Schedule 15B to ICTA and sets out the share identification rules for disposals of shares in a VCT.

2719. The first rule (*subsection (1)*) provides the assumption that non-VCT shares are disposed of before VCT shares.

2720. The second rule (*subsection (2)*) applies if the annual acquisition limit is exceeded and some shares are disposed of. Clearly an investor will want to know whether the shares falling within the annual acquisition limit are disposed of or whether the other shares (referred to as "excess shares") are disposed of. The section sets out the assumptions to apply. Shares acquired on an earlier day are treated as disposed of before shares acquired on a later day (see *subsection (3)*). If the shares are acquired on the same day, excess shares are treated as disposed of first (see *subsection (4)*).

2721. *Subsection (5)* is based on section 60 of TCGA, incorporating the rule relating to acquisitions and disposals by a person's nominee, and acquisitions and disposals between a person and his nominee.

Section 712: Identification of shares after reorganisations etc.

2722. This section deals with the identification of shares following a reorganisation etc, for example, where there has been a bonus issue of shares or where there has been an issue of shares falling within section 135 or 136 TCGA. It is based on paragraph 8(3) and (4) of Schedule 15B to ICTA and sets out three rules.

2723. The first rule (*subsection (2)*), is that any "new shares" acquired as a result of the reorganisation etc. are treated as satisfying the conditions for exempt shares set out in section 709(4) and, if relevant, section 709 (6), if the "old shares" satisfied those conditions. Dividends paid in respect of the new shares therefore qualify for the income tax exemption under this Chapter.

2724. The condition in section 709(6) relates to shares acquired on or after 9 March 1999. If the "old shares" were acquired before 9 March 1999 the new shares do not need to satisfy the condition in section 709(6). The source legislation refers only to the new shares being treated as satisfying the annual acquisition condition. See *Change 115* in Annex 1.

2725. The second rule (*subsection (3)*) is that if only a proportion of the "old shares" met the condition about the annual acquisition limit or the commercial reasons test then only the corresponding proportion of the "new shares" are treated as doing so. It follows that the remainder of the new shares are treated as not doing so. So dividends paid in respect of those shares would not qualify for the income tax exemption under this Chapter.

2726. The source legislation is silent as to whether "new shares" in excess of that corresponding proportion ("excess new shares") get another chance to qualify as exempt shares if any of the current year's annual acquisition limit remains available.

2727. For example, in the tax year in which the "new shares" are issued (say with a value of £150,000 of which £100,000 qualify under the corresponding proportion rule) further shares are acquired to a value of say £100,000. The issue is whether the £50,000 new shares which did not qualify under the corresponding proportion rule can be treated as falling within the annual acquisition limit because £100,000 of the current year's annual acquisition limit remains available.

2728. Paragraph 8(4)(a) of Schedule 15B to ICTA ensures that the excess new shares are disregarded in determining whether acquisitions, made during the same tax year as the excess new shares are issued, come within the annual acquisition limit. The position of the excess new shares is dealt with solely under paragraph 8(4)(b) of Schedule 15B to ICTA. That sets out the extent the new shares are to be treated as acquired within the permitted maximum by reference to the status of the shares from which they are derived, that is, the proportionate basis. If they do not qualify under that provision, they do not qualify at all.

2729. It is not thought to be the intention of the legislation that excess new shares should have a second chance of being treated as falling within the permitted maximum. So subsection (3) provides explicitly that the remaining new shares are not treated as meeting the conditions to qualify for the income tax exemption. This is implied but not expressly stated in the source legislation.

2730. The third rule (s*ubsection (4))* provides that the new shares are ignored in determining whether other shares acquired in the same tax year qualify for the income tax exemption.

Chapter 6: Income from FOTRA securities

Overview

2731. This Chapter provides for exemption from income tax in respect of United Kingdom government securities which are beneficially owned by persons who are not resident in the United Kingdom. Such securities are described as being "Free of Tax to Residents Abroad" or "FOTRA securities". The sections are based on section 154 of FA 1996 and section 161 of FA 1998.

2732. The beneficial owner of a FOTRA security may be entitled to an exemption from income tax in any of the following three situations:

- a person holding the security as an investment may be exempt from tax on the interest arising on the security;
- a dealer holding the security in circumstances where a profit on sale would be regarded as a trading receipt may be exempt from tax on the interest arising on the security; or
- a dealer holding the security in circumstances where a profit on sale would be regarded as a trading receipt may be exempt from tax on the profit arising from a purchase and sale of the security.

2733. It is not intended to rewrite section 22(1) of F(No 2)A 1931, section 60(1) of FA 1940 or section 154(1) of FA 1996. These provisions all concern the Treasury's powers to issue securities. The first two provisions were left untouched in the 1952, 1970 and 1988 consolidations. (Section 47 of Finance (No 2) Act 1915 was repealed in 1927, but in terms to the effect that the repeal did not affect income tax exemptions attaching to securities previously issued.)

Section 713: Introduction: securities free of tax to residents abroad ("FOTRA securities")

2734. This section sets out the scope of the Chapter. It is based on section 154(8) of FA 1996 and section 161 of FA 1998.

2735. *Subsection (2)* sets out the three different classes of FOTRA securities. Each class of FOTRA security has its own distinct rules.

2736. *Subsection (3)* to *(6)* define the term "the exemption condition" used in this Chapter. There are different definitions for each of the three classes of FOTRA securities in subsection (2).

Section 714: Exemption of profits from FOTRA securities

2737. This section sets out the conditions that must all be met if the exemption is to apply. It is based on section 154 of FA 1996. As the exemption can apply, in certain circumstances, to trading income as well as to interest (see overview to this Chapter), the general word "profits" has been used in *subsection (1)* rather than a more limited word such as "interest".

2738. *Subsection (6)* deals with two exceptions from the general exemption in subsection (1). These exceptions apply whatever the exemption condition relating to the FOTRA security provides.

Section 715: Interest from FOTRA securities held on trust

2739. This section reflects an Inland Revenue practice to regard the interest from a FOTRA security held in trust as exempt (and the beneficial ownership test in the exemption condition as satisfied) where none of the beneficiaries of the trust is ordinarily resident in the United Kingdom at the time when the interest arises. See *Change 116* in Annex 1. It is new. The section refers to "interest" and not "profits" because this reflects the Inland Revenue practice. It is not likely that trading profits or any other kind of income (apart from interest) could arise in respect of FOTRA securities held in trust.

Section 716: Restriction on deductions etc. relating to FOTRA securities

2740. This section prevents a deduction relating to a FOTRA security being taken into account for income tax purposes where the beneficial owner is exempt from tax. It is based on section 154(6) of FA 1996.

Chapter 7: Purchased life annuity payments

Overview

2741. This Chapter rewrites the purchased life annuity provisions in sections 656 to 658 of ICTA.

2742. Early case law established that the whole of an annuity payment received by an annuitant is chargeable to income tax (see, for example, the speech of the Lord President (Inglis) in Coltness Iron Co v Black (1881), 1 TC 287, 308, HL, which was cited with approval by Lord Wilberforce in CIR v Church Commissioners for England (1976), 50 TC 516, 566) HL. So there was a contrast between income tax law (where the whole of the payment is regarded as taxable income) and the commercial world (where a part of the payment is regarded as a return of capital).

