Finance Act 2008

CHAPTER 9

CONTENTS

PART 1

CHARGES, RATES, ALLOWANCES, RELIEFS ETC

Income tax

Corporation tax

Capital gains tax

Inheritance tax

Alcohol and tobacco

Finance Act 2008

2008 CHAPTER 9

An Act to grant certain duties, to alter other duties, and to amend the law relating to the National Debt and the Public Revenue, and to make further provision in connection with finance. [21st July 2008]

Most Gracious Sovereign

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and to grant unto Your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

CHARGES, RATES, ALLOWANCES, RELIEFS ETC

Income tax

1 Charge and main rates for 2008-09

(1) Income tax is charged for the tax year 2008-09.

(2) For that tax year—

(a) the basic rate is 20%, and

(b) the higher rate is 40%.

2 Personal allowance for those aged under 65

(1) For the tax year 2008-09 the amount specified in—

(a) section 35 of ITA 2007, and

(b) section 257(1) of ICTA,

(personal allowance for those aged under 65) is replaced with "£6,035".

(2) Accordingly—

(a) section 57 of ITA 2007, so far as relating to the amount specified in section 35 of that Act, and

(b) section 257C of ICTA, so far as relating to the amount specified in section 257(1) of that Act,

(indexation) do not apply for the tax year 2008-09.

(3) This section does not require a change to be made in the amounts deductible or repayable under PAYE regulations before 7 September 2008.

3 Personal allowances for those aged 65 and over

(1) For the tax year 2008-09—

(a) the amount specified in section 36(1) of ITA 2007 and section 257(2) of ICTA (personal allowance for those aged 65 to 74) is replaced with "£9,030", and

(b) the amount specified in section 37(1) of ITA 2007 and section 257(3) of ICTA (personal allowance for those aged 75 and over) is replaced with "£9,180".

(2) Accordingly—

(a) section 57 of ITA 2007, so far as relating to the amounts specified in sections 36(1) and 37(1) of that Act, and

(b) section 257C of ICTA, so far as relating to the amounts specified in section 257(2) and (3) of that Act,

(indexation) do not apply for the tax year 2008-09.

4 Basic rate limit

(1) In section 10 of ITA 2007 (income charged at main rates: individuals), for subsection (5) substitute—

"(5) The basic rate limit is £34,800."

(2) The amendment made by subsection (1) has effect for the tax year 2008-09 and subsequent tax years.

(3) But until 7 September 2008 for the purpose of ascertaining the amounts deductible or repayable under PAYE regulations it may be assumed that the figure specified in section 10(5) of ITA 2007 for the tax year 2008-09 is £36,000.

5 Abolition of starting and savings rates and creation of starting rate for savings

(1) Section 6 of ITA 2007 (rates at which income tax is charged) is amended as follows.

(2) In subsection (1), omit paragraph (a).

(3) In subsection (2), omit "starting rate,".

(4) In subsection (3), for paragraph (a) substitute—

"(a) section 7 (starting rate for savings),".

(5) Accordingly, in the heading omit "**starting rate,**".

(6) The amendments made by this section have effect for the tax year 2008-09 and subsequent tax years.

(7) Schedule 1 contains provision in connection with—

(a) the abolition of the starting rate and the savings rate, and

(b) the creation of the starting rate for savings.

Corporation tax

6 Charge and main rates for financial year 2009

(1) Corporation tax is charged for the financial year 2009.

(2) For that year the rate of corporation tax is—

(a) 28% on profits of companies other than ring fence profits, and

(b) 30% on ring fence profits of companies.

(3) In subsection (2) "ring fence profits" has the same meaning as in Chapter 5 of Part 12 of ICTA (see section 502(1) and (1A)).

7 Small companies' rates and fractions for financial year 2008 etc

(1) For the financial year 2008 the small companies' rate is—

(a) 21% on profits of companies other than ring fence profits, and

(b) 19% on ring fence profits of companies.

(2) For the financial year 2008 the fraction mentioned in section 13(2) of ICTA is—

(a) 7/400ths in relation to profits of companies other than ring fence profits ("the standard fraction"), and

(b) 11/400ths in relation to ring fence profits of companies ("the ring fence fraction").

(3) Subsections (3) to (7) of section 3 of FA 2007 (operation of section 13(2) of ICTA in relation to company profits consisting of both ring fence profits and other profits) apply in relation to profits of a company for an accounting period any part of which falls in the financial year 2008, or any subsequent financial year, as in relation to those for an accounting period any part of which falls in the financial year 2007.

(4) In this section "ring fence profits" has the same meaning as in Chapter 5 of Part 12 of ICTA (see section 502(1) and (1A)).

Capital gains tax

8 Rate etc

(1) In TCGA 1992, for section 4 substitute—

"4 Rate of capital gains tax

The rate of capital gains tax is 18%."

(2) Schedule 2 contains further provision for and in connection with the reform of capital gains tax.

(3) The amendment made by subsection (1) has effect for the tax year 2008-09 and subsequent tax years.

9 Entrepreneurs' relief

Schedule 3 contains provision for and in connection with entrepreneurs' relief.

Inheritance tax

10 Transfer of unused nil-rate band etc

Schedule 4 contains provisions about the transfer of unused nil-rate band between spouses and civil partners for the purposes of the charge to inheritance tax etc.

Alcohol and tobacco

11 Rates of alcoholic liquor duty

(1) ALDA 1979 is amended as follows.

(2) In section 5 (rate of duty on spirits), for "£19.56" substitute "£21.35".

(3) In section 36(1AA)(a) (standard rate of duty on beer), for "£13.71" substitute "£14.96".

(4) In section 62(1A) (rates of duty on cider)—

(a) in paragraph (a) (rate of duty per hectolitre in the case of sparkling cider of a strength exceeding 5.5 per cent), for "£172.33" substitute "£188.10",

(b) in paragraph (b) (rate of duty per hectolitre in the case of cider of a strength exceeding 7.5 per cent which is not sparkling cider), for "£39.73" substitute "£43.37", and

(c) in paragraph (c) (rate of duty per hectolitre in any other case), for "£26.48" substitute "£28.90".

(5) For the table in Schedule 1 substitute—

"TABLE OF RATES OF DUTY ON WINE AND MADE-WINE

PART 1

WINE OR MADE-WINE OF A STRENGTH NOT EXCEEDING 22 PER CENT

Description of wine or made-wine	*Rates of duty per hectolitre* £
Wine or made-wine of a strength not exceeding 4 per cent	59.87
Wine or made-wine of a strength exceeding 4 per cent but not exceeding 5.5 per cent	82.32
Wine or made-wine of a strength exceeding 5.5 per cent but not exceeding 15 per cent and not being sparkling	194.28
Sparkling wine or sparkling made-wine of a strength exceeding 5.5 per cent but less than 8.5 per cent	188.10
Sparkling wine or sparkling made-wine of a strength of 8.5 per cent or of a strength exceeding 8.5 per cent but not exceeding 15 per cent	248.85
Wine or made-wine of a strength exceeding 15 per cent but not exceeding 22 per cent	259.02

PART 2

WINE OR MADE-WINE OF A STRENGTH EXCEEDING 22 PER CENT

Description of wine or made-wine	*Rates of duty per litre of alcohol in the wine or made-wine* £
Wine or made-wine of a strength exceeding 22 per cent	21.35".

(6) The amendments made by this section are treated as having come into force on 17 March 2008.

12 Rates of tobacco products duty

(1) For the table in Schedule 1 to TPDA 1979 substitute—

"TABLE

1. Cigarettes	An amount equal to 22 per cent of the retail price plus £112.07 per thousand cigarettes
2. Cigars	£163.22 per kilogram
3. Hand-rolling tobacco	£117.32 per kilogram
4. Other smoking tobacco and chewing tobacco	£71.76 per kilogram".

(2) The amendment made by subsection (1) is treated as having come into force at 6pm on 12 March 2008.

Fuel duties

13 Rates and rebates: simplification

(1) HODA 1979 is amended as follows.

(2) In section 1 (hydrocarbon oil), omit—
(a) subsections (3A) and (3B),
(b) in subsection (3C), "; and petrol is "leaded petrol" if it is not unleaded petrol", and
(c) subsections (6) and (7).

(3) In section 6 (hydrocarbon oil: rates of duty), for subsection (1A) substitute—

"(1A) The rates are—
(a) £0.5035 a litre in the case of unleaded petrol,
(b) £0.6007 a litre in the case of light oil other than unleaded petrol, and
(c) £0.5035 a litre in the case of heavy oil."

(4) In section 6AB(5) (duty on bioblend), omit the words from "of the description" to the end.

(5) In section 11(1) (rebate on heavy oil), omit—
(a) in paragraph (b), "which is not ultra low sulphur diesel", and
(b) paragraph (ba).

(6) In section 13AA(6) (restrictions on use of rebated kerosene), omit "which is not ultra low sulphur diesel or sulphur-free diesel".

(7) Omit section 13A (rebate on unleaded petrol).

(8) In section 20AAA(4)(a) (mixing of rebated oil), for "section 6(1A)(d)" substitute "section 6A(1A)(c)".

(9) In section 27(1) (interpretation)—
(a) in the definition of "rebate", omit "13A,",
(b) omit the definitions of "sulphur-free diesel", "sulphur-free petrol", "ultra low sulphur diesel" and "ultra low sulphur petrol", and

(c) for "and "leaded petrol" have" substitute "has".

(10) In Article 21(7) of the Renewable Transport Fuel Obligations Order 2007 (S.I.2007/3072), for "sulphur-free petrol" substitute "unleaded petrol".

(11) In consequence of this section, omit—
(a) in FA 1987, section 1(2) and (3),
(b) in FA 1997, section 7(5)(a) and (b) and (8)(b),
(c) in FA 2000, section 5(3),
(d) in FA 2001, section 2(1), and
(e) in FA 2004, section 7(2), (5) to (7) and (8)(a).

(12) The amendments made by this section are treated as having come into force on 1 April 2008.

14 Biodiesel and bioblend

Schedule 5 contains provision about biodiesel and bioblend.

15 Rates and rebates: increase from 1 October 2008

(1) HODA 1979 is amended as follows.

(2) In section 6(1A) (main rates)—
(a) in paragraph (a) (unleaded petrol), for "£0.5035" substitute "£0.5235",
(b) in paragraph (b) (light oil other than unleaded petrol), for "£0.6007" substitute "£0.6207", and
(c) in paragraph (c), (heavy oil), for "£0.5035" substitute "£0.5235".

(3) In section 6AA(3) (rate of duty on biodiesel), for "£0.3035" substitute "£0.3235".

(4) In section 6AD(3) (rate of duty on bioethanol), for "£0.3035" substitute "£0.3235".

(5) In section 8(3) (road fuel gas)—
(a) in paragraph (a) (natural road fuel gas), for "£0.1370" substitute "£0.1660", and
(b) in paragraph (b) (other road fuel gas), for "£0.1649" substitute "£0.2077".

(6) In section 11(1) (rebate on heavy oil)—
(a) in paragraph (a) (fuel oil), for "£0.0929" substitute "£0.0966", and
(b) in paragraph (b) (gas oil), for "£0.0969" substitute "£0.1007".

(7) In section 14(1) (rebate on light oil for use as furnace fuel), for "£0.0929" substitute "£0.0966".

(8) In section 14A(2) (rebate on certain biodiesel), for "£0.0969" substitute "£0.1007".

(9) The amendments made by this section come into force on 1 October 2008.

16 Fuel for aircraft and boats, heating oil and fuel for certain engines

(1) In section 6(1A) of HODA 1979 (main rates)—

(a) after paragraph (a) insert—

"(aa) £0.3103 a litre in the case of aviation gasoline,", and

(b) in paragraph (b), after "petrol" insert "or aviation gasoline".

(2) The amendments made by subsection (1) come into force on 1 November 2008.

(3) Schedule 6 contains—

(a) in Part 1, provision consequential on subsection (1) and provision about fuel used for private pleasure-flying or private pleasure craft, and

(b) in Part 2, provision about certain heavy oil used for heating or as fuel for certain engines.

Environmental taxes and duties

17 Rates of vehicle excise duty

(1) Schedule 1 to VERA 1994 (annual rates of duty) is amended as follows.

(2) In paragraph 1 (general)—

(a) in sub-paragraph (2) (vehicle not covered elsewhere in Schedule otherwise than with engine cylinder capacity not exceeding 1,549cc), for "£180" substitute "£185", and

(b) in sub-paragraph (2A) (vehicle not covered elsewhere in Schedule with engine cylinder capacity not exceeding 1,549cc), for "£115" substitute "£120".

(3) In paragraph 1B (graduated rates for light passenger vehicles), for the table substitute—

"TABLE

CO_2 emissions figure		*Rate*	
(1)	*(2)*	*(3)*	*(4)*
Exceeding	*Not exceeding*	*Reduced rate*	*Standard rate*
g/km	*g/km*	*£*	*£*
100	120	15	35
120	150	100	120
150	165	125	145
165	185	150	170
185	225	195	210
225	—	385	400

The table has effect in relation to vehicles first registered before 23 March 2006 as if—

(a) in column (3), in the last row, "195" were substituted for "385", and

(b) in column (4), in the last row, "210" were substituted for "400"."

(4) In paragraph 1J (light goods vehicles)—

(a) in sub-paragraph (a) (vehicle which is not lower-emission van), for "£175" substitute "£180", and

(b) in sub-paragraph (b) (lower-emission van), for "£115" substitute "£120".

(5) In paragraph 2(1) (motorcycles)—

(a) in paragraph (b) (motorbicycle and engine's cylinder capacity more than 150cc but not more than 400cc), for "£32" substitute "£33",

(b) in paragraph (c) (motorbicycle and engine's cylinder capacity more than 400cc but not more than 600cc), for "£47" substitute "£48", and

(c) in paragraph (d) (any other case), for "£64" substitute "£66".

(6) The amendments made by this section have effect in relation to licences taken out on or after 13 March 2008.

18 Standard rate of landfill tax

(1) In section 42(1)(a) and (2) of FA 1996 (amount of landfill tax), for "£32" substitute "£40".

(2) The amendments made by subsection (1) come into force on 1 April 2009 and have effect in relation to disposals made (or treated as made) on or after that date.

19 Rates of climate change levy

(1) In Schedule 6 to FA 2000 (climate change levy), for the table in paragraph 42(1) substitute—

"TABLE

Taxable commodity supplied	*Rate at which levy payable if supply is not a reduced-rate supply*
Electricity	£0.00470 per kilowatt hour
Gas supplied by a gas utility or any gas supplied in a gaseous state that is of a kind supplied by a gas utility	£0.00164 per kilowatt hour
Any petroleum gas, or other gaseous hydrocarbon, supplied in a liquid state	£0.01050 per kilogram
Any other taxable commodity	£0.01281 per kilogram".

(2) The amendment made by subsection (1) has effect in relation to supplies treated as taking place on or after 1 April 2009.

20 Rate of aggregates levy

(1) In section 16(4) of FA 2001 (rate of aggregates levy), for "£1.95" substitute "£2".

(2) The amendment made by subsection (1) has effect in relation to aggregate subjected to commercial exploitation on or after 1 April 2009.

21 Carbon reduction trading scheme: charges for allocations

(1) The Treasury may impose charges by providing for carbon reduction trading scheme allowances to be allocated in return for payment.

(2) The charges may only be imposed by regulations.

(3) The regulations may make any other provision about allocations of allowances which the Treasury consider appropriate, including (in particular)—

(a) provision as to the imposition of fees, and as to the making and forfeiting of deposits, in connection with participation in the allocations,

(b) provision as to the persons by whom allocations are to be conducted,

(c) provision for allocations to be overseen by an independent person appointed by the Treasury,

(d) provision for the imposition and recovery of penalties for failure to comply with the terms of a scheme made under subsection (4),

(e) provision for and in connection with the recovery of payments due in respect of allowances allocated (including provision as to the imposition and recovery of interest and penalties), and

(f) provision conferring rights of appeal against decisions made in allocations, the forfeiting of deposits and the imposition of penalties (including provision specifying the person, court or tribunal to hear and determine appeals).

(4) The Treasury may make schemes about the conduct and terms of allocations (to have effect subject to any regulations under this section); and schemes may in particular include provision about—

(a) who may participate in allocations,

(b) the allowances to be allocated, and

(c) where and when allocations are to take place.

(5) In this section—

"carbon reduction trading scheme allowances" means tradeable allowances that—

(a) are provided for in a relevant trading scheme, and

(b) represent the right to carry on a specified amount of activities that consist of the emission of greenhouse gas or that cause or contribute, directly or indirectly, to such emissions;

"relevant trading scheme" means a trading scheme that—

(a) is made under Part 3 of the Climate Change Act 2008,

(b) applies to persons by reference to their consumption of electricity (whether or not by reference to other matters as well), and

(c) applies only to persons who consume electricity—

(i) for business or charitable purposes, or

(ii) for the performance of functions of a public nature,

(whether or not they also consume electricity for other purposes);

"specified" means specified in the relevant trading scheme.

(6) Regulations under this section are to be made by statutory instrument.

(7) A statutory instrument containing the first regulations under this section may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the House of Commons.

(8) Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons unless a draft of the regulations has been laid before, and approved by a resolution of, that House.

Gambling duties

22 Rates of gaming duty

(1) For the table in section 11(2) of FA 1997 substitute—

"TABLE

Part of gross gaming yield	*Rate*
The first £1,911,000	15 per cent
The next £1,317,000	20 per cent
The next £2,307,000	30 per cent
The next £4,869,500	40 per cent
The remainder	50 per cent".

(2) The amendment made by subsection (1) has effect in relation to accounting periods beginning on or after 1 April 2008.

23 Amusement machine licence duty

(1) In section 23(2) of BGDA 1981 (amount of duty payable on amusement machine licence), for the table substitute—

"TABLE

Months for which licence granted	*Category A* £	*Category B1* £	*Category B2* £	*Category B3* £	*Category B4* £	*Category C* £
1	455	230	180	180	165	70
2	905	450	355	355	320	135
3	1355	675	535	535	485	200
4	1805	905	710	710	645	265
5	2260	1130	890	890	805	335

Months for which licence granted	*Category A* £	*Category B1* £	*Category B2* £	*Category B3* £	*Category B4* £	*Category C* £
6	2710	1355	1065	1065	965	400
7	3160	1580	1245	1245	1125	465
8	3610	1805	1420	1420	1290	530
9	4065	2030	1600	1600	1450	600
10	4515	2260	1775	1775	1610	665
11	4965	2485	1955	1955	1770	730
12	5160	2580	2030	2030	1840	760".

(2) The amendment made by subsection (1) has effect in relation to cases where the application for the amusement machine licence is received by the Commissioners for Her Majesty's Revenue and Customs after 4pm on 14 March 2008.

PART 2

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX - GENERAL

Residence and domicile

24 Periods of residence

(1) Section 831 of ITA 2007 (foreign income of individuals in United Kingdom for temporary purpose) is amended as follows.

(2) In subsection (1), for paragraph (b) substitute—

"(b) during the tax year in question the individual spends (in total) less than 183 days in the United Kingdom."

(3) After that subsection insert—

"(1A) In determining whether an individual is within subsection (1)(b) treat a day as a day spent by the individual in the United Kingdom if (and only if) the individual is present in the United Kingdom at the end of the day.

(1B) But in determining that issue do not treat as a day spent by the individual in the United Kingdom any day on which the individual arrives in the United Kingdom as a passenger if—

(a) the individual departs from the United Kingdom on the next day, and

(b) during the time between arrival and departure the individual does not engage in activities that are to a substantial extent unrelated to the individual's passage through the United Kingdom."

(4) In section 832 of that Act (employment income of individuals in United Kingdom for temporary purpose), after subsection (1) insert—

"(1A) In determining whether an individual is within subsection (1)(b) treat a day as a day spent by the individual in the United Kingdom if (and only if) the individual is present in the United Kingdom at the end of the day.

(1B) But in determining that issue do not treat as a day spent by the individual in the United Kingdom any day on which the individual arrives in the United Kingdom as a passenger if—

(a) the individual departs from the United Kingdom on the next day, and

(b) during the time between arrival and departure the individual does not engage in activities that are to a substantial extent unrelated to the individual's passage through the United Kingdom."

(5) Section 9 of TCGA 1992 (residence, including temporary residence) is amended as follows.

(6) In subsection (3), for the words after "if and only if" substitute "the individual spends (in total) at least 183 days in the United Kingdom."

(7) Insert at the end—

"(5) In determining for the purposes of subsection (3) above whether an individual spends (in total) at least 183 days in the United Kingdom treat a day as a day spent by the individual in the United Kingdom if (and only if) the individual is present in the United Kingdom at the end of the day.

(6) But in determining that issue for those purposes do not treat as a day spent by the individual in the United Kingdom any day on which the individual arrives in the United Kingdom as a passenger if—

(a) the individual departs from the United Kingdom on the next day, and

(b) during the time between arrival and departure the individual does not engage in activities that are to a substantial extent unrelated to the individual's passage through the United Kingdom."

(8) The amendments made by this section have effect for the tax year 2008-09 and subsequent tax years.

25 Remittance basis

Schedule 7 contains provision for and in connection with the revision of the remittance basis.

Research and development

26 Rates of R&D relief and vaccine research relief

Schedule 8 contains provision about the rates of research and development relief and vaccine research relief.

27 Qualifying expenditure: R&D relief and vaccine research relief

(1) Paragraph 5 of Schedule 20 to FA 2000 (R&D tax relief: staffing costs) is amended as follows.

(2) In sub-paragraph (1)(b), after "company;" insert—

"(ba) the compulsory contributions paid by the company in respect of benefits for directors or employees of the company under the social security legislation of an EEA State (other than the United Kingdom) or Switzerland;".

(3) Before sub-paragraph (1A) insert—

"(1ZB) In sub-paragraph (1)(ba) "social security legislation" means legislation relating to any of the branches of social security listed in Article 3(1) of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the co-ordination of social security systems (as amended from time to time)."

(4) Schedule 13 to FA 2002 (vaccine research relief) is amended as follows.

(5) In paragraph 2 (qualifying expenditure)—

(a) in sub-paragraph (1)(a), at the end insert "or",

(b) omit sub-paragraph (1)(c) (and the "or" before it), and

(c) omit sub-paragraph (4).

(6) In paragraph 6 (qualifying expenditure on sub-contracted research and development), omit—

(a) in sub-paragraph (1), the second sentence, and

(b) sub-paragraph (3) (expenditure on research sub-contracted to a charity, a university or a scientific research organisation).

(7) Omit paragraph 12 (qualifying expenditure on contributions to independent research and development).

(8) Omit paragraph 25 (refunds of qualifying expenditure on contributions to independent research and development).

(9) Accordingly, in paragraph 3 of Schedule 8 to this Act (changes to rates of vaccine research relief), omit sub-paragraphs (2)(e) and (3)(d).

(10) The amendments made by this section have effect in relation to expenditure incurred on or after such day as the Treasury may by order appoint.

(11) Paragraph 10(4) of Schedule 13 to FA 2002 (time limit for giving notice of election for connected persons treatment) does not apply to a notice of an election under that paragraph in relation to sub-contractor payments if—

(a) the sub-contractor falls within paragraph 6(3) of that Schedule (repealed by this section) (charity, university or scientific research organisation), and

(b) the notice is given before the end of the period of 12 months beginning with the day appointed under subsection (10).

28 Companies in difficulty: SME R&D relief and vaccine research relief

Schedule 9 contains provision preventing a company from claiming research and development relief and vaccine research relief if it is not a going concern.

29 Cap on R&D aid

(1) A company is only entitled to R&D relief in respect of expenditure attributable to a research and development project if, or to the extent that, at that time, the total R&D aid in respect of expenditure by the company attributable to the project would not exceed 7.5 million euros.

(2) In subsection (1)—

"R&D relief" means any relief or tax credit under—

(a) Schedule 20 to FA 2000 (tax relief for expenditure by SMEs on research and development), or

(b) Schedule 13 to FA 2002 (tax relief for expenditure on vaccine research etc), and

"total R&D aid" means the total R&D aid calculated—

(a) in accordance with Part 1 of Schedule 10, and

(b) as if a claim or election had been made for the R&D relief mentioned in subsection (1).

(3) The Treasury may by regulations—

(a) increase the amount specified in subsection (1), and

(b) amend Part 1 of Schedule 10.

(4) Part 2 of Schedule 10 contains amendments consequential on this section.

(5) Subsections (1) to (4) and that Schedule come into force on such day as the Treasury may by order appoint.

30 Vaccine research relief: declaration about effect of relief

(1) In paragraph 21 of Schedule 13 to FA 2002 (tax relief for expenditure by large companies on vaccine research etc), after sub-paragraph (3) insert—

"(3A) A claim under this paragraph must include a declaration that the availability of the relief claimed has resulted in an increase in—

(a) the amount, scope or speed of the research and development undertaken by the company, or

(b) the company's expenditure on research and development."

(2) The amendment made by subsection (1) has effect in relation to claims made on or after such day as the Treasury may by order appoint.

Venture capital schemes etc

31 Enterprise investment scheme: increase in amount of relief

(1) In section 158(2)(b) of ITA 2007 (form and amount of EIS relief), for "£400,000" substitute "£500,000".

(2) The amendment made by subsection (1) has effect for—

(a) such tax year as the Treasury may by order specify, and

(b) all tax years subsequent to the specified tax year.

(3) An order under subsection (2) may specify the tax year in which it is made.

(4) Section 1014(4) of ITA 2007 (orders etc subject to annulment) does not apply in relation to an order under subsection (2).

32 Venture capital schemes

Schedule 11 contains provision about venture capital schemes.

33 Enterprise management incentives: qualifying companies

(1) Part 3 of Schedule 5 to ITEPA 2003 (enterprise management incentives: qualifying companies) is amended as follows.

(2) In paragraph 8 (qualifying companies: introduction), omit the "and" at the end of the entry relating to paragraph 12, and after that entry insert—

"number of employees (see paragraph 12A), and".