2743. In 1954 the Report of the Committee on the Taxation Treatment of Provisions for Retirement (Cmd. 9063) recommended changing the law so that only the income element in an annuity payment should be charged to income tax. Sections 27 and 28 of FA 1956 therefore provided for purchased life annuities to be regarded as containing both an income element (chargeable to income tax) and a capital element (not chargeable to income tax). The 1956 legislation, with subsequent amendments, appears in the source legislation as sections 656 to 658 of ICTA.

2744. Section 656(1) of ICTA provides:

> "…a purchased life annuity shall, for the purposes of the provisions of the Tax Acts relating to tax on annuities and other annual payments, be treated as containing a capital element and, to the extent of that capital element, as not being an annual payment or in the nature of an annual payment; but the capital element in such an annuity shall be taken into account in computing profits or gains or losses for other purposes of the Tax Acts in any circumstances in which a lump sum payment would be taken into account.

2745. The purpose of treating the annuity payment as containing a capital element and then treating that capital element as not being an annual payment, is to ensure the capital element is not charged to income tax. These propositions are rewritten as an exemption from income tax (see section 717). Additionally, as the annuity payment is not treated as an annual payment or is not in the nature of an annual payment, that part of the payment is outside the scope of the deduction of tax at source rules (sections 348 and 349 of ICTA). This element of section 656(1) of ICTA is dealt with by the general disregard (see section 783).

2746. The purpose of the second limb of section 656(1) of ICTA is to ensure that a trader for whom the annuity would represent a trading receipt cannot exclude the capital element from the trader's Schedule D Case I tax computation. This is dealt with for traders liable to income tax by the combined effect of the priority rule for trading income (see section 366(1) which gives Part 2 of this Act charging priority over Part 4 of this Act) and *subsection (1)* of section 717. Section 717(1) only exempts from income tax annuity payments charged to tax under Chapter 7 of Part 4 of this Act. So if the annuity payments are not charged to tax under Chapter 7 of Part 4 they cannot benefit from the exemption in Chapter 7 of Part 6 of this Act.

2747. The annuity payments made under a purchased life annuity are generally regarded as investment income in the recipient's hands and are therefore charged to tax under Chapter 7 of Part 4 of this Act. This Chapter deals with the exemption from income tax in respect of annuity payments charged under that Chapter. Annuities taxed under another part of the Act such as Chapter 7 of Part 5, or under other legislation are outside the scope of this Chapter.

Section 717: Exemption for part of purchased life annuity payments

2748. This section is based on section 656 of ICTA and sets out the extent of the exemption.

2749. *Subsection (1)* sets out the exemption and makes it clear that an annuity payment is only exempt to the extent provided in section 719.

2750. *Subsection (2)* makes it clear that not all annuity payments made under a purchased life annuity are exempt and signposts section 718 which sets out the excluded annuities.

2751. The Inland Revenue does not interpret "annual payment" in section 656(1) of ICTA as restricted to annual payments chargeable under Schedule D Case III. So the exemption is not dependent on the source of the annuity payment. Foreign annuity payments may therefore benefit from the exemption.

2752. *Subsection (3)* indicates that a claim needs to be made for the exemption to apply but does not specify to whom that claim is made. Section 878(4) draws attention to the rules in the TMA, which apply for the purposes of this Act. Those rules require claims to be made to "an officer of the Board." See *Change 149* in Annex 1.

2753. The requirement for a claim is not in the source legislation but is in secondary legislation supporting sections 656 to 658 of ICTA (see regulation 4 of the Income Tax (Purchased Life Annuities) Regulations 1956 SI 1956/1230, as amended) ("the 1956 Regulations"). The claim provision has been promoted to primary legislation. That will change the status of the provision as it will no longer be possible to change it or revoke it through further regulations. See *Change 117* of Annex 1.

Section 718: Excluded annuities

2754. This section rewrites section 657(2) of ICTA, which sets out the annuities to which section 656 of ICTA does not apply. Not all of the annuities listed in section 657(2) of ICTA are specified. Some of the annuities referred to in section 657(2) of ICTA are excluded from the exemption in section 717 by the combined effect of the priority provisions (see section 366(3) which gives ITEPA charging priority over Part 4 of this Act) and *subsection (1)* of section 717. Section 717(1) only exempts from income tax annuity payments charged to tax under Chapter 7 of Part 4 of this Act. So if the annuity payments are not charged to tax under Chapter 7 of Part 4 of this Act they cannot benefit from the exemption in this Chapter. It follows that the annuity payments made under the annuities set out in section 657(2) of ICTA which are not charged to tax under Chapter 7 of Part 4 of this Act do not need to be mentioned. Section 718 therefore lists only those annuity payments made under annuities excluded by section 657(2) of ICTA and charged to tax under Chapter 7 of Part 4 of this Act.

2755. Additionally, section 657(2)(a) of ICTA is not rewritten. That section provides that section 656 does not apply to:

"any annuity which would, apart from that section, be treated for the purposes of the provisions of the Tax Acts relating to tax on annuities and other annual payments as consisting to any extent in the payment or repayment of a capital sum.

2756. Section 657(2)(a) appears to be designed to exclude "annuity" payments which, on the analysis in Perrin v Dickson (1924), 14 TC 608 CA, represent interest together with capital repayments. This case concerned a contract under which, in return for a series of annual premiums, an assurance society undertook to pay an "annuity" for seven years if a named individual should live that long. In the event of the individual's death the total amount of the premiums paid, without any interest, less any amount paid by way of "annuity", was to be repaid. The individual survived and it was held in the Court of Appeal that the payments received did not constitute an annuity for income tax purposes. Tax was chargeable only on so much of the payments as constituted interest on the original payments.

2757. On a proper analysis, however, the payments are not really "annuity" at all, even if that is what they were called. And if contracts of the type considered in Perrin v Dickson do not give rise to annual payments it is difficult to see what purpose section 657(2)(a) of ICTA is intended to serve.

2758. No true annuity which would need to be excluded in this way from the relief provided by section 656 has been discovered. Section 656(2)(a) of ICTA is otiose and has therefore been dropped.

Section 719: Extent of exemption under section 717

2759. This section sets out the rules to work out the method of calculating the amount that is exempt from tax. The method varies according to the type of purchased life annuity involved. Sometimes a constant proportion of the annuity payment is exempt and sometimes a constant fixed sum is exempt.

2760. By definition (see section 423 of this Act) the term of every purchased life annuity is dependent on the duration of a human life. The amount of the annuity payment may also be dependent on the duration of a human life. However, either might also be dependent on some other contingency.

2761. *Subsections (1)* and *(2)* set the scene by explaining that the method of calculating the amount that is exempt is determined by two factors: the amount of the annuity payments and the term of the annuity.

2762. The first step is to determine whether a constant proportion of each annuity payment is exempt or whether a constant sum is exempt. This depends on whether or not the amount of the annuity payments depends solely on the duration of a human life or lives (see s*ubsection (2)(a)*).