(3) After paragraph 12 insert—

"The number of employees requirement

12A (1) The number of employees requirement in the case of a single company is that the full-time equivalent employee number for it is less than 250.

(2) The number of employees requirement in the case of a parent company is that the sum of—

(a) the full-time equivalent employee number for it, and

(b) the full-time equivalent employee numbers for each of its qualifying subsidiaries,

is less than 250.

(3) The full-time equivalent employee number for a company is calculated as follows—

Step 1

Find the number of full-time employees of the company.

Step 2

Add, for each employee of the company who is not a full-time employee, such fraction as is just and reasonable.

The result is the full-time equivalent employee number.

(4) In this paragraph references to an employee—

(a) include a director, but

(b) do not include—

(i) an employee on maternity or paternity leave, or

(ii) a student on vocational training."

(4) In paragraph 16 (excluded activities), after paragraph (i) insert—

"(ia) shipbuilding (see also paragraph 20A);

(ib) producing coal (see also paragraph 20B);

(ic) producing steel (see also paragraph 20C);".

(5) After paragraph 20 insert—

"Excluded activities: shipbuilding

20A In paragraph 16(ia) "shipbuilding" has the same meaning as in the Framework on state aid to shipbuilding (2003/C 317/06), published in the Official Journal on 30 December 2003.

Excluded activities: producing coal

20B (1) This paragraph supplements paragraph 16(ib).

(2) "Coal" has the meaning given by Article 2 of Council Regulation (EC) No. 1407/2002 (state aid to coal industry).

(3) The production of coal includes the extraction of it.

Excluded activities: producing steel

20C In paragraph 16(ic) "steel" means any of the steel products listed in Annex 1 to the Guidelines on national regional aid (2006/C 54/08), published in the Official Journal on 4 March 2006."

(6) The amendments made by this section have effect in relation to options granted on or after the day on which this Act is passed.

Other business and investment measures

34 Tax credits for certain foreign distributions

(1) Schedule 12 contains provision about tax credits for certain foreign distributions.

(2) The amendments made by that Schedule have effect for the tax year 2008-09 and subsequent tax years.

35 Small companies' relief: associated companies

(1) Section 13 of ICTA (small companies' relief) is amended as follows.

(2) In the second sentence of subsection (4) (meaning of "control" for purposes of definition of "associated company"), insert at the end "except that, in the application of subsection (6) of that section in relation to the company ("the taxpayer company") and another company or companies for the purposes of this section, the references to an associate of a person ("P") include a partner of the person only if the condition in subsection (4A) below is met."

(3) After that subsection insert—

"(4A) The condition referred to in subsection (4) above is that relevant tax planning arrangements have at any time had effect in relation to the taxpayer company (whether in connection with its formation or otherwise).

(4B) In subsection (4A) above "relevant tax planning arrangements" means arrangements which—

(a) involve P and the partner, and

(b) secure a relevant tax advantage.

(4C) In subsection (4B) above—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable), other than any guarantee, security or charge given to or taken by a bank, and

"relevant tax advantage" means a reduction of the taxpayer company's liability to corporation tax by virtue of an increase in relief under this section."

(4) The amendments made by this section are treated as having come into force on 1 April 2008.

36 Company gains from investment life insurance contracts etc

(1) Schedule 13 contains provisions about company gains from investment life insurance contracts.

(2) Schedule 14 contains amendments and repeals consequential on that Schedule etc.

37 Trade profits: changes in trading stock

(1) Schedule 15 contains provision about the effect of certain changes in trading stock on the calculation of profits of trades for the purposes of income tax or corporation tax.

(2) The amendments made by that Schedule have effect in relation to changes in trading stock occurring on or after 12 March 2008.

(3) In subsection (2) "change in trading stock" means—

(a) in relation to new section 172B of ITTOIA 2005, or paragraph 6 of Schedule 15, an appropriation of trading stock,

(b) in relation to new section 172C of ITTOIA 2005, or paragraph 7 of Schedule 15, a thing becoming trading stock,

(c) in relation to new section 172D of ITTOIA 2005, or paragraph 8 of Schedule 15, a disposal of trading stock, and

(d) in relation to new section 172E of ITTOIA 2005, or paragraph 9 of Schedule 15, an acquisition of trading stock.

38 Non-residents: investment managers

Schedule 16 contains provision about—

(a) the eligibility of an investment manager to be the UK representative of a non-resident, or an agent of independent status in relation to a non-resident, and

(b) profits or income of non-residents that are to be disregarded if derived from certain investment transactions carried out by investment managers.

39 Dormant bank and building society accounts

(1) The Commissioners for Her Majesty's Revenue and Customs may by regulations—

(a) modify section 17 of TMA 1970 (banks etc required to report interest payments) in relation to interest paid or credited in respect of a relevant dormant account,

(b) modify Chapters 2 and 3 of Part 15 of ITA 2007 (deduction of income tax on interest payments at source) in relation to such interest, and

(c) provide that, for the purposes of Chapter 2 of Part 4 of ITTOIA 2005 (charge to income tax on interest), such interest is to be treated as not being paid until the time (if any) at which the balance of the dormant account is paid out following a claim made by virtue of section 1(2)(b) or 2(2)(b) of the 2008 Act.

(2) A relevant dormant account is a dormant account the balance of which is to be, or has been, transferred—

(a) to an authorised reclaim fund, with the result that section 1 of the 2008 Act will apply, or applies, in relation to the account, or

(b) to an authorised reclaim fund and one or more charities, with the result that section 2 of the 2008 Act will apply, or applies, in relation to the account.

(3) Interest paid or credited in respect of a relevant dormant account includes interest paid or credited by a person who administers the account on behalf of an authorised reclaim fund after the balance has been transferred.

(4) "The 2008 Act" means the Dormant Bank and Building Society Accounts Act 2008; and terms used in this section and in that Act have the same meaning in this section as in that Act.

(5) Regulations under subsection (1) are to be made by statutory instrument.

(6) A statutory instrument containing regulations under that subsection is subject to annulment in pursuance of a resolution of the House of Commons.

(7) In TCGA 1992, after section 26 insert—

"26A Transfer of dormant bank or building society account

(1) This section applies where the balance of a dormant account held by a person with a bank or building society is transferred—

(a) to an authorised reclaim fund, with the result that section 1 of the Dormant Bank and Building Society Accounts Act 2008 applies in relation to the account, or

(b) to an authorised reclaim fund and one or more charities, with the result that section 2 of that Act applies in relation to the account.

(2) For the purposes of this Act—

(a) the transfer is not to be treated as involving any acquisition or disposal of an asset, and

(b) the person's rights under Part 1 of that Act are to be treated as the same asset as the original rights, acquired as the original rights were acquired and having the same characteristics as those rights.

(3) "The original rights" are the person's rights against the bank or building society immediately before the transfer.

(4) Terms used in this section and in the Dormant Bank and Building Society Accounts Act 2008 have the same meaning in this section as in that Act."

(8) Subsection (7) comes into force in accordance with provision made by order made by the Treasury.

40 Individual investment plan regulations

In section 701 of ITTOIA 2005 (investment plan regulations: general and supplementary), insert at the end—

"(4) They may include provision having effect in relation to times before they are made if the provision does not impose or increase any liability to tax.

(5) They may make different provision for different cases or circumstances."

Offshore funds

41 Tax treatment of participants in offshore funds

(1) The Treasury may by regulations make provision about the treatment of participants in an offshore fund for the purposes of enactments relating to income tax, capital gains tax or corporation tax.

(2) In subsection (1)—

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

"offshore fund" has the same meaning as in Chapter 5 of Part 17 of ICTA (see sections 756A to 756C of that Act).

(3) Regulations under subsection (1) are to be made by statutory instrument.

(4) The first regulations under subsection (1) may not be made unless a draft of the instrument containing them has been laid before, and approved by a resolution of, the House of Commons.

(5) Any other statutory instrument containing regulations under subsection (1) is subject to annulment in pursuance of a resolution of the House of Commons.

(6) In Chapter 5 of Part 17 of ICTA (offshore funds)—

(a) in section 756A (general definition of offshore fund), omit subsection (4),

(b) in section 756B (treatment of umbrella funds)—

(i) in subsection (1), omit the words following paragraph (b), and

(ii) omit subsection (3),

(c) in section 756C (treatment of funds comprising more than one class of interest)—

(i) in subsection (2), omit paragraph (b) (and the "or" before it), and

(ii) omit subsection (3),

(d) omit sections 757 to 763 (further provision about offshore funds), and

(e) omit Schedules 27 and 28 (distributing funds and computation of offshore gains).

(7) In consequence of subsection (6), omit—

(a) paragraph 12 of Schedule 13 to FA 1988,

(b) paragraphs 10 and 11 of Schedule 14 to FA 1990,

(c) paragraph 14(43) to (45), (47) to (49) and (63) of Schedule 10 to TCGA 1992,

(d) section 134(4) of FA 1995,

(e) in paragraph 6 of Schedule 28 to FA 1996, "and in paragraph 5(5) of Schedule 27 to that Act",
(f) paragraph 4(5) and (6) of Schedule 9 to FA 2002,
(g) paragraphs 1(1), 2(1), 4, 5, 6(3) to (6), 7 to 9, 14(2), (3), (5)(b) and (7), 15 and 16(1) of Schedule 26 to FA 2004,
(h) paragraphs 308, 309 and 350(4) of Schedule 1 to ITTOIA 2005,
(i) section 23 of F(No.2)A 2005,
(j) paragraph 47(1) of Schedule 12 to FA 2006,
(k) paragraphs 179(2)(a) and (b), 180 and 181 of Schedule 1 to ITA 2007, and
(l) in this Act, paragraphs 92 to 94 of Schedule 7 and paragraph 30 of Schedule 17.

(8) Subsections (6) and (7) come into force on such day as the Treasury may appoint by order made by statutory instrument.

(9) An order under subsection (8)—
(a) may appoint different days for different purposes, and
(b) may include savings.

42 Regulations under section 41: supplementary

(1) Regulations under section 41 may, in particular—
(a) make provision for an offshore fund, or a trustee or officer of an offshore fund, to make elections relating to the treatment of participants in the offshore fund for the purposes of income tax, capital gains tax or corporation tax,
(b) make provision about—
(i) the provision of information to Her Majesty's Revenue and Customs,
(ii) the provision of information to participants,
(iii) the preparation of accounts, and
(iv) the keeping of records,
by offshore funds or trustees or officers of offshore funds, and
(c) make other provision about the administration of offshore funds.

(2) Regulations under section 41 may, in particular, make special provision about the treatment of participants in—
(a) an umbrella fund (within the meaning of section 756B of ICTA), and
(b) an offshore fund which comprises a class of interest in another fund (within the meaning of section 756C of ICTA).

(3) Regulations under section 41 may include provision consequential on the repeals made by that section.

(4) Regulations under section 41 may, in particular—
(a) provide for Her Majesty's Revenue and Customs to exercise a discretion in dealing with any matter,
(b) make provision by reference to standards or other documents issued by any person,
(c) modify an enactment (whenever passed or made),
(d) make different provision for different cases or different purposes, and
(e) make incidental, consequential, supplementary or transitional provision.

(5) Regulations under section 41 may, in particular, make provision having effect—

(a) in the case of provision relating to income tax or capital gains tax, in relation to the tax year current on the day on which the regulations are made, and

(b) in the case of provision relating to corporation tax, in relation to accounting periods current on that day.

(6) In this section—

"enactment" and "offshore fund" have the same meaning as in section 41, and

"modify" includes amend, repeal or revoke.

Insurance companies and friendly societies

43 Insurance companies etc

Schedule 17 contains provisions relating to insurance companies etc.

44 Friendly societies

Schedule 18 contains provision relating to friendly societies.

Employment matters

45 Homes outside UK owned through company etc

(1) In ITEPA 2003, after section 100 insert—

"100A Homes outside UK owned through company etc

(1) This Chapter does not apply to living accommodation outside the United Kingdom provided by a company for a director or other officer of the company ("D") or a member of D's family or household if—

(a) the company is wholly owned by D or D and other individuals (and no interest in the company is partnership property), and

(b) the company has been the holding company of the property at all times after the relevant time.

(2) The company is "the holding company of the property" when—

(a) it owns a relevant interest in the property,

(b) its main or only asset is that interest, and

(c) the only activities undertaken by it are ones that are incidental to its ownership of that interest.

(3) The company is also "the holding company of the property" when—

(a) a company ("the subsidiary") which is wholly owned by the company meets the conditions in paragraphs (a) to (c) of subsection (2),

(b) the company's main or only asset is its interest in the subsidiary, and

(c) the only activities undertaken by the company are ones that are incidental to its ownership of that interest.

(4) "Relevant interest in the property" means an interest under the law of any territory that confers (or would but for any inferior interest confer) a right to exclusive possession of the property at all times or at certain times.

(5) "The relevant time" is the time the company first owned a relevant interest in the property; but this is subject to subsection (6).

(6) If—

(a) none of D's interest in the company was acquired directly or indirectly from a person connected with D, and

(b) the company owned a relevant interest in the property at the time D first acquired an interest in the company,

"the relevant time" is the time D first acquired such an interest.