2763. If the amount of the annuity payments does depend solely on the duration of a human life or lives, *subsection (3)* provides that a constant proportion of the annuity payment is exempt. This has been called the "exempt proportion".

2764. If the amount of the annuity payments does not depend solely on the duration of a human life or lives (in other words the amount depends additionally on a non-life contingency) *subsection (4)* provides that a constant sum is exempt (assuming the period covered by each payment is the same). This has been called the "exempt sum".

2765. Under the type of purchased life annuity covered by subsection (4) it is possible for the exempt sum to exceed the amount of a particular annuity payment. ESC A46 deals with this by allowing the excess of the exempt sum over the gross annuity payment to be carried forward and added to the exempt part of the next payment. *Subsection (5)* legislates ESC A46. See *Change 119* in Annex 1. Special provision has also been included in Schedule 2 (see paragraph 144) to deal with the carry forward of excess capital elements which accrued before 6 April 2005.

2766. The next step is to work out the exempt proportion or the exempt sum. This depends on whether or not the term of the annuity depends solely on the duration of a human life or lives.

2767. If the term of the annuity does depend solely on the duration of a human life or lives, s*ubsection (7)* points the way to the two provisions containing the formulas for calculating the exempt proportion or the exempt sum. Under virtually all purchased life annuities, the term of the annuity depends solely on the duration of a human life or lives.

2768. But if the term of the annuity also depends on a non-life contingency, *subsection (8)* explains that the exempt proportion or the exempt sum is calculated on a just and reasonable basis. In making this calculation, account must also be taken of the additional contingencies and the relevant formula. Although the source legislation refers to a "just" basis of calculation, just and reasonable is used in subsection (8) in line with the approach which has been adopted throughout the Act that all apportionments are on a just and reasonable basis. See *Change 14* in Annex 1.

2769. If both the amount of the annuity payment and the term of the annuity (in addition to depending on the duration of human life) depends on a non-life contingency, section 656(3)(b) and (e) of ICTA provide for the exempt capital element of each payment to be computed as a constant proportion. But, as section 656(2) of ICTA recognises, actuarial techniques do not provide any mechanism for calculating the (exempt) capital element as a constant proportion if the amount of the annuity payment is dependent on a non-life contingency. So section 719(4) provides for the exempt sum method to apply in this case. See *Change 118* in Annex 1. And, as it will be possible for the exempt sum to exceed the annuity payment, ESC A46 has been extended so that it too applies. See *Change 119* in Annex 1.

Section 720: Exempt proportion: term dependent solely on duration of life

2770. This section sets out the formula for calculating the exempt proportion of an annuity payment for the most common type of annuity, that is, an annuity whose term and the amount of the annuity payments, depend solely on the duration of a human life or lives.

2771. Under this type of annuity the amount of the annuity payment may change, but only in a pre-determined way. For example, the amount may increase by a fixed percentage at set intervals or, if written on two lives, may reduce on the first death. The method of calculation calculates the exempt part as a constant proportion of each annuity payment and thus caters for increases and decreases in the amount of the annuity payments.

2772. The source legislation does not set out how the actuarial value is to be calculated. However, the source legislation ensures a consistent approach is adopted by setting out when the value is to be calculated (see section 656(4)(c) of ICTA rewritten as *subsection (3)*) and requiring (see section 656(4)(c) and (7)(b) of ICTA rewritten as *subsection (4)*) that:

- the same tables of mortality are always used (the tables prescribed by the regulations are those comprised in Table A8 set out in Appendix A on pages 113 to 115 of the booklet entitled "Continuous Mortality Investigation Reports Number 10" published by the Institute of Actuaries and the Faculty of Actuaries in 1990 (regulation 6 of the 1956 Regulations));

- the age of the person during whose life the annuity is payable is taken as a whole number of years; and

- no discount is given in arriving at the present value of a future payment.

2773. Subsection (4)(b) reflects Inland Revenue practice (which follows actuarial practice). See *Change* 120 in Annex 1.

Section 721: Exempt sum: term dependent solely on duration of life

2774. This section sets out the formula for calculating the exempt sum where:

- the term of the annuity does not depend on any contingency other than the duration of a human life or lives; but
- the amount of the annuity payments does depend on some contingency other than the duration of a human life or lives.

2775. Under this type of annuity the amount of the annuity payment may change in an unpredictable way. As changes in the amount of the annuity payments are unpredictable, any actuarial valuation of them would be virtually impossible. So the exempt part of each annuity payment is calculated as a constant sum.

2776. An example of an annuity of this type is an index-linked annuity where the amount of the annuity fluctuates with movements in the Retail Prices Index. Initially the return under this type of annuity is low and the annuity payments may fall short of the amount of the exempt sum. With inflation the amount of the annuity payments is likely to rise and in due course to overtake the amount of the exempt sum.

2777. The term of the annuity can only be predicted by an actuarial calculation. Again, a consistent approach to that calculation is ensured by *subsections (3)* and *(4)* (see further the commentary on section 720(3) and (4)).

Section 722: Consideration for the grant of annuities

2778. This section contains rules to deal with the case where the purchase of the annuity is part of a composite transaction. It is based on section 656(4) of ICTA.

2779. For example, capital protected annuities, which provide for the return on death of the purchase consideration less the annuity payments made to date, could be regarded as a composite of an annuity and a life insurance. However, under *subsection (2)* the consideration given for a capital protected annuity is treated as given for the annuity alone.

2780. *Subsections (3)* and *(4)* provide for the consideration to be apportioned on a just and reasonable basis. Although the source legislation refers to apportionment on a “just” basis, just and reasonable is used in subsections (3) and (4) in line with the approach which has been adopted throughout the Act that all apportionments are on a just and reasonable basis. See *Change 14* in Annex 1

Section 723: Determinations

2781. The exemption requires a claim to be made. This allows the Inland Revenue to determine whether an annuity is a purchased life annuity and the amount of any annuity payment which is exempt. This section deals with those questions and the consequences for the payer so far as deduction of tax at source is concerned. It is based on section 658 of ICTA.

2782. *Subsection (1)* provides that such questions are to be determined by the Inland Revenue. See *Change 149* in Annex 1. *Subsection (2)* provides for appeals against determinations to go to the Special Commissioners.

2783. Under *subsection (3)* the payer of an annuity payment is entitled to rely on a determination, made and notified by the Inland Revenue, in determining how much income tax it may or must deduct from the annuity payments. But the words “and has not been notified of any alteration of that decision” in section 656(5) make little sense unless the payer is entitled to rely on that notification. *Subsection (4)* clarifies the position by making it clear that that notification is itself a determination.

2784. Special transitional provisions have been included in Schedule 2 (see paragraphs 143 and 145) to deal with determinations made before 6 April 2005 and to make it clear which provision applies if a false statement or representation is made either before or on or after 6 April 2005.

Section 724: Regulations

2785. This section contains powers for the Board of Inland Revenue to make regulations for dealing with purchased life annuities. It rewrites equivalent provisions in sections 656 and 658 of ICTA.

2786. *Subsection (1)* covers three general matters:

- prescribing the procedures to be used;
- applying provisions of the Income Tax Acts (modified if appropriate); and
- prescribing the tables of mortality.

Section 725: Annual payments under immediate needs annuities

2787. This section is based on section 580C of ICTA. It exempts from income tax certain annual payments made under a contract for an immediate needs annuity.

2788. *Subsections (2)* and *(3)* define an immediate needs annuity. "Annuity" here refers to a contract, as is made clear in the section, rather than payments made or received. Because purchased life annuities payments have their own charge within this Act the definition of a "relevant annual payment" in section 580C(2) of ICTA which places these payments within Schedule D Case III or V can be omitted.

Section 726: Meaning of "care provider"

2789. This section defines "care provider" for the purposes of section 725(1). It is based on section 580C of ICTA.

2790. *Subsection (3)* is drafted slightly differently from the wording on which it is based, namely section 580C(4)(b) of ICTA, which refers to "care which is registered under the relevant enactment". The section reflects the fact that it is the service of care that is registered under that Act, rather than "care".

Chapter 8: Other Annual Payments

Overview

2791. This Chapter sets out the exemptions from income tax for income which would otherwise be taxable as annual payments.

Section 727: Certain annual payments by individuals

2792. This section is based on the parts of section 347A of ICTA which exempt from income tax annual payments made by individuals.

2793. See the commentary on Chapter 7 of Part 5 of this Act for an explanation of the phrase "annual payment".

2794. *Subsection (1)* gives the general exemption: annual payments made by individuals which would otherwise be taxable under Part 5 of this Act are exempt from income tax in the hands of the recipient. Section 347A of ICTA applies to annual payments which would otherwise be within the charge to tax under Schedule D Case III, that is, annual payments arising within the United Kingdom. This requirement is in subsection (1)(b).

2795. *Subsection (3)* is based on section 347A(3) of ICTA and applies the exemption to any payment made by an individual's personal representative if the exemption would have applied had the individual not died. "Personal representatives" is defined in section 878.

2796. In contrast with an English partnership, a Scottish partnership is a separate legal entity. *Subsection (4)* therefore defines "individual" as including a Scottish partnership so that the taxation treatment of English and Scottish partnerships is the same.

2797. Section 347A of ICTA applies to all payments falling due on or after 6 April 2000 and also to certain payments falling due before that date but on or after 16 March 1988. Although unlikely, it is possible for payments to fall due at a time when section 347A did not apply but to be paid after 6 April 2005. Paragraph 146 of Schedule 2 to this Act contains a transitional provision which determines whether the exemption in section 727 and the exemption in section 730 apply in these circumstances.

Section 728: Commercial payments

2798. This section provides an exception to the exemption in section 727. It is based on section 347A(2)(c) of ICTA and provides that annual payments made for commercial reasons in connection with the individual's trade, profession or vocation are not exempt from tax in the recipient's hands.

Section 729: Payments for non-taxable consideration

2799. This section also provides an exception to the exemption in section 727. It is based on section 347A(2)(d) of ICTA which provides that a payment to which section 125(1) of ICTA applies is not exempt from income tax.

2800. However, to work out whether this exception to the exemption applies, the reader has to work out whether section 125(1) of ICTA applies and this is not straightforward.

2801. Section 125(1) of ICTA applies to any payment which is an annuity or other annual payment (other than interest) taxable under Schedule D Case III and which is made in return for consideration which is not taxable in the payer's hands. But that section does not apply to:

(a) payments which (in the recipient's hands) are income within section 660A(8) or (9)(a) of ICTA (certain payments on divorce or separation);

(b) payments made to an individual in consideration of the surrender, assignment or release of an interest in settled property to or in favour of a person having a subsequent interest;

(c) any annuity granted in the ordinary course of a business of granting annuities; and

(d) any annuity charged on an interest in settled property and granted at any time before 30 March 1977 by an individual to a company whose business at that time consisted wholly or mainly in the acquisition of interests in settled property or which was at that time carrying on life assurance business in the United Kingdom.

2802. In other words, if the payment falls within paragraphs (a) to (d), it will not fall within section 125(1) of ICTA and the payment therefore falls within the exemption.

2803. Section 729 rewrites section 347A(2)(d) of ICTA by incorporating the relevant propositions of section 125(1) of ICTA rather than cross-referencing to that section and leaving the reader to work out if it applies. So, if the payment is made for non-taxable consideration (as defined in *subsection (2)*), the payment is exempt in the recipient's hands if either condition B or condition C is met. *Subsection (3)* is based on section 125(3)(a) of ICTA and *subsection (4)* is based on section 125(3)(b) of ICTA.

2804. Section 125(3)(c) of ICTA is not rewritten as an individual would not be authorised to grant annuities in the ordinary course of a business of granting annuities (and if an individual could do so, such a payment would fall within section 728).

2805. Subsections (3)(d) and (5) of section 125 of ICTA are not rewritten in section 729 but have been included in the transitionals Schedule (see paragraph 147 of Schedule 2 to this Act).

Section 730: Foreign maintenance payments

2806. This section is based on section 347A(4) of ICTA and exempts from income tax certain maintenance payments which arise outside the United Kingdom but which would be exempt from income tax if the payments had arisen in the United Kingdom.

2807. *Subsection (2)* explains what is meant by a maintenance payment. Section 347A(4) of ICTA defines a maintenance payment as a periodical payment "(not being an instalment of a lump sum)" and refers to the conditions in section 347B(5)(a) and (b) of ICTA. The words "(not being an instalment of a lump sum)" are not rewritten. The wording of the exemption makes them redundant. Additionally, section 347B(5) of ICTA was repealed by FA 1999 in relation to a payment falling due after 5 April 2000. But the conditions in *subsection (3)* and *(4)* are rewritten on the basis of the authority in A-G v Lamplough (1878), 3 Ex D 214.

Section 731: Periodical payments of personal injury damages

2808. This section provides an exemption from income tax for periodical payments in respect of damages for personal injury. It is based on sections 329AA and 329AB of ICTA as amended by section 100(2) of the Courts Act 2003.

2809. Section 329AA of ICTA exempts periodical payments awarded under the provisions listed in subsection (6) of that section. However, it was never intended to limit the scope of the exemption to particular provisions. The policy is that all periodical payments in respect of personal injury damages should be exempt. As the policy does not rely on the specific statutory references under which the damages are awarded, the statutory references are not rewritten. See *Change 121* in Annex 1.

2810. By omitting the specific statutory references, and particularly the reference to the Fatal Accidents Act 1976 and the Fatal Accidents (Northern Ireland) Order 1977, it would not be clear on the face of the legislation that references to personal injuries includes death from personal injury. *Subsection (4)* therefore makes this explicit. See *Change 121* in Annex 1.

Section 732: Compensation awards

2811. This section exempts from income tax annuity payments made under an annuity purchased to meet an award made by the Criminal Injuries Compensation Board. It is based on section 329AB of ICTA as amended by the Courts Act 2003.