100B Section 100A(1): exceptions

(1) Section 100A(1) does not apply if subsection (2), (3) or (4) applies.

(2) This subsection applies if—

(a) the company's interest in the property was acquired directly or indirectly from a connected company at an undervalue, or

(b) the company's interest in the property derives from an interest that was so acquired.

(3) This subsection applies if, at any time after the relevant time—

(a) expenditure in respect of the property has been incurred directly or indirectly by a connected company, or

(b) any borrowing of the company directly or indirectly from a connected company has been outstanding (but see subsection (7)).

(4) This subsection applies if the living accommodation is provided in pursuance of an arrangement the main purpose, or one of the main purposes, of which is the avoidance of tax or national insurance contributions.

(5) In subsection (2) references to the acquisition of an interest include the grant of an interest.

(6) For the purposes of that subsection, an interest is acquired at an undervalue if the total consideration for it is less than that which might reasonably have been expected to be obtained on a disposal of the interest on the open market; and "consideration" here means consideration provided at any time (and, for example, includes payments by way of rent).

(7) For the purposes of subsection (3)(b), no account is to be taken of—

(a) any borrowing at a commercial rate, or

(b) any borrowing which results in D being treated under Chapter 7 (taxable benefits: loans) as receiving earnings.

(8) In subsection (4) "arrangement" includes any scheme, agreement or understanding, whether or not enforceable.

(9) In this section "connected company" means—

(a) a company connected with D, with a member of D's family or with an employer of D, or

(b) a company connected with such a company."

(2) The amendment made by subsection (1) is treated as always having had effect.

(3) Section 145 of ICTA (living accommodation provided for employee) is to be treated as never having applied to living accommodation outside the United Kingdom provided in circumstances in which, had it been provided on or after 6 April 2003, section 100A(1) of ITEPA 2003 would cause Chapter 5 of Part 3 of ITEPA 2003 (taxable benefits: living accommodation) not to apply.

46 In-work and return to work credits and payments

(1) In section 677(1) of ITEPA 2003 (UK social security benefits wholly exempt from tax), in Part 1 of Table B (benefits payable under primary legislation), insert at the appropriate places—

"In-work credit	ETA 1973	Section 2
	ETA(NI) 1950	Section 1
In-work emergency discretion fund payment	ETA 1973	Section 2
In-work emergency fund payment	ETA(NI) 1950	Section 1", and

"Return to work credit	ETA 1973	Section 2
	ETA(NI) 1950	Section 1".

(2) In Part 1 of Schedule 1 to that Act (abbreviations of Acts etc), insert at the appropriate places—

"ETA(NI) 1950	The Employment and Training Act (Northern Ireland) 1950 (c. 29 (N.I.))", and
"ETA 1973	The Employment and Training Act 1973 (c. 50)".

(3) The amendments made by this section have effect for the tax year 2008-09 and subsequent tax years.

47 Company cars: lower threshold for CO_2 emissions figure

(1) In section 139(4) of ITEPA 2003 (car with a CO_2 emissions figure: the appropriate percentage), for the table substitute—

"Tax year	*Lower threshold (in g/km)*
2008-09 or 2009-10	135
2010-11 and subsequent tax years	130".

(2) In consequence of the amendment made by subsection (1), omit—
(a) in FA 2003, section 138(3), and
(b) in FA 2006, section 59(6).

(3) The amendments made by this section have effect for the tax year 2008-09 and subsequent tax years.

48 Van fuel benefit

(1) In section 239(3) of ITEPA 2003 (exemption in respect of payments and benefits connected with taxable cars and vans subject to section 149), insert at the end "or section 160 (benefit of van fuel treated as earnings)."

(2) In section 269(2) of that Act (exemption in respect of non-cash vouchers and credit-tokens where benefits or money obtained in connection with taxable car or subject to section 149)—
(a) for ", but see section 149(3)" substitute "or van, but see section 149(3) or section 160(3)", and
(b) after "earnings)" insert "or section 160 (benefit of van fuel treated as earnings)".

49 Employment-related securities etc: deductible amounts etc

(1) In section 149AA of TCGA 1992 (restricted and convertible employment-related securities), after subsection (6) insert—

"(7) In subsection (1) the reference to any amount that constituted earnings under Chapter 1 of Part 3 of ITEPA 2003 does not include any amount of exempt income (within the meaning of section 8 of that Act)."

(2) ITEPA 2003 is amended as follows.

(3) In section 428(2)(b) as originally enacted (conditional interests in shares: amount of charge), insert at the end "(other than an amount of exempt income)".

(4) In section 428(7)(b) (restricted securities: amount of charge), insert at the end "(other than an amount of exempt income)".

(5) In section 446T(3)(b) (securities acquired for less than market value: amount of charge), insert at the end "(other than an amount of exempt income)".

(6) In section 480(5)(a) (securities options: deductible amounts), insert at the end "(other than an amount of exempt income)".

(7) In paragraph 21(3) of Schedule 23 to FA 2003 (corporation tax relief for employee share acquisition: amount of relief in case of restricted shares), insert

at the end—

"For this purpose the amount that constitutes such earnings does not include any amount of exempt income (within the meaning of section 8 of that Act)."

(8) In paragraph 22C(3) of that Schedule (corporation tax relief for employee share acquisition: amount of relief in case of convertible shares), insert at the end—

"For this purpose the amount that constitutes such earnings does not include any amount of exempt income (within the meaning of section 8 of that Act)."

(9) The amendment made by subsection (1) has effect in relation to disposals made on or after 12 March 2008.

(10) The amendment made by subsection (3) has effect in relation to events within section 427(1)(a) or (b) of ITEPA 2003 (as originally enacted) occurring on or after that date.

(11) The amendments made by subsections (4) and (6) have effect in relation to chargeable events occurring on or after that date.

(12) The amendment made by subsection (5) has effect in relation to employment-related securities acquired (or treated as acquired) on or after that date.

(13) The amendments made by subsections (7) and (8) have effect in relation to awards of shares made on or after that date.

50 Employment-related securities: repeal of obsolete provisions

(1) In ICTA, omit sections 138 and 139 (share acquisitions by directors and employees: shares acquired before 26 October 1987).

(2) In ITEPA 2003—

(a) in section 418 (other related provisions), omit subsection (4), and

(b) in Schedule 7 (transitionals and savings), omit paragraph 57.

(3) The amendments made by this section have effect for the tax year 2008-09 and subsequent tax years.

51 Armed forces: the Council Tax Relief

(1) In ITEPA 2003, after section 297A insert—

"297B Armed forces: the Council Tax Relief

(1) No liability to income tax arises in respect of payments of the Council Tax Relief to members of the armed forces of the Crown.

(2) Payments of the Council Tax Relief are payments designated as such by the Secretary of State."

(2) The amendment made by subsection (1) has effect in relation to payments made on or after 1 April 2008.

52 Greater London Authority: severance payments

(1) Section 291(2) of ITEPA 2003 (termination payments to MPs and others ceasing to hold office) is amended as follows.

(2) In paragraph (ea), omit "or".

(3) At the end of paragraph (f) insert ", or

(g) made under section 26A of the Greater London Authority Act 1999 (payments on ceasing to hold office as Mayor of London or as a member of the London Assembly)."

(4) The amendments made by this section have effect in relation to payments made on or after 6 April 2008.

Charities etc

53 Gift aid: payments to charities

Schedule 19 contains provision for the Commissioners for Her Majesty's Revenue and Customs to make payments to charities which receive donations under the gift aid scheme.

54 Community investment tax relief

(1) Paragraph 35 of Schedule 16 to FA 2002 (community investment tax relief) is amended as follows.

(2) After sub-paragraph (1) insert—

"(1A) But if the investor is a bank, the investor does not receive value from the CDFI when the CDFI makes a deposit with the investor in the course of its ordinary banking arrangements."

(3) In subsection (5), after "paragraph—" insert—

""bank" has the meaning given by section 840A of the Taxes Act 1988;".

(4) The amendments made by this section are treated as always having had effect.

Leasing

55 Leases of plant or machinery

Schedule 20 contains provision about leases of plant or machinery.

56 Sale of lessor companies etc

(1) Schedule 10 to FA 2006 (sale etc of lessor companies etc) is amended as follows.

(2) In paragraph 23 (leasing business carried on in partnership: change in company's interest in the business), after sub-paragraph (4) insert—

"(4A) But if at the end of the relevant day the other company is the only person carrying on the business, the expense—

(a) is treated as an expense incurred by the other company in its carrying on of the business (at a time when it is the only person carrying it on), and

(b) is allowed as a deduction in calculating for corporation tax purposes the profits of the business for the accounting period in which it is treated as incurred."

(3) In paragraph 32 (amount of expense)—

(a) in sub-paragraph (2), for "The" substitute "Except in a case where sub-paragraph (3A) applies, the", and

(b) after sub-paragraph (3) insert—

"(3A) If paragraph 23(4A) applies (business carried on by the other company alone), the amount of the expense of the other company is equal to the amount of the income."

(4) In paragraph 39 (relief for certain expenses otherwise giving rise to carried forward loss)—

(a) after sub-paragraph (1) insert—

"(1A) This paragraph also applies if—

(a) a company is treated under paragraph 23(4A) as incurring an expense of a business in an accounting period,

(b) the company makes a loss in that accounting period, and

(c) some or all of that loss would otherwise be carried forward to the next accounting period of the company ("the subsequent accounting period").",

(b) in sub-paragraph (2), after "3" insert ", 23(4A)", and

(c) in sub-paragraph (4), after "3" insert ", 23(4A)",

and, accordingly, in the heading before that paragraph, after "*3*" insert ", *23(4A)*".

(5) The amendments made by this section are treated as always having had effect.

Double taxation arrangements

57 Double taxation relief

(1) Section 798 of ICTA (limits on foreign tax credit: trade income) is amended as follows.

(2) After subsection (1) insert—

"(1A) The references in section 796 and this section to income in respect of which a credit for foreign tax is to be allowed are to be treated as referring only to income arising out of the transaction, arrangement or asset in connection with which the credit for foreign tax arises."

(3) In subsection (3), after "income" insert "in respect of which the credit is to be allowed".

(4) The amendments made by this section have effect in relation to a credit for foreign tax which relates to—

(a) a payment of foreign tax on or after 6 April 2008, or

(b) income received on or after that date in respect of which foreign tax has been deducted at source.

58 UK residents and foreign partnerships

(1) In section 115 of ICTA (partnerships involving companies: supplementary), after subsection (5B) insert—

"(5C) For the purposes of subsections (5) to (5B) the members of a partnership include any company which is entitled to a share of income or capital gains of the partnership."

(2) In section 59 of TCGA 1992 (partnerships), insert at the end—

"(4) For the purposes of subsections (2) and (3) the members of a partnership include any person entitled to a share of capital gains of the partnership."

(3) In section 858 of ITTOIA 2005 (resident partners and double taxation agreements), insert at the end—

"(4) For the purposes of this section the members of a firm include any person entitled to a share of income of the firm."

(4) The amendments made by subsections (1) to (3) are treated as always having had effect.

(5) For the purposes of the predecessor provisions, the members of a partnership are to be treated as having included, at all times to which those provisions applied, a person entitled to a share of income or capital gains of the partnership.

(6) "The predecessor provisions" means—

(a) section 153(4) and (5) of the Income and Corporation Taxes Act 1970 (c. 10) (as it had effect under section 62(2) of F(No.2)A 1987), and

(b) sections 112(4) to (6) and 115(5) of ICTA.

59 UK residents and foreign enterprises

(1) In ICTA, after section 815A insert—

"815AZA UK residents and foreign enterprises

(1) Where arrangements having effect under section 788 make the provision mentioned in subsection (2) (however expressed), that provision does not prevent income of a person resident in the United Kingdom being chargeable to income tax or corporation tax.

(2) The provision is that the profits of an enterprise which is resident outside the United Kingdom, or carries on a trade, profession or business the control or management of which is situated outside the United Kingdom, are not to be subject to United Kingdom tax except in so far as they are attributable to a permanent establishment of the enterprise in the United Kingdom.

(3) A person is resident in the United Kingdom for the purposes of this section if the person is so resident for the purposes of the arrangements having effect under section 788.

(4) This section does not apply in relation to—

(a) income of a company resident in the United Kingdom to which section 115(5A) applies, or

(b) income of a person resident in the United Kingdom to which section 858 of ITTOIA 2005 applies."

(2) The amendment made by subsection (1) has effect in relation to income arising on or after 12 March 2008.

Other anti-avoidance provisions

60 Restrictions on trade loss relief for individuals

Schedule 21 contains provision restricting relief for losses made by individuals who, otherwise than in partnership, carry on trades in a non-active capacity.

61 Non-active partners

(1) In section 103B(2) of ITA 2007 (meaning of "non-active partner" for purposes of provisions restricting trade loss relief), for "carried on for the purposes of the trade" substitute "of the trade and those activities are carried on—

(a) on a commercial basis, and

(b) with a view to the realisation of profits as a result of the activities."

(2) The amendment made by subsection (1) has effect in relation to relevant periods ending on or after 12 March 2008.

62 Financial arrangements avoidance

Schedule 22 contains provision about avoidance involving financial arrangements.

63 Manufactured payments

(1) Schedule 23 contains anti-avoidance provisions about manufactured payments.

(2) The amendments made by that Schedule have effect in relation to manufactured payments (including deemed manufactured payments) made (or treated as made) on or after 31 January 2008.

64 Controlled foreign companies

(1) Chapter 4 of Part 17 of ICTA (controlled foreign companies) is amended as follows.

(2) In section 747 (imputation of chargeable profits of controlled foreign companies)—

(a) in subsection (6), before "and" at the end of paragraph (a) insert—

"(aa) any reference in this Chapter to its chargeable profits for an accounting period includes (subject to subsections (7) to (9)) income which accrues during that accounting

period to the trustees of a settlement in relation to which the company is a settlor or a beneficiary;", and

(b) after that subsection insert—

"(7) Where there is more than one settlor or beneficiary in relation to the settlement mentioned in subsection (6)(aa), the income is to be apportioned between the company and the other settlors or beneficiaries on a just and reasonable basis.

(8) Where income within subsection (6)(aa) is included in the chargeable profits of a company, any dividend or other distribution received by the company which derives from that income is not included in the chargeable profits of the company to the extent that it is so derived.

(9) Any income within subsection (6)(aa) which would (apart from this subsection)—

(a) be included in the chargeable profits of a company which is a beneficiary in relation to a settlement and apportioned under subsection (3), and

(b) be included in the chargeable profits of a company which is a settlor in relation to the settlement and apportioned under that subsection,

is not to be included in the chargeable profits of the company which is a settlor."

(3) In section 755D (meaning of control)—

(a) after subsection (1) insert—

"(1A) For the purposes of this Chapter a person also controls a company if the person possesses, or is entitled to acquire, such rights as would—

(a) if the whole of the income of the company were distributed, entitle the person to receive the greater part of the amount so distributed,

(b) if the whole of the company's share capital were disposed of, entitle the person to receive the greater part of the proceeds of the disposal, or

(c) in the event of the winding-up of the company or in any other circumstances, entitle the person to receive the greater part of the assets of the company which would then be available for distribution.", and

(b) in subsection (2), after "above" insert "or satisfy subsection (1A) above".

(4) In paragraph 2A of Schedule 25 (acceptable distribution policy)—

(a) in sub-paragraph (2), for "sub-paragraph (4)" substitute "sub-paragraphs (4) and (4A)", and

(b) after sub-paragraph (4) insert—

"(4A) Sub-paragraph (2) does not apply where the distribution condition is satisfied in relation to the relevant accounting period, but—

(a) the relevant profits for that period do not include income within sub-paragraph (4B), and

(b) if that income were included, the distribution condition would not be satisfied in relation to that period.

(4B) The income within this sub-paragraph is—

(a) any income which accrues during the relevant accounting period to the trustees of a settlement in relation to which the company is a settlor or a beneficiary, and

(b) any income which accrues during that period to a partnership of which the company is a partner, apportioned between the company and the other partners on a just and reasonable basis.

(4C) Where there is more than one settlor or beneficiary in relation to the settlement mentioned in sub-paragraph (4B)(a), the income is to be apportioned between the company and the other settlors or beneficiaries on a just and reasonable basis.

(4D) In sub-paragraph (4B)(b) "partnership" includes an entity established under the law of a country or territory outside the United Kingdom of a similar character to a partnership; and "partner" is to be read accordingly."

(5) In paragraph 6 of Schedule 25 (definition of exempt activities), after sub-paragraph (5B) insert—

"(5C) For the purposes of this paragraph, the gross income of a holding company or a superior holding company during an accounting period includes—

(a) any income which accrues during that period to the trustees of a settlement in relation to which the company is a settlor or a beneficiary, and

(b) any income which accrues during that period to a partnership of which the company is a partner, apportioned between the company and the other partners on a just and reasonable basis.

(5D) Where there is more than one settlor or beneficiary in relation to the settlement mentioned in sub-paragraph (5C)(a), the income is to be apportioned between the company and the other settlors or beneficiaries on a just and reasonable basis.

(5E) In sub-paragraph (5C)(b) "partnership" includes an entity established under the law of a country or territory outside the United Kingdom of a similar character to a partnership; and "partner" is to be read accordingly."

(6) The amendments made by subsections (2) and (5) have effect in relation to income accruing on or after 12 March 2008.

(7) The amendments made by subsection (3) have effect for determining whether, at any time on or after 12 March 2008, a company is controlled by persons resident in the United Kingdom for the purposes of Chapter 4 of Part 17 of ICTA.

(8) The amendments made by subsection (4) have effect in relation to any dividend paid on or after 12 March 2008.

(9) In relation to an accounting period of a company beginning before, and ending on or after, 12 March 2008 ("the straddling period"), the amendments made by this section have effect as if, for the purposes of Chapter 4 of Part 17 of ICTA, so much of the period as falls before that date, and so much of the period as falls on or after that date, were separate accounting periods.

(10) The company's chargeable profits for the straddling period, and its creditable tax (if any) for that period, are to be apportioned to the two separate accounting periods on a just and reasonable basis.

(11) In this section "accounting period", "chargeable profits" and "creditable tax" have the same meaning as in Chapter 4 of Part 17 of ICTA.

65 Intangible fixed assets: related parties

(1) In Schedule 29 to FA 2002 (gains and losses of a company from intangible fixed assets), after paragraph 95 (meaning of "related party") insert—

"Persons treated as "related parties"

95A (1) For the purposes of this Schedule, a person ("P") shall be treated as a related party in relation to a company ("C") within a Case in paragraph 95(1) if P would be a related party in relation to C within that Case but for any person (other than an individual) being the subject of—

(a) insolvency arrangements, or

(b) equivalent arrangements under the law of any country or territory (whether made when the person is solvent or insolvent).

(2) For the purpose of this paragraph, "insolvency arrangements" includes—

(a) arrangements under which a person acts as the liquidator, provisional liquidator, receiver, administrator or administrative receiver of a company or partnership, and

(b) voluntary arrangements proposed or approved in relation to a company or partnership under Part 1 of the Insolvency Act 1986 or Part 2 of the Insolvency (Northern Ireland) Order 1989.

(3) In this paragraph—

"administrative receiver" means an administrative receiver within the meaning of section 251 of the Insolvency Act 1986 or Article 5(1) of the Insolvency (Northern Ireland) Order 1989,

"administrator" means a person appointed to manage the affairs, business and property of the company or partnership under Schedule B1 to that Act or to that Order, and

"receiver" means a person appointed as receiver of some or all of the property of the company or partnership under an enactment or under an instrument issued for the purpose of representing security for, or the rights of creditors in respect of, any debt."

(2) Subject to subsections (4) and (5), the amendment made by subsection (1) has effect in relation to the debits and credits to be brought into account for accounting periods beginning on or after 12 March 2008.

(3) For the purposes of subsection (2), an accounting period beginning before, and ending on or after, that day is treated as if so much of that period as falls before that day, and so much of that period as falls on or after that day, were separate periods.

(4) The amendment made by subsection (1) does not have effect for the purpose of determining whether a person was a related party in relation to a company at a time before 12 March 2008.

(5) That amendment has effect, for the purposes of paragraph 92 of Schedule 29 to FA 2002 as it applies otherwise than for determining the debits and credits to be brought into account under that Schedule, in relation to any transfer of an asset made on or after 12 March 2008.

66 Repeal of obsolete anti-avoidance provisions

(1) In Part 17 of ICTA (tax avoidance)—
- (a) in section 704 (cancellation of corporation tax advantages: the prescribed circumstances), omit—
  - (i) paragraph B (and the "OR" after it), and
  - (ii) in paragraph C(1), paragraph (b) (and the "or" before it),
- (b) in section 709 (definitions), omit subsection (2A),
- (c) omit sections 731 to 735 (purchase and sale of securities), and
- (d) omit section 736 (company dealing in securities: distribution materially reducing value of holding).

(2) In Part 13 of ITA 2007 (tax avoidance)—
- (a) in section 684(2) (person liable to counteraction of income tax advantage), omit the entry relating to section 687 of that Act,
- (b) omit section 687 (deductions from profits obtained following distribution or dealings), and
- (c) in section 688 (receipt of consideration representing company's assets, future receipts or trading stock), omit—
  - (i) in subsection (3), paragraph (b) (and the "or" before it), and
  - (ii) subsections (4), (5) and (9).

(3) In consequence of the amendments made by subsection (1)(a) and (b), omit—
- (a) in FA 1997, section 73, and
- (b) in ITA 2007, paragraph 155(4) and (5) and (6)(b) of Schedule 1.

(4) In consequence of the amendments made by subsection (1)(c) and (d), omit—
- (a) in ICTA, sections 343(5) and 738,
- (b) in FA 1990, section 53,
- (c) in FA 1991, sections 55 and 56,
- (d) in TCGA 1992, paragraph 14(40) and (41) of Schedule 10,
- (e) in FA 1994, paragraph 17 of Schedule 16,
- (f) in FA 1995, section 81,
- (g) in FA 1996—
  - (i) paragraph 36 of Schedule 20, and

(ii) paragraph 9 of Schedule 38,

(h) in FA 1997, section 77,

(i) in F(No.2)A 1997—

(i) section 26, and

(ii) paragraph 14 of Schedule 6,

(j) in FA 2003, paragraph 6 of Schedule 38,

(k) in ITTOIA 2005, paragraphs 302 and 303 of Schedule 1,

(l) in ITA 2007—

(i) in section 64(8), paragraph (f) (and the "and" before it),

(ii) in section 72(5), paragraph (f) (and the "and" before it),

(iii) in section 448(3), "and section 451",

(iv) in section 449(3), "and section 451",

(v) section 451,

(vi) in section 505, in subsection (4) "and section 506" and, in subsection (5) "and in section 506",

(vii) section 506, and

(viii) paragraphs 167 to 170 of Schedule 1, and

(m) in FA 2007, paragraph 6 of Schedule 14.

(5) The amendments made by subsections (1)(a) and (b), (2) and (3) have effect in relation to transactions in securities entered into on or after 1 April 2008.

(6) The amendment made by subsection (1)(c) has effect in relation to cases where the purchase by the first buyer (within the meaning of section 731(2) of ICTA) is made on or after that date.

(7) The amendment made by subsection (1)(d) has effect in relation to distributions made on or after that date.

(8) The amendments made by subsection (4) have effect in accordance with subsections (6) and (7).

Miscellaneous

67 Income of beneficiaries under settlor-interested settlements

(1) In section 685A of ITTOIA 2005 (settlor-interested settlements), after subsection (5) insert—

"(5A) If the recipient of the annual payment is treated by subsection (3) as having paid income tax in respect of the annual payment, the amount of the payment is treated as the highest part of the recipient's total income for all income tax purposes except the purposes of sections 535 to 537 (gains from contracts for life insurance etc: top slicing relief).

(5B) See section 1012 of ITA 2007 (relationship between highest part rules) for the relationship between—

(a) the rule in subsection (5A), and

(b) other rules requiring particular income to be treated as the highest part of a person's income."

(2) In section 1012(4) of ITA 2007 (relationship between rules on highest part of

total income), after the entry relating to section 465A of ITOIA 2005 insert—

"section 685A(5A) of ITTOIA 2005 (payments from trustees of settlor-interested settlements to be treated as highest part of total income),".

(3) The amendments made by this section have effect for the tax year 2006-07 and subsequent tax years.

68 Income charged at dividend upper rate

(1) In section 13(2) of ITA 2007 (income charged at dividend upper rate: individuals)—

(a) omit "and" at the end of paragraph (a), and

(b) at the end of paragraph (b) insert ", and

(c) is not relevant foreign income charged in accordance with section 832 of ITTOIA 2005."

(2) The amendments made by subsection (1) have effect for the tax year 2008-09 and subsequent tax years.

69 Payments on account of income tax

(1) In section 964 of ITA 2007, omit subsection (5) (sums representing income tax deducted from annual payments not to be taken into account for the purpose of calculating amounts to be paid on account of income tax).

(2) The repeal made by subsection (1) has effect for the purpose of calculating the amount of any payments to be made under section 59A of TMA 1970 on account of liability to income tax for the tax year 2008-09 and subsequent tax years.

70 Allowances etc for non-resident nationals of an EEA state

(1) In section 278 of ICTA (non-residents eligible for reliefs)—

(a) in subsection (2)(a), omit "or an EEA national", and

(b) omit subsection (9).

(2) In section 56(3) of ITA 2007 (non-UK residents eligible for personal allowances and tax reductions), before paragraph (a) insert—

"(za) is a national of an EEA state,".

(3) Accordingly, omit section 145 of FA 1996 (personal reliefs for non-resident EEA nationals).

(4) The amendments made by this section have effect for the tax year 2008-09 and subsequent tax years.

PART 3

CAPITAL ALLOWANCES

Plant and machinery: qualifying expenditure

71 Thermal insulation of buildings

(1) Section 28 of CAA 2001 (thermal insulation of industrial buildings) is amended as follows.