2812. *Subsection (3)* includes in the definition of the "Criminal Injuries Compensation Scheme" the scheme established for Northern Ireland under the Criminal Injuries (Northern Ireland) Order 2002 SI 2002/796 (NI 1). See *Change 19* in Annex 1.

Section 733: Persons entitled to exemptions for personal injury payments etc.

2813. This section and the next one explain who is entitled to the exemption. It is based on sections 329AA and 329AB of ICTA as amended by the Courts Act 2003.

Section 734: Payments from trusts for injured persons

2814. This section extends the exemption to persons receiving payments from trustees on behalf of an individual entitled to the payments (for example, a child's parents). It is based in section 329AA(4) of ICTA. See *Change 122* in Annex 1.

2815. For the provisions which exempt interest on damages from income tax see section 751.

Section 735: Health and employment insurance payments

2816. This section provides an exemption from income tax for annual payments made under an insurance policy where certain requirements are met. It is based on section 580A of ICTA.

Section 736: Health and employment risks and benefits

2817. This section explains what constitutes a health or employment risk for the purposes of section 735. It is based on section 580A of ICTA.

2818. *Subsections (1)* and *(2)* define "health risk" and "employment risk" respectively. Subsection (2) treats a policy that insures against loss of office as an employment risk while section 580A(3)(b) of ICTA, on which it is based, does not. See *Change 123* in Annex 1.

2819. *Subsection (3)* expands on what is meant by "insurance against a risk". Benefits under this type of insurance are often not restricted to providing an indemnity against a particular liability. This subsection makes it clear that the exemption is also intended to cover benefits other than indemnities.

Section 737: Period for which payments may be made

2820. This section contains the first of the four conditions referred to in section 735(1)(c) and restricts the period for which benefits may be paid if the exemption is to apply. It must be satisfied by all health or employment insurance policies. The section is based on section 580A of ICTA.

2821. Under s*ubsections (1)* and *(2)* the policy may only provide for payments to be made during periods of ill-health or unemployment or while the insured's income is lower than it would otherwise have been. Periods which end in the insured's death and which immediately follow one of these periods are also included. Subsection (2)(b) treats a period throughout which the insured does not hold office as a period in respect of which payments may be made. Section 580A(4)(b) of ICTA, on which it is based, does not. See *Change 123* in Annex 1.

Section 738: Risk of significant loss

2822. This section contains the second of the four conditions referred to in section 735(1)(c) and this condition must be satisfied by all health or employment insurance policies. It is based on section 580A of ICTA.

2823. *Subsections (1)* and *(2)* require that the policy, taking into account investment returns on premiums, should involve the insurer in genuine commercial risk.

Section 739: Conditions to be met by policies also providing other benefits

2824. This section contains the third of the four conditions referred to in section 735(1)(c). It is aimed at preventing abuse of the exemption where an insurance policy covers other risks in addition to ill-health or loss of employment. This section is based on sections 580A and 580B of ICTA.

2825. *Subsections (2)* and *(3)* ensure that where other risks are ensured on the same policy the qualifying risks are not significantly different from what they would be if those other risks were not insured by that policy. Section 580B(2)(c) of ICTA refers to "benefits receivable by or in respect of any person" which reduce other benefits "payable to or in respect of that person". There does not appear to be any significance in the change from "benefits receivable" to "benefits payable" and this subsection refers to benefits "payable" throughout.

Section 740: Conditions to be met where policies are linked

2826. This section contains the last of the four conditions referred to in section 735(1)(c). It is aimed at preventing abuse of the exemption where a person is insured under more than one policy. The section is based on sections 580A and 580B of ICTA.

2827. *Subsections (2)* and *(3)* ensure that any difference in benefits payable for ill-health or loss of employment which arises simply because benefits under another policy are taken into account may be ignored. The source legislation, in section 580B(3)(d) of ICTA, refers to benefits "receivable by or in respect of any person" which reduce other benefits "payable to or in respect of that person". There does not appear to be any significance in the change from benefits "receivable" to benefits "payable". Subsection (3) refers to benefits "payable" throughout.

2828. Section 580B(4) of ICTA is not rewritten as it seems unnecessary to state that the terms of a policy include terms fixing the premium or otherwise in respect of insurance against risk.

Section 741: Aggregation of policies where employment ends for health reasons

2829. This section ensures that, where a person leaves employment but continues to receive benefits under a new separate policy derived from a policy entered into for the benefit of one or more employees, the exemption given by this Chapter continues to apply to payments under the new policy. The section is based on section 580A of ICTA.

Section 742: Meaning of "the insured"

2830. This section gives the meaning of "the insured" for this Chapter. It is based on section 580A of ICTA.

2831. Sections 580A and 580B of ICTA refer throughout to "the insured". During the Standing Committee debate on the Finance Bill which introduced these provisions, it was considered whether the exemption extended to cover insurance policies taken out by parents on behalf of their children. The written answer given by the Financial Secretary to the Treasury was that in such a case the child would be "the insured" to enable the exemption to apply. In practice the exemption has been treated as applying to payments under such policies. In the light of this, sub-paragraph (b) has been added to put the matter beyond doubt. See *Change 124* in Annex 1.

Section 743: Policies for the benefit of others who contribute to premiums

2832. This section provides that where one person takes out a health or employment insurance policy for the benefit of another, that other person may, in certain circumstances, be treated as the insured. It is based on section 580A of ICTA.

2833. Section 580A(7) of ICTA is drafted in terms of the benefits under the policy being apportioned. This section is drafted instead in terms of annual payments in order to be consistent with the other sections dealing with this exemption. This does not alter the effect of the provision.

Section 744: Payments to adopters: England and Wales

2834. This section and the following two sections ensure that certain financial support received by families who adopt are exempt from income tax. The sections are based on section 327A of ICTA which has been split between the different jurisdictions.

2835. Section 744 deals with payments made to adopters (and persons seeking to adopt) in England and Wales. *Paragraph (c)* exempts payments of allowances paid under regulations made under the Adoption Act 1976. The regulations cited in section 327A(1)(c) of ICTA, that is, the Adoption Allowance Regulations 1991, are not rewritten because if the regulations changed before this Act received Royal Assent the citation would be wrong.

Section 745: Payments to adopters: Scotland

2836. This section deals with payments made to adopters (and persons seeking to adopt) in Scotland.

Section 746: Payments to adopters: Northern Ireland

2837. This section deals with payments made to adopters (and persons seeking to adopt) in Northern Ireland.

2838. *Paragraph (c)* exempts payment of allowances under regulations under the Adoption (Northern Ireland) Order 1987. Again, the regulations cited in section 327A(1)(j) of ICTA, that is, the Adoption Allowance Regulations (Northern Ireland) 1996, are not rewritten.

Section 747: Power to amend sections 744 to 746

2839. This section gives the Treasury the power to amend sections 744 to 746 to take account of future changes in the description of financial support payments.

Section 748: Payments by persons liable to pool betting duty

2840. This section is based on section 126(3) of FA 1990 and section 121 of FA 1991. It gives an exemption from income tax for annual payments made by persons liable to pool betting duty provided the conditions mentioned in *subsection (1)* are satisfied (see the commentary on section 162 for the background to this relief).