(2) In subsection (1)—
  (a) for "consisting of a trade" substitute "other than an ordinary property business or an overseas property business",
  (b) for "an industrial" substitute "a", and
  (c) for "the trade" substitute "the qualifying activity".

(3) In subsection (2), for "an industrial" substitute "a".

(4) After that subsection insert—

"(2A) Subsection (2) is subject to section 35 (expenditure on plant or machinery for use in dwelling-house not qualifying expenditure).

(2B) This section does not apply to expenditure within subsection (2) if a deduction for that expenditure is allowable—
  (a) under section 31ZA of ICTA, or
  (b) under section 312 of ITTOIA 2005,
(deductions for expenditure on energy-saving items).

(2C) For the purposes of subsection (2B), whether such a deduction is allowable is to be determined without regard to subsection (1)(e) of the section in question."

(5) Omit subsection (3).

(6) In the heading, omit "**industrial**".

(7) In section 23(2) of CAA 2001 (expenditure unaffected by sections 21 and 22), in the entry for section 28, omit "industrial".

(8) The amendments made by this section have effect—
  (a) for corporation tax purposes, in relation to expenditure incurred on or after 1 April 2008, and
  (b) for income tax purposes, in relation to expenditure incurred on or after 6 April 2008.

72 Expenditure on required fire precautions

(1) In CAA 2001, omit section 29 (expenditure on required fire precautions).

(2) In section 23(2) of that Act, omit "section 29 (fire safety);".

(3) In consequence of the amendment made by subsection (1)—
  (a) in the Fire and Rescue Services Act 2004 (c. 21), omit paragraph 96 of Schedule 1, and

(b) in the Fire and Rescue Services (Northern Ireland) Order 2006 (S.I. 2006/1254 (N.I. 9)), omit paragraph 24 of Schedule 3 (and the entry relating to CAA 2001 in Schedule 4).

(4) The amendments made by subsections (1) and (2) have effect—

(a) for corporation tax purposes, in relation to expenditure incurred on or after 1 April 2008, and

(b) for income tax purposes, in relation to expenditure incurred on or after 6 April 2008.

73 Integral features

(1) In section 23 of CAA 2001 (expenditure unaffected by sections 21 and 22)—

(a) in subsection (2), after the entry for section 33 insert—

"section 33A (integral features);", and

(b) in subsection (4), in List C—

(i) in item 2, omit "Electrical systems (including lighting systems) and cold water,",

(ii) omit item 3, and

(iii) in item 6, for "Lifts, hoists, escalators and moving walkways." substitute "Hoists."

(2) After section 33 of that Act insert—

"Expenditure on integral features

33A Expenditure on provision or replacement of integral features

(1) This section applies where a person carrying on a qualifying activity incurs expenditure on the provision or replacement of an integral feature of a building or structure used by the person for the purposes of the qualifying activity.

(2) This Part (including in particular section 11(4)) applies as if—

(a) the expenditure were capital expenditure on the provision of plant or machinery for the purposes of the qualifying activity, and

(b) the person who incurred the expenditure owned plant or machinery as a result of incurring it.

(3) If the expenditure is qualifying expenditure, it may not be deducted in calculating the income from the qualifying activity.

(4) If the expenditure is not qualifying expenditure, whether it may be so deducted is to be determined without regard to this section.

(5) For the purposes of this section each of the following is an integral feature—

(a) an electrical system (including a lighting system),

(b) a cold water system,

(c) a space or water heating system, a powered system of ventilation, air cooling or air purification, and any floor or ceiling comprised in such a system,

(d) a lift, an escalator or a moving walkway,

(e) external solar shading.

(6) The items listed in subsection (5) do not include any asset whose principal purpose is to insulate or enclose the interior of a building or to provide an interior wall, floor or ceiling which (in each case) is intended to remain permanently in place.

(7) The Treasury may by order—

(a) provide that subsection (5) does not include a feature of a building or structure specified in the order, expenditure on which would (if not within subsection (5)) be qualifying expenditure other than special rate expenditure, and

(b) add to the list in subsection (5) a feature of a building or structure expenditure on the provision of which would not (apart from the order) be expenditure on the provision of plant or machinery.

(8) An order under subsection (7) may make such incidental, supplemental, consequential and transitional provision as the Treasury thinks fit.

33B Meaning of "replacement" in section 33A

(1) Expenditure to which this section applies is to be treated for the purposes of section 33A as expenditure on the replacement of an integral feature.

(2) This section applies to expenditure incurred by a person on an integral feature if the amount of the expenditure is more than 50% of the cost of replacing the integral feature at the time the expenditure is incurred.

(3) Subsection (4) applies where—

(a) a person incurs expenditure ("initial expenditure") on an integral feature which is not more than 50% of the cost of replacing the integral feature at the time it is incurred, but

(b) in the period of 12 months beginning with the initial expenditure being incurred the person incurs further expenditure on the integral feature.

(4) If the aggregate of—

(a) the amount of the initial expenditure, and

(b) the amount (or the aggregate of the amounts) of the further expenditure,

is more than 50% of the cost of replacing the integral feature at the time the initial expenditure was incurred, this section applies to the initial expenditure and the further expenditure.

(5) Where section 33A applies because of subsection (4), all such assessments and adjustments of assessments are to be made as are necessary to give effect to that section."

(3) In section 74(1) of ICTA (general rules as to deductions not allowable), after paragraph (d) insert—

"(da) any expenditure to which section 33A(3) of the Capital Allowances Act (expenditure on provision or replacement of integral features) applies;".

(4) In Chapter 4 of Part 2 of ITTOIA 2005 (rules restricting deductions from trade

profits), after section 55 insert—

"Integral features

55A Expenditure on integral features

Section 33A(3) of CAA 2001 provides that no deduction is allowed in respect of certain expenditure on an integral feature of a building or structure (within the meaning of that section)."

(5) In the table in section 272(2) of ITTOIA 2005 (provisions of Part 2 applicable to profits of property business), after the entry relating to section 55 insert—

"section 55A	expenditure on integral features"

(6) The amendments made by this section have effect—

(a) for corporation tax purposes, in relation to expenditure incurred on or after 1 April 2008, and

(b) for income tax purposes, in relation to expenditure incurred on or after 6 April 2008.

Plant and machinery: annual investment allowance

74 Annual investment allowance

Schedule 24 contains provision about an annual investment allowance in respect of certain qualifying expenditure on plant or machinery.

Plant and machinery: first-year allowances

75 First-year allowance for small and medium-sized enterprises discontinued

(1) CAA 2001 is amended as follows.

(2) Omit section 44 (expenditure incurred by small or medium-sized enterprises).

(3) In consequence of the repeal made by subsection (2)—

(a) in the list in section 39 (provisions under which first-year allowances available), omit the entry relating to section 44,

(b) in the list in section 46(1) (provisions subject to general exclusions), omit the entry relating to section 44,

(c) omit sections 47 to 49 (definition of small and medium-sized enterprises), and

(d) in section 52(3) (first-year allowances) omit—

(i) in the table, the entry relating to expenditure qualifying under section 44, and

(ii) the words from "In the case" to the end.

(4) Omit the following provisions (which relate to provisions repealed by subsection (3))—

(a) section 142 of FA 2004 (increase in first-year allowance under section 44 for 2004),

(b) section 30 of FA 2006 (increase in first-year allowance under section 44 for 2006), and

(c) section 37 of FA 2007 (increase in first-year allowance under section 44 for 2007).

(5) The repeals made by subsections (2) and (3) have effect in relation to expenditure incurred on or after the relevant date.

(6) But subsection (7) applies in relation to an additional VAT liability incurred on or after the relevant date which under section 235 of CAA 2001 is treated as qualifying expenditure.

(7) If the original expenditure (within the meaning of that section) was first-year qualifying expenditure by virtue of section 44 of CAA 2001, Chapter 18 of Part 2 of that Act (additional VAT liabilities and rebates) applies to the additional VAT liability as if the provisions repealed by this section were not so repealed.

(8) The relevant date is—

(a) for corporation tax purposes, 1 April 2008, and

(b) for income tax purposes, 6 April 2008.

76 Repeal of spent first-year allowances

(1) CAA 2001 is amended as follows.

(2) Omit sections 40 to 43 (first-year allowance for Northern Ireland expenditure incurred on or before 11 May 2002).

(3) Omit section 45 (first-year allowance for ICT expenditure incurred on or before 31 March 2004).

(4) In Schedule 3 (transitionals and savings), omit paragraphs 46 to 51 (first-year allowance for additional VAT liabilities).

(5) In consequence of the amendments made by subsections (2) to (4), omit the following provisions—

(a) in the list in section 39 (provisions under which first-year allowances available), the entries relating to section 40 and section 45,

(b) in section 46 (general exclusions)—

(i) in the list in subsection (1), the entries relating to section 40 and section 45, and

(ii) in the heading, from "**applying**" to "**45**",

(c) section 51 (disclosure of information between HMRC and Northern Ireland department),

(d) in the table in section 52(3) (first-year allowances), the entries relating to expenditure qualifying under section 40 and expenditure qualifying under section 45,

(e) section 237(2) (exception to section 236 where section 43 applies), and

(f) in Schedule 3 (transitionals and savings), paragraph 14 (application of section 45).

(6) In consequence of the amendments made by this section, omit—

(a) in section 98 of TMA 1970, in the second column of the table, in the entry relating to requirements imposed by CAA 2001, "43(5) and (6),",

(b) sections 165 and 166 of FA 2003, and

(c) paragraph 84 of Schedule 4 to CRCA 2005.

(7) Subsection (8) applies in relation to an additional VAT liability incurred on or after the day this section comes into force which under section 235 of CAA 2001 is treated as qualifying expenditure.

(8) If the original expenditure (within the meaning of that section) was first-year qualifying expenditure by virtue of a provision repealed by subsections (2) to (4), Chapter 18 of Part 2 of that Act (additional VAT liabilities and rebates) applies to the additional VAT liability as if that provision were not so repealed.

77 Cars with low carbon dioxide emissions

(1) Section 45D of CAA 2001 (expenditure on cars with low carbon dioxide emissions) is amended as follows.

(2) In subsection (1)(a), for "2008" substitute "2013".

(3) In subsection (4), for "120" substitute "110".

(4) In consequence of the amendment made by subsection (2)—

(a) in section 60(2)(b) of FA 2002 (period for which section 578A(2A) and (2B) of ICTA have effect), for "2008" (in both places) substitute "2013", and

(b) in section 50(3) of ITTOIA 2005 (cases in which expenses incurred on hiring car with low carbon dioxide emissions are not excluded from section 48 of that Act), for "2008" substitute "2013".

(5) The amendment made by subsection (3) has effect in relation to expenditure incurred on or after 1 April 2008.

(6) But in relation to expenditure incurred on the hiring of a car—

(a) for a period of hire which begins on or before 31 March 2008, and

(b) under a contract entered into on or before 31 March 2008,

section 578A of ICTA and section 50 of ITTOIA 2005 apply on and after 1 April 2008 as if the amendment made by subsection (3) did not have effect.

78 Gas refuelling stations

(1) Section 45E of CAA 2001 (expenditure on plant or machinery for gas refuelling station) is amended as follows.

(2) In subsection (1)(a), for "2008" substitute "2013".

(3) After "natural gas" (in each place) insert ", biogas".

(4) In subsection (4), before the definition of "gas refuelling station" insert—

""biogas" means gas produced by the anaerobic conversion of organic matter and used for propelling vehicles;".

(5) The amendments made by subsections (3) and (4) have effect in relation to expenditure incurred on or after 1 April 2008.

79 First-year tax credits

Schedule 25 contains provision about the payment of first-year tax credits to companies in connection with certain first-year qualifying expenditure.

Plant and machinery: writing-down allowances and pools

80 Main rate of writing down allowance

(1) Section 56 of CAA 2001 (amount of allowances and charges) is amended as follows.

(2) In subsection (1), for "25%" substitute "20%".

(3) After that subsection insert—

"(1A) But in relation to qualifying expenditure incurred wholly for the purposes of a ring fence trade in respect of which tax is chargeable under section 501A of ICTA (supplementary charge in respect of ring fence trades), the amount of the writing-down allowance to which a person is entitled for a chargeable period is 25% of the amount by which AQE exceeds TDR."

(4) In subsection (2), for "Subsection (1) is" substitute "Subsections (1) and (1A) are".

(5) Part 10 of Schedule 22 to FA 2000 (companies within tonnage tax: capital allowances in respect of ship leasing) is amended as follows.

(6) In each of the following provisions, for "25%" substitute "20%"—

(a) paragraph 94(3)(a) and (4),
(b) paragraph 95(4),
(c) paragraph 97(2) and (3),
(d) paragraph 98(8), and
(e) paragraph 99(2).

(7) In paragraph 99—

(a) in sub-paragraph (4), for "25%" substitute "the appropriate rate", and
(b) after that sub-paragraph insert—

"(5) The appropriate rate is 20%; but if for any part of the period mentioned in sub-paragraph (4) the rate of writing-down allowance to which the lessor would have been entitled under section 56(1) of the Capital Allowances Act 2001 if paragraph 94 had not applied was more than 20%, for that part of the period that rate is the appropriate rate."

(8) The amendments made by this section have effect in relation to chargeable periods—

(a) beginning on or after the relevant date, and
(b) beginning before, and ending on or after, the relevant date.

(9) But in respect of a chargeable period within subsection (8)(b), they apply as if in—

(a) section 56(1) of CAA 2001,
(b) the provisions listed in subsection (6), and
(c) paragraph 99(5) of Schedule 22 to FA 2000,

the references to 20% were to x%.

(10) For the purposes of subsection (9)—

$$x = \left(25 \times \frac{BRD}{CP}\right) + \left(20 \times \frac{ARD}{CP}\right)$$

Where x would be a figure with more than 2 decimal places, it is to be rounded up to the nearest second decimal place.

(11) In subsection (10)—

BRD is the number of days in the chargeable period before the relevant date,

ARD is the number of days in the chargeable period on and after the relevant date, and

CP is the number of days in the chargeable period.

(12) The relevant date is—

(a) for corporation tax purposes, 1 April 2008, and

(b) for income tax purposes, 6 April 2008.

81 Small pools

(1) CAA 2001 is amended as follows.

(2) In section 56(2) (amount of allowances and charges), before paragraph (a) insert—

"(za) section 56A (small main pools and special rate pools),".

(3) After section 56 insert—

"56A Writing-down allowances for small pools

(1) This section applies in relation to the main pool and the special rate pool.

(2) Where the amount by which AQE exceeds TDR is less than or equal to the small pool limit, the amount of the writing-down allowance to which a person is entitled for a chargeable period is the amount by which AQE exceeds TDR.

(3) The small pool limit is £1,000, except that—

(a) if the chargeable period is more or less than a year, it is proportionately increased or reduced, and

(b) if the qualifying activity has been carried on for part only of the chargeable period, it is proportionately reduced.

(4) A person claiming a writing-down allowance under this section may require the allowance to be reduced to a specified amount.

(5) The Treasury may by order substitute for the amount for the time being specified in subsection (3) such other amount as it thinks fit.

(6) An order under subsection (5) may make such incidental, supplemental, consequential and transitional provision as the Treasury thinks fit."

(4) In section 59(1) (definition of unrelieved qualifying expenditure)—

(a) after "that period" insert "(a)", and

(b) after "TDR" insert ", and

(b) where section 56A(2) applies, the person does not claim a writing-down allowance of the amount by which AQE exceeds TDR."

(5) The amendments made by this section have effect—

(a) for corporation tax purposes, in relation to chargeable periods beginning on or after 1 April 2008, and

(b) for income tax purposes, in relation to chargeable periods beginning on or after 6 April 2008.

82 Special rate expenditure and the special rate pool

Schedule 26 contains provision about special rate expenditure and the special rate pool.

83 Existing long-life asset expenditure treated as special rate expenditure

(1) This section applies in relation to long-life asset expenditure—

(a) incurred before the relevant date, and

(b) allocated to a pool in a chargeable period beginning before the relevant date.

(2) In relation to a transitional chargeable period, section 102 of CAA 2001 applies as if the percentage figure specified in subsection (1) of that section were x%, where—

$$x = \left(6 \times \frac{BRD}{CP}\right) + \left(10 \times \frac{ARD}{CP}\right)$$

Where x would be a figure with more than 2 decimal places, it is to be rounded up to the nearest second decimal place.

(3) In subsection (2)—

BRD is the number of days in the chargeable period before the relevant date,

ARD is the number of days in the chargeable period on and after the relevant date, and

CP is the number of days in the chargeable period.

(4) Any unrelieved qualifying expenditure in a long-life asset pool at the end of—

(a) a transitional chargeable period, or

(b) a chargeable period which ends immediately before the relevant date,

is to be carried forward to the special rate pool.

(5) In subsequent chargeable periods, expenditure so carried forward is to be treated for the purposes of CAA 2001 as if it were special rate expenditure carried forward in the special rate pool from the chargeable period mentioned in subsection (4).

(6) Any unrelieved qualifying expenditure in a single asset pool at the end of—

(a) a transitional chargeable period, or

(b) a chargeable period which ends immediately before the relevant date,

is in subsequent chargeable periods to be treated for the purposes of CAA 2001 as if it were special rate expenditure carried forward in the single asset pool from that chargeable period.

(7) Where expenditure is treated as special rate expenditure because of this section, for the purposes of section 104E of CAA 2001—

(a) the reference in subsection (1)(a) of that section to section 104D of CAA 2001 includes a reference to section 102 of that Act (writing-down allowances in respect of long-life asset expenditure), and

(b) the allowances that could have been made to the taxpayer in respect of the expenditure include allowances that could have been made under section 102 of that Act for chargeable periods before that in which the expenditure was first treated as special rate expenditure.

(8) A "transitional chargeable period" is one which begins before, and ends on or after, the relevant date.

(9) "The relevant date" means—

(a) for corporation tax purposes, 1 April 2008, and

(b) for income tax purposes, 6 April 2008.

(10) Expressions used in this section and in CAA 2001 have the same meaning in this section as in that Act.

Industrial and agricultural buildings allowances

84 Abolition of allowances from 2011

(1) Parts 3 and 4 of CAA 2001 (industrial buildings allowances and agricultural buildings allowances) do not apply in relation to expenditure incurred on or after the relevant date.

(2) Omit those Parts of that Act.

(3) The amendment made by subsection (2) has effect in relation to chargeable periods beginning on or after the relevant date.

(4) The relevant date is—

(a) for corporation tax purposes, 1 April 2011, and

(b) for income tax purposes, 6 April 2011.

(5) Schedule 27 contains amendments and savings related to this section.

85 Phasing out of allowances before abolition

(1) For a chargeable period to which this section applies ("a transitional chargeable period"), a person's entitlement to a writing-down allowance under Part 3 or 4 of CAA 2001 in respect of qualifying expenditure is to be determined in accordance with this section.

(2) This section does not apply to a writing-down allowance in respect of qualifying enterprise zone expenditure.

(3) If the whole of a transitional chargeable period falls within a financial year listed in column 1 of the table (for corporation tax purposes) or a tax year listed

in column 2 of the table (for income tax purposes), the writing-down allowance to which the person is entitled for that chargeable period is—

$$WDA \times P$$

where—

WDA is the writing-down allowance to which the person would be entitled for the chargeable period apart from this section, and

P is the percentage specified in relation to that year in column 3 of the table.

(4) If subsection (3) does not apply in relation to a transitional chargeable period, the writing-down allowance to which the person is entitled for that chargeable period is to be determined by—

(a) calculating the apportioned writing-down allowance for each financial year (for corporation tax purposes) or tax year (for income tax purposes) in which part of the chargeable period falls, and

(b) adding the amounts of the apportioned writing-down allowance for each of those years.

(5) For the purposes of Part 3 of CAA 2001 (industrial buildings), the apportioned writing-down allowance for a financial year or tax year in which part of a transitional chargeable period falls is—

$$\frac{DCPY}{DCP} \times WDA \times P$$

where—

DCPY is the number of days in the chargeable period which fall in that year,

DCP is the number of days in the chargeable period,

WDA is the writing-down allowance to which the person would be entitled for the chargeable period apart from this section, and

P is the percentage specified in relation to that year in column 3 of the table.

(6) For the purposes of Part 4 of CAA 2001 (agricultural buildings), the apportioned writing-down allowance for a financial year or tax year in which part of a transitional chargeable period falls is—

$$\frac{RDCPY}{RDCP} \times WDA \times P$$

where—

RDCPY is the number of relevant days in the chargeable period which fall in that year,

RDCP is the number of relevant days in the chargeable period,

WDA is the writing-down allowance to which the person would be entitled for the chargeable period apart from this section, and

P is the percentage specified in relation to that year in column 3 of the table.

(7) The relevant days in the chargeable period are the days in that period for which the person was entitled to the relevant interest in relation to the qualifying expenditure (within the meaning of Part 4 of CAA 2001).

(8) For the purposes of CAA 2001, the residue of the qualifying expenditure at any time is to be calculated as if the writing-down allowance made to a person under Part 3 or 4 of that Act in respect of the qualifying expenditure for any

transitional chargeable period were the writing-down allowance which would have been made apart from this section.

(9) This section applies—

(a) for corporation tax purposes, to chargeable periods which begin before the relevant date and end on or after 1 April 2008, and

(b) for income tax purposes, to chargeable periods which begin before the relevant date and end on or after 6 April 2008.

(10) In this section references to the table are to the following table—

Column 1	*Column 2*	*Column 3*
Financial year beginning 1 April 2007 and earlier financial years	Tax year 2007-08 and earlier tax years	100%
Financial year beginning 1 April 2008	Tax year 2008-09	75%
Financial year beginning 1 April 2009	Tax year 2009-10	50%
Financial year beginning 1 April 2010	Tax year 2010-11	25%
Financial year beginning 1 April 2011 and later financial years	Tax year 2011-12 and later tax years	0%.

(11) In this section—

"the relevant date" has the same meaning as in section 84, and

"qualifying expenditure", in relation to a writing-down allowance under Part 3 or 4 of CAA 2001, means the qualifying expenditure in respect of which the allowance is made.

86 Qualifying enterprise zone expenditure: transitional provision

(1) For a chargeable period which begins before, and ends on or after, the relevant date, a person's entitlement to a writing-down allowance under Part 3 of CAA 2001 in respect of qualifying enterprise zone expenditure is to be determined in accordance with subsection (2).

(2) The writing-down allowance to which the person is entitled is—

$$\frac{DCPB}{DCP} \times WDA$$

where—

DCPB is the number of days in the chargeable period which fall before the relevant date,

DCP is the number of days in the chargeable period, and

WDA is the writing-down allowance to which the person would be entitled for the chargeable period apart from this section.

(3) In this section "the relevant date" has the same meaning as in section 84.

87 Phasing out of industrial buildings allowance: anti-avoidance

(1) In CAA 2001, after section 313 insert—

"313A Calculation of allowance after sale of relevant interest: anti-avoidance

(1) This section applies where—

(a) there is a sale of the relevant interest in the building which is a balancing event to which section 314 applies,

(b) the buyer and seller have different chargeable periods,

(c) the control test (within the meaning of section 567) is met, and

(d) the purpose, or one of the main purposes, of the sale is the obtaining of a tax advantage by the buyer under this Part.

(2) The writing-down allowance to which the buyer is entitled for the chargeable period in which the sale takes place is—

$$\frac{DI}{CP} \times WDA$$

where—

DI is the number of days in the chargeable period for which the buyer is entitled to the relevant interest,

CP is the number of days in the chargeable period, and

WDA is the writing-down allowance to which the buyer would be entitled apart from this section."

(2) The amendment made by subsection (1) has effect in relation to the sale of a relevant interest on or after 12 March 2008, except for such a sale in pursuance of a relevant pre-commencement contract (and for this purpose "sale" has the same meaning as for the purposes of Part 3 of CAA 2001).

(3) A contract is a relevant pre-commencement contract if—

(a) the contract is a contract in writing made before 12 March 2008,

(b) the contract is unconditional or its conditions have been satisfied before that date,

(c) no terms remain to be agreed on or after that date, and

(d) the contract is not varied in a significant way on or after that date.

Supplementary provision

88 Power to make consequential and transitional provision

(1) The Treasury may by order make such amendments (including repeals and revocations) of enactments or instruments as may appear appropriate in consequence of, or otherwise in connection with, sections 71 to 87.

(2) The Treasury may by order make such transitional or saving provision as may appear appropriate in consequence of, or otherwise in connection with, those sections.

(3) An order under subsection (1) may make transitional provision and savings.

(4) An order under subsection (1) or (2) may—

(a) make different provision for different cases, and

(b) include provision having effect in relation to times before the order is made if that provision does not increase any person's liability to tax.

(5) An order under subsection (1) or (2) is to be made by statutory instrument.

(6) A statutory instrument containing an order under subsection (1) or (2) is subject to annulment in pursuance of a resolution of the House of Commons.

Anti-avoidance

89 Balancing allowances on transfers of trade

(1) After section 343 of ICTA insert—

"343ZA Transfers of trade to obtain balancing allowances

(1) This section applies where—

(a) a company ("the predecessor") ceases to carry on a trade,

(b) another company ("the successor") begins to carry on the activities of that trade as its trade or as part of its trade,

(c) in the accounting period in which the predecessor ceases to carry on the trade the predecessor would (apart from this section) be entitled under Part 2 of the Capital Allowances Act to a balancing allowance in respect of the trade, and

(d) the predecessor's ceasing to carry on the trade is part of a scheme or arrangement the main purpose, or one of the main purposes, of which is to entitle the predecessor to that balancing allowance.

(2) This section also applies where—

(a) a company ("the predecessor") ceases to carry on part of a trade,

(b) another company ("the successor") begins to carry on the activities of that part of the trade as its trade or as part of its trade, and

(c) the predecessor's ceasing to carry on the part of the trade mentioned in paragraph (a) is part of a scheme or arrangement the main purpose, or one of the main purposes, of which is to entitle the predecessor, on cessation of the trade, to a balancing allowance in respect of the trade under Part 2 of the Capital Allowances Act.

(3) This section does not apply where section 343 applies.

(4) Where this section applies, the Corporation Tax Acts have effect subject to section 343(2), but as if the words "and are subject to section 343A (company reconstructions involving business of leasing plant or machinery)" were omitted.

(5) Where this section applies because of subsection (1), and the successor carries on the activities of the trade the predecessor ceased to carry on as part of the successor's trade, for the purposes of section 343(2) that part of the successor's trade is to be treated as a separate trade carried on by the successor.

(6) Where this section applies because of subsection (2), for the purposes of section 343(2)—

(a) that part of the trade which the predecessor ceased to carry on is to be treated as a separate trade carried on by the predecessor, and

(b) where the successor carries on the activities of that part of the trade as part of its trade, that part of the successor's trade is to be treated as a separate trade carried on by the successor.

(7) Where subsection (5) or (6) applies, such apportionment of receipts, expenses, assets and liabilities is to be made as may be just.

(8) Section 343(10) applies to an apportionment under subsection (7) as it applies to an apportionment under section 343(9)."

(2) The amendment made by subsection (1) has effect in relation to the cessation of a trade or part of a trade on or after 12 March 2008.

PART 4

PENSIONS

90 Spreading of relief on indirect contributions

(1) In Part 4 of FA 2004 (pension schemes etc), after section 199 insert—

"199A Indirect contributions

(1) This section applies where an employer ("E")—

(a) pays contributions under a registered pension scheme ("the original scheme") in a chargeable period, and

(b) would (apart from subsection (4)) be entitled in the next chargeable period to an amount of relief in respect of a payment within subsection (2),

and the avoidance condition is met.

(2) A payment is within this subsection if all or part of the payment is intended to facilitate the payment of pension contributions under the original scheme or a substitute scheme by a person other than E.

(3) The avoidance condition is that—

(a) section 197 would apply if, in the chargeable period mentioned in subsection (1)(b), E paid pension contributions under the original scheme of the amount of the relevant relief, and

(b) the purpose, or one of the purposes, of facilitating the payment of pension contributions by a person other than E is to enable pension contributions to be paid without that section applying.

(4) For the purposes of the spreading provisions, the amount of the relevant relief is to be treated as the amount of a pension contribution paid by E under the original scheme in the chargeable period mentioned in subsection (1)(b).

(5) The "relevant relief" is the relief to which the employer would (apart from subsection (4)) be entitled in that chargeable period in respect of—

(a) the payment within subsection (2), or

(b) where only part of the payment is intended to facilitate the payment of pension contributions as mentioned in that subsection, that part of the payment.

(6) A "substitute scheme" is any registered pension scheme—

(a) to which there is a relevant transfer in the period of 2 years ending with the day on which the payment within subsection (2) is made, or

(b) to which it is envisaged that a relevant transfer will or may be made after that day.

(7) A relevant transfer is a recognised transfer from the original scheme of more than 30% of the aggregate of—

(a) in a case within subsection (6)(a), the amount of the sums and the market value of the assets held for the purposes of, or representing accrued rights under, the original scheme immediately before the transfer, and

(b) in a case within subsection (6)(b), the amount of those sums and the market value of those assets on the day on which the payment is made.

(8) If there is a transfer from a substitute scheme to another registered pension scheme which would have been a relevant transfer had it been a transfer from the original scheme at the time the relevant transfer was made, that other scheme is also a substitute scheme.

(9) In subsection (1)(b) the reference to relief in respect of a payment within subsection (2) includes relief for a liability in respect of the making of the payment by a person other than E.

(10) In this section references to E being entitled to an amount of relief are to an amount—

(a) being deductible in computing the amount of the profits of E for the purposes of Part 2 of ITTOIA 2005 (trading income) or Case I or II of Schedule D,

(b) being expenses of management of E for the purposes of section 75 of ICTA (expenses of management: companies with investment business), or

(c) being brought into account at Step 1 in section 76(7) of ICTA (expenses of insurance companies) in respect of E.

(11) In this section—

"the spreading provisions" means sections 197 and 198 and this section, and

"chargeable period" has the meaning given by section 197."

(2) The amendment made by this section has effect in relation to payments within section 199A(2) of FA 2004 made on or after 10 October 2007, except for such payments made pursuant to a contract entered into before 9 October 2007.

91 Inheritance etc of tax-relieved pension savings

Schedule 28 contains provision about the inheritance etc of tax-relieved pension savings.

92 Pension schemes: further provision

Schedule 29 contains further provision about pension schemes.

PART 5

STAMP TAXES

Stamp duty land tax

93 Zero-carbon homes

(1) Sections 58B and 58C of FA 2003 (relief from SDLT on first acquisition of zero-carbon homes) are amended as follows.

(2) In section 58B, for subsection (2) substitute—

"(2) For the purposes of this section—

(a) a building, or a part of a building, is a dwelling if it is constructed for use as a single dwelling, and

(b) "first acquisition", in relation to a dwelling, means its acquisition when it has not previously been occupied."

(3) Section 58C is amended as follows.

(4) In subsection (1), for "building" substitute "dwelling".

(5) In subsection (2), after paragraph (c) insert—

"(d) provide for the charging of fees of a reasonable amount in respect of services provided as part of a scheme or process of certification."

(6) In subsection (3)—

(a) for "a building" substitute "a dwelling", and

(b) for "building itself" substitute "building which, or part of which, constitutes the dwelling".

(7) The amendments made by subsections (2), (4) and (6) are treated as always having had effect; and provision included in regulations by virtue of those amendments may be made so as to have effect in relation to acquisitions on or after 1 October 2007.

94 Notification and registration of transactions

(1) Part 4 of FA 2003 (stamp duty land tax) is amended as follows.

(2) For section 77 substitute—

"77 Notifiable transactions

(1) A land transaction is notifiable if it is—

(a) an acquisition of a major interest in land that does not fall within one or more of the exceptions in section 77A,

(b) an acquisition of a chargeable interest other than a major interest in land where there is chargeable consideration in respect of which tax is chargeable at a rate of 1% or higher or would be so chargeable but for a relief,

(c) a land transaction that a person is treated as entering into by virtue of section 44A(3), or

(d) a notional land transaction under section 75A.

(2) This section has effect subject to—
(a) sections 71A(7) and 72A(7), and
(b) paragraph 30 of Schedule 15.

(3) In this section "relief" does not include an exemption from charge under Schedule 3.

77A Exceptions for certain acquisitions of major interests in land

(1) The exceptions referred to in section 77(1)(a) are as follows.

1. An acquisition which is exempt from charge under Schedule 3.

2. An acquisition (other than the grant, assignment or surrender of a lease) where the chargeable consideration for that acquisition, together with the chargeable consideration for any linked transactions, is less than £40,000.

3. The grant of a lease for a term of 7 years or more where—
(a) any chargeable consideration other than rent is less than £40,000, and
(b) the relevant rent is less than £1,000.

4. The assignment or surrender of a lease where—
(a) the lease was originally granted for a term of 7 years or more, and
(b) the chargeable consideration for the assignment or surrender is less than £40,000.

5. The grant of a lease for a term of less than 7 years where the chargeable consideration does not exceed the zero rate threshold.

6. The assignment or surrender of a lease where—
(a) the lease was originally granted for a term of less than 7 years, and
(b) the chargeable consideration for the assignment or surrender does not exceed the zero rate threshold.

(2) Chargeable consideration for an acquisition does not exceed the zero rate threshold if it does not consist of or include—
(a) any amount in respect of which tax is chargeable at a rate of 1% or higher, or
(b) any amount in respect of which tax would be so chargeable but for a relief.

(3) In this section—
"annual rent" has the meaning given in paragraph 9A of Schedule 5,
"relevant rent" means—

(a) the annual rent, or

(b) in the case of the grant of a lease to which paragraph 11 or 19 of Schedule 15 applies, the relevant chargeable proportion of the annual rent (as calculated in accordance with that paragraph), and

"relief" does not include an exemption from charge under Schedule 3."

(3) In section 79(2) (registration of land transactions), after "every" insert "notifiable".

(4) Schedule 30 contains consequential provision.

(5) The amendments made by this section and that Schedule have effect in relation to transactions with an effective date on or after 12 March 2008.

95 Charge where consideration includes rent: 0% band

(1) Schedule 5 to FA 2003 (amount of SDLT chargeable: rent) is amended as follows.

(2) In paragraph 9 (SDLT chargeable in respect of consideration other than rent)—

(a) in sub-paragraph (1), insert at the end "(but see paragraph 9A)", and

(b) omit sub-paragraphs (2), (2A) and (3),

and, accordingly, in the heading before that paragraph, insert at the end "*: general*".

(3) After that paragraph insert—

"Tax chargeable in respect of consideration other than rent: 0% band

9A (1) This paragraph applies in the case of a transaction to which this Schedule applies where there is chargeable consideration other than rent.

(2) If—

(a) the relevant land consists entirely of land that is non-residential property, and

(b) the relevant rent is at least £1,000,

the 0% band in Table B in section 55(2) does not apply in relation to the consideration other than rent and any case that would have fallen within that band is treated as falling within the 1% band.

(3) Sub-paragraphs (4) and (5) apply if—

(a) the relevant land is partly residential property and partly non-residential property, and

(b) the relevant rent attributable, on a just and reasonable apportionment, to the land that is non-residential property is at least £1,000.

(4) For the purpose of determining the amount of tax chargeable under section 55 in relation to the consideration other than rent, the transaction (or, where it is one of a number of linked transactions, that set of transactions) is treated as if it were two separate transactions (or sets of linked transactions), namely—

(a) one whose subject-matter consists of all of the interests in land that is residential property, and

(b) one whose subject-matter consists of all of the interests in land that is non-residential property.

(5) For that purpose, the chargeable consideration attributable to each of those separate transactions (or sets of linked transactions) is the chargeable consideration so attributable on a just and reasonable apportionment.

(6) In this paragraph "the relevant rent" means—

(a) the annual rent in relation to the transaction in question, or

(b) if that transaction is one of a number of linked transactions for which the chargeable consideration consists of or includes rent, the total of the annual rents in relation to all of those transactions.

(7) In sub-paragraph (6) the "annual rent" means the average annual rent over the term of the lease or, if—

(a) different amounts of rent are payable for different parts of the term, and

(b) those amounts (or any of them) are ascertainable at the effective date of the transaction,

the average annual rent over the period for which the highest ascertainable rent is payable.

(8) In this paragraph "relevant land" has the meaning given in section 55(3) and (4)."

(4) Each of the following provisions of Schedule 6 to that Act (SDLT: disadvantaged areas relief) is amended in accordance with subsection (5)—

(a) paragraph 5(4) (residential land wholly situated in disadvantaged area),

(b) paragraph 6(6) (mixed land wholly situated in disadvantaged area),

(c) paragraph 9(4) (residential land partly situated in disadvantaged area), and

(d) paragraph 10(6) (mixed land wholly partly situated in disadvantaged area).

(5) In those provisions—

(a) in paragraph (a), omit sub-paragraph (i) (and the "and" after it), and

(b) omit paragraph (b).

(6) In paragraph 12 of that Schedule (rent and annual rent), for "9(2)" substitute "9A".

(7) In Schedule 8 to that Act (SDLT: charities relief), in paragraph 3—

(a) in sub-paragraph (3)(b), for "does not exceed £600" substitute "is less than £1,000", and

(b) in sub-paragraph (5), for "9(2)" substitute "9A".

(8) In Schedule 9 to that Act (SDLT: right to buy etc), after paragraph 4A insert—

"Shared ownership lease: grant not linked with staircasing transactions etc

4B (1) For the purpose of determining the rate of tax chargeable on the grant of a shared ownership lease of a dwelling, the grant shall be treated as if it were not linked to—

(a) any acquisition of an interest in the dwelling to which paragraph 4A applies, or

(b) a transfer of the reversion to the lessee or lessees under the terms of the lease.

(2) In this paragraph "shared ownership lease" has the same meaning as in paragraph 4A."

(9) In that Schedule, in paragraphs 10(1) and (2) and 11(b) (shared ownership trusts), omit "additional".

(10) In that Schedule, insert at the end—

"Shared ownership trust: declaration not linked with staircasing transactions etc

12 For the purpose of determining the rate of tax chargeable on the declaration of a shared ownership trust, the declaration shall be treated as if it were not linked to—

(a) any equity-acquisition payment under the trust or any consequent increase in the purchaser's beneficial interest in the trust property, or

(b) a transfer to the purchaser of an interest in the trust property upon the termination of the trust."

(11) In Schedule 15 to that Act (SDLT: partnerships)—

(a) in paragraph 11(2B)(a), for "9(2A)" substitute "9A(6)",

(b) in paragraph 19(2B), for "9(2A)" substitute "9A(6)", and

(c) in paragraph 23(3)(c), for "9(2)" substitute "9A".

(12) In Schedule 17A to that Act (SDLT: further provisions relating to leases), in paragraph 18A(5)(a)—

(a) for "9(2)" substitute "9A",

(b) for "the Tables" substitute "Table B", and

(c) for "the relevant rental figure exceeds £600" substitute "the relevant rent attributable to non-residential property is not less than £1,000".

(13) The amendments made by this section have effect