2841. The exemption applies to payments made in consequence of a reduction in pool betting duty, whenever that reduction is made (see s*ubsection (2)*). Subsection (2) combines the conditions in FA 1990 and FA 1991. Although the source legislation is restricted to the 1990 and 1991 reductions in pool betting duty, the subsection applies to payments made “in consequence of” any reduction in the duty. See *Change 47* in Annex 1.

2842. *Subsections (3)* and *(4)* set out two further conditions either of which needs to be satisfied. The subsections do not specify that payments in consequence of the 1990 reduction in pool betting duty must be paid for football safety and comfort (see section 126(3) of FA 1990) or that payments in consequence of the 1991 reduction must be paid to the Foundation for Sport and the Arts (see section 121(3) of FA 1991). Instead each subsection applies to a payment in consequence of any reduction in pool betting duty. See *Change 46* in Annex 1.

Chapter 9: Other income

Overview

2843. This Chapter provides for exemption from income tax in respect of miscellaneous income. The income exempted under this Chapter is categorised as follows:

- interest only income;
- interest and royalty payments;
- income from occupation of commercial woodlands;
- housing grants;

- approved share incentive plan distributions;
- foreign income of consular officers and employees;
- income of non-UK residents of certain securities; and
- other income.

Section 749: Interest paid under repayment supplements

2844. This section provides an exemption from income tax for repayment supplement paid by the Inland Revenue. It is based on section 824(8) of ICTA.

Section 750: Interest from tax reserve certificates

2845. This section provides an exemption from income tax for interest from Tax Reserve Certificates ("TRCs") issued by the Treasury. It is based on section 46(2) of ICTA. (The remainder of section 46 concerns unrelated income from savings certificates, which is dealt with in Chapter 2 of Part 6 of this Act.)

2846. TRCs were introduced in 1941 as a mechanism for making payments of tax on account. Interest on TRCs is paid when the certificates are used to settle a tax liability. TRCs have not been issued since the mid-1970s, when they were replaced by Certificates of Tax Deposit. However, TRCs are still used from time to time to settle tax liabilities. In the light of this, it is not possible to regard section 46(2) of ICTA as obsolete for income tax purposes.

Section 751: Interest on damages for personal injury

2847. This section provides an exemption from income tax for interest on damages for personal injury or death. It is based on section 329 of ICTA.

2848. The source legislation deals with interest on damages awarded by reference to various enactments. *Subsection (1)* omits those statutory references. It was never intended to limit the scope of the exemption to particular enactments: the policy was to include any Act under which interest on damages for personal injury could be awarded. See *Change 121* in Annex 1.

2849. Section 329(1)(a) and (b) of ICTA limit the exemption to the interest included in a sum for which judgement is given. *Subsection (1)(a)* refers simply to "a sum awarded by a court". *Subsection (1)(b)* makes it clear that interest which may arise from the date of the award is not included in the exemption.

2850. *Subsection (1)(c)* gives statutory effect to ESC A30 (interest on damages for personal injuries (foreign court awards)). See *Change 125* in Annex 1.

2851. *Subsection (2)* is based on section 329(3) of ICTA and extends the exemption to interest in respect of payments in satisfaction of a cause of action.

Section 752: Interest under employees' share schemes

2852. This section contains an exemption from income tax in respect of interest relating to trustees of certain employees' share schemes. It is based on section 688 of ICTA.

2853. *Subsection (1)* applies the section where the trustees receive interest from a participant in the employees' share scheme and the scheme is set up to comply with certain statutory provisions. Section 688 of ICTA refers to the trustees receiving interest from "employees and directors" of the company. This reflects the wording of section 54(1) of the Companies Act 1948 (the relevant company law enactment when what became section 688 first came into force). However, the relevant company law enactment is now section 153(4)(b) of the Companies Act 1985. That provision refers to "the provision by a company, in good faith in the interests of the company, of financial assistance for the purposes of an employees' share scheme."

2854. Subsection (1) of the section brings the wording of this exemption into line with the corresponding company law enactment. See *Change 126* in Annex 1.

2855. *Subsection (2)* provides that the trustees will be exempt from tax charged under Chapter 2 of Part 4 of this Act on the interest they receive if the scheme requires the trustees to pay to the company an equivalent amount as interest. Section 688 of ICTA refers to an exemption from tax "under Case III of Schedule D". But the reference in the section to Chapter 2 of Part 4 of this Act will include foreign source interest. It would be possible for UK resident trustees to receive interest from non-UK resident employees etc. In such circumstances, it would be illogical to treat the foreign source interest as outside the scope of the exemption. See *Change 127* in Annex 1.

Section 753: Interest on repayment of student loan

2856. This section provides an exemption from tax for interest paid to borrowers of student loans in respect of refunds of over-repayments of such loans. It is based on section 331A of FA 1999.

Section 754: Redemption of funding bonds

2857. This section provides that, where the issue of funding bonds results in a charge to tax as interest under section 380 of this Act, any interest paid on the subsequent redemption of the funding bonds is exempt from tax. The exemption also applies where the deemed interest on the funding bond was charged to corporation tax but on redemption the bond was held by an income tax payer. The section is based on section 582 of ICTA.

Section 755: Interest on foreign currency securities etc. owned by non-UK residents

2858. This section is based on section 581 of ICTA. It provides an exemption from income tax for interest on certain foreign currency securities, or loans, beneficially owned by people who are not resident in the United Kingdom. The exemption is available only if the Treasury make an appropriate direction.

2859. Section 581(1)(a) of ICTA provides that, if a Treasury direction is made, interest on this type of security or loan is not subject to deduction of tax at source. This provision is not rewritten in this Chapter. It is rewritten as a new section 581A of ICTA (see paragraph 242 of Schedule 1 to this Act).

2860. The meaning of "foreign currency" in this section is dealt with separately in section 756.

2861. *Subsection (1)* sets out the interest within the scope of the exemption for the purposes of this section. Section 581 of ICTA originally applied only to securities issued by local authorities. It was later extended to cover securities issued by, or loans made to, statutory corporations by adding section 581(4) of ICTA.

2862. *Subsection (2)* sets out the conditions to be met if the exemption is to apply. The reference to "eventual repayment" in subsection (2)(b) of the section (and based on section 581(4) of ICTA) is relevant only for a loan with no immediate entitlement to repayment.

2863. *Subsection (3)* of the section is an anti-avoidance provision. Section 581(3) of ICTA is very widely drafted: "where any income of any person is by virtue of any provision of the Income Tax Acts to be deemed to be income of any other person, that income shall not be exempt ...". In fact, there are only two sets of provisions under which this type of income could be deemed to be income of another person. The relevant provisions are listed in subsection (3) of the section.

2864. *Subsection (4)* reflects the effect of the devolution settlements. See *Change* 19 in Annex 1.

Section 756: Which securities and loans are foreign currency ones for section 755

2865. This section defines "foreign currency securities" for the purposes of section 755. It is based on section 581 of ICTA. Although the basic proposition in *subsection (1)* is quite straightforward, there are four qualifications to this proposition, set out in *subsections (3)* to *(6)*.

2866. The source legislation, introduced during the exchange control era, refers to securities and loans "expressed in a currency other than sterling". However, there could be more than one interpretation of the word "expressed". In this context, the logical interpretation is that "expressed" means "repayable". This is in line with the exchange control definition of a foreign currency security, and with the reference to securities "expressed" in a particular currency in other contexts in the Tax Acts. This section is therefore drafted in terms of the currency used for repayment.

Section 757: Interest and royalty payments: introduction

2867. This section acts as a general introduction to sections 758 to 767. It is based on section 97 of FA 2004.

2868. Sections 757 to 767 rewrite most of Chapter 6 of Part 3 of FA 2004 which implements the European Union Interest and Royalties Directive (Council Directive 2003/49/EC of 3 June 2003).This directive provides for the elimination of source state taxation on interest and royalty payments between associated companies in different member States of the European Union.

2869. These sections therefore exempt from income tax certain interest and royalty payments made between associated companies where the beneficial owner is a company of another member State or a permanent establishment of such a company in a member State other than the United Kingdom. Although the person beneficially entitled to the income will be a company, the exemption is from income tax. This is because non-UK resident companies are only within the charge to corporation tax on such payments if they trade in the United Kingdom through a permanent establishment here and the interest or royalties are attributable to the permanent establishment.

2870. Income tax on interest and royalty payments would, apart from this exemption, be collected by deduction under section 349 of ICTA. Section 105(5) of FA 2004 introduced a new subsection (7) in section 349 of ICTA which provides that the latter section is subject to the exemption rewritten in these sections. The general disregard section in Chapter 10 of Part 6 of this Act ensures that, without a specific provision to the contrary, an amount that is exempt under Part 6 is disregarded for all other income tax purposes and this will include section 349 of ICTA. Section 349(7) of ICTA is not therefore amended to refer to the interest exemption but it continues to refer to section 101 of FA 2004 (dealing with the deduction of tax from royalty payments under section 349 of ICTA) which is not rewritten (see commentary on section 762).

Section 758: Exemption for certain interest and royalty payments

2871. This section gives the exemption and conditions for that exemption. Three conditions must be satisfied for the royalties exemption to apply and four for the interest exemption. The section is based on section 98 of FA 2004.

2872. *Subsection (1)* gives the exemption. Section 105(4) of FA 2004 inserts into section 18 of ICTA a subsection which makes the charge under that section subject to the exemption rewritten here. This is not rewritten as it is not considered necessary given the wording of subsection (1) of this section.

Section 759: The person making the payment

2873. The first condition in section 758 is that the payer of the interest or royalties is in the United Kingdom, whether as a UK permanent establishment of a company resident in another member State or a company resident in the United Kingdom (other than its permanent establishment outside the United Kingdom). The purpose of this section is to identify the payer (and thus ensure that the payer is in the United Kingdom) where the paying company has a permanent establishment in another territory. The criterion is where the payments are deductible against tax. If they are deductible against the profits of the permanent establishment in the territory where it is situated it is the permanent establishment that is treated as the payer. The section is based on section 99 of FA 2004.

Section 760: The person beneficially entitled to the payment

2874. The second condition in section 758 is that the person beneficially entitled to the income in respect of the payment is a European Union company other than such a company's permanent establishment in the United Kingdom or in a non-member State. The purpose of this section is to identify the beneficial owner where a European Union company has a permanent establishment in the United Kingdom or a non-member State and to ensure that the condition is satisfied. The section is based on section 99 of FA 2004.

Section 761: Meaning of "25% associates"

2875. The third condition in section 758 is that the payer and beneficial owner should be 25% associates. This section explains what is meant by a 25%. It is based on section 99 of FA 2004.

Section 762: Interest payments: exemption notices

2876. This section enables regulations about exemption notices to be made. These notices are required by the fourth and final condition in section 758 for the interest exemption. The section is based on section 100 of FA 2004.

2877. No exemption notice is required for royalty payments. Section 101 of FA 2004 is not rewritten in this Act as it relates to the deduction of tax. Section 102 of FA 2004 provides for claims for the repayment of tax deducted from interest or royalties paid. This section has not been rewritten.

Section 763: Special relationships

2878. This section provides that the exemption will not apply where the interest or royalties have not been paid between independent parties acting at arm's length. This is achieved by reference to a "special relationship" (a term used in double taxation treaties) between the payer and the beneficial owner of the income such that the payments will not be at arm's length. The section is based on section 103 of FA 2004.

2879. *Subsection (3)* provides that where a claim to relief under a double taxation treaty would provide greater relief from tax than is available under this exemption the company may chose to claim relief under the treaty.

Section 764: Application of ICTA provisions about special relationships

2880. This section ensures that the special relationships rule in section 763 is construed in the same way as similar rules in double taxation treaties. (Sections 808A and 808B of ICTA deal with the construction of the term "special relationship" in such treaties.) The section is based on section 103(2) to (4) of FA 2004.

Section 765: Anti-avoidance

2881. This section prevents exemption from tax being given if the purpose or one of the main purposes of the payments is to avoid tax. The wording is based on similar provisions in double taxation treaties. The section is based on section 104 of FA 2004.

2882. *Subsection (1)* applies to interest payments. Because it looks at the purposes of the person concerned with the creation or assignment of the debt, the section may apply where the interest payments are paid indirectly to a person not entitled to the exemption, for example where a payment is dog-legged through a European Union company to a non-European Union company.

Section 766: Interest and royalty payments: interpretation

2883. This section explains various terms used in the sections for this exemption. It is based on section 97 of FA 2004.

Section 767: Power to amend references to the Directive by Order

2884. This section allows the Treasury to amend the provisions for this exemption where that is appropriate for implementing any amendment to, or replacement of, the Directive adopted after 8 April 2004, the date when the clauses for Finance Bill 2004 were finalised. The section is based on section 97 of FA 2004.

2885. *Subsection (2)* enables references in section 101 of the FA 2004 to be amended where necessary as a result of amendments to the Directive. This is necessary as section 101 of that Act has not been rewritten (see commentary on section 762).

2886. Section 97(4) of FA 2004, which allows a first Treasury order to take effect before the making of the order, has not been rewritten as it would apply only if the Directive had been amended before Royal Assent to Finance Bill 2004 in a way that affected Chapter 6 of Part 3 of that Act.

Section 768: Commercial occupation of woodlands

2887. This section exempts income arising from the occupation of commercial woodlands from any charge as miscellaneous income. It is based on paragraph 3(2) of Schedule 6 to FA 1988.

2888. A consequence of this exemption is that no loss relief is available under section 392 of ICTA (losses from miscellaneous transactions). A requirement of that section is that any profit on the transaction would be liable to income tax.

2889. This section is complemented by sections 11 and 267 of this Act. The combined effect of these three sections is that income from the occupation of commercial woodlands is ignored for income tax purposes.

2890. The definition of “commercial woodlands” in *subsection (2)* is supplemented by the definition of “woodlands” in section 876 of this Act.

Section 769: Housing grants

2891. This section exempts from income tax grants paid under legislation intended to assist in providing, maintaining or improving housing. It is based on section 578 of ICTA.

2892. *Subsection (1)* reflects the effect of the devolution settlements. See *Change* 19 in Annex 1.

2893. *Subsection (2)* makes it clear that the expenditure need not be incurred by any particular person and that it may be current or future expenditure.

Section 770: Amounts applied by SIP trustees acquiring dividend shares or retained for reinvestment

2894. The commentary on the SIPs legislation in Chapter 3 of Part 4 of this Act explains the background to approved share incentive plans. This section is based on sections 493(1) and 496(1) of ITEPA. Without these exemptions a tax liability would arise under Chapter 3 of Part 4 of this Act (in respect of cash dividends paid by UK resident companies) or under Chapter 4 of Part 4 of this Act (in respect of cash dividends paid by non-UK resident companies). As the tax liability arises under this Act, the exemptions are rewritten in Part 6 of this Act rather than retained in ITEPA. Signposting provisions to this exemption are in sections 493 and 496 of ITEPA.

2895. The references to tax credits in subsection (2) of sections 493 and 496 of ITEPA are not rewritten in this section. The rewrite of section 231 of ICTA in this Act (see section 397) makes it unnecessary.

Section 771: Relevant foreign income of consular officers and employees

2896. This section exempts from income tax the relevant foreign income of consular officers and employees who satisfy particular conditions where an Order in Council has directed that the section should apply to give effect to a bilateral international convention with a foreign state. The provision is applicable only to a dozen or so conventions and it is unlikely that further Orders in Council will be made. The Consular Relations Act 1968 has made the use of such bilateral conventions unnecessary. “Relevant foreign income” is defined in section 830 of this Act. The section is based on section 322 of ICTA.

2897. *Subsection (1)* provides that the relevant foreign income of a consular officer or employee of a foreign state in the United Kingdom is exempt from tax if an Order in Council directs that the section applies to that state to give effect to a reciprocal arrangement and the individual concerned meets certain conditions. “Reciprocal arrangement” is the term used by section 302 of ITEPA which rewrites the employment income aspects of section 322 of ICTA. “Reciprocal arrangement” is defined in *subsection (5)*.

2898. *Subsection (2)(b)* refers to “a British overseas territories citizen”. This rewrites section 322(1)(a) of ICTA “a British Dependent Territories citizen”. Section 2(3) of the British Overseas Territories Act 2002 requires any reference to a British Dependent Territories citizen be read as a reference to a British overseas territories citizen. The change of name has been incorporated into this section.

Section 772: Further provisions about Orders under section 771

2899. This section makes further provisions for Orders in Council under section 771. It is based on section 322 of ICTA.

Section 773: Income from Inter-American Development Bank securities

2900. This section provides an exemption from income tax, in certain circumstances, relating to income from a security issued by the Inter-American Development Bank. It is based on section 583 of ICTA.

2901. *Subsections (2)* to *(4)* set out the circumstances which must all apply if the income is to be exempt. The exemption applies in respect of any income from a security issued by the Bank (including dividends or interest).

Section 774: Income from securities issued by designated international organisations

2902. This section provides an exemption from income tax, in certain circumstances, relating to income from a security issued by designated international organisations. It is based on section 324 of ICTA.

2903. *Subsections (2)* to *(4)* set out the circumstances which must all apply if the income is to be exempt. The exemption applies in respect of any income from a security issued by the relevant designated organisation (including dividends or interest).

Section 775: Income towards reducing the national debt

2904. This section provides an exemption from income tax, in certain circumstances, in respect of income arising from property held in trust where the trust funds are to be used for the reduction of the national debt. It is based on section 514 of ICTA.

Section 776: Scholarship income

2905. This section is based on section 331 of ICTA.

2906. *Subsection (1)* sets out the exemption and *subsection (2)* points the way to section 215 of ITEPA. Section 215 of ITEPA provides that if the scholarship income is employment-related, the scholarship exemption applies only to the holder of the scholarship. But such income is also exempt from tax if the conditions set out in section 213 of ITEPA (scholarships provided by trust funds etc) are fulfilled.

Section 777: VAT repayment supplements

2907. This section exempts VAT repayment supplement from tax. It is based on section 827(2) of ICTA. The supplement does not have the character of interest. So the exemption is in this Chapter rather than with the exemptions for interest.

Section 778: Incentives to use electronic communications

2908. This section exempts from tax incentives provided under regulations to make use of electronic communications. It is based in section 143 of FA 2000.

Section 779: Gains on commodity and financial futures

2909. This section is based on section 128 of ICTA. That section was introduced as section 72 of FA 1985. It was part of changes which removed gains on commodity and financial futures from the scope of income tax or corporation tax under Schedule D (unless chargeable as trade profits) and charged them instead as capital gains under section 143 of TCGA. This is an unusual instance of an item which is naturally income being charged instead as a capital profit (most "deeming" legislation is designed to tax capital profits as income).

2910. Section 80 of FA 1997 reversed the FA 1985 change to the extent of gains charged to tax thereafter under Schedule 5AA to ICTA (guaranteed returns on transactions in futures and options, rewritten in Chapter 12 of Part 4 of this Act).

2911. The only Cases of Schedule D which could apply to the gains covered by section 128 of ICTA, where the gain is income on first principles (and disregarding the exemption the section provides), are Schedule D Cases V and VI. As the relevant charging function of those Cases is rewritten in Chapter 8 of Part 5 of this Act, the section is expressed as an exemption from the charge under that Chapter.

2912. Together with the "priority sections" (sections 575 and 576), which award priority to a charge under Part 2 or under Chapter 12 of Part 4 of this Act, expressing the exemption in that way ensures that any gains not falling within that Part or Chapter are not charged to income tax. That leaves the way clear for gains covered by this exemption to be taxed under section 143 of TCGA.

2913. The section imports the definitions provided by section 143 of TCGA.

Section 780: Disabled person's vehicle maintenance grant

2914. This section is based on section 327 of ICTA and exempts from income tax grants made in respect of a disabled person's vehicle.

Section 781: Payments under New Deal 50plus

2915. This section is based on section 84 of FA 2000 and exempts from income tax certain payments made to a person participating in the New Deal 50plus scheme.

Section 782: Payments under employment zone programme

2916. This section is based on section 85 of FA 2000 and exempts from income tax payments made to a person participating in an employment zone programme.

Chapter 10: General

Section 783: General disregard of exempt income for income tax purposes

2917. This section confirms that income covered by exemptions in this Part, unless specific rules are provided, is exempt for all purposes of the Income Tax Acts (including information returns and the operation of sections 348 and 349 of ICTA).

2918. The source legislation employs a variety of expressions concerning exemptions which may suggest that particular exemptions might be more narrowly expressed than others. But even where apparently more narrow wording is employed the implications of such wording are mitigated by regulations or practice.

2919. *Subsection (2)* is based on section 325. It provides that the full amount of NSB interest (exempt and non-exempt interest) is to be included in information returns.

2920. *Subsection (3)* provides that specific provisions override this section: an example is the provision of information under the SIP code in paragraph 93 of Schedule 2 to ITEPA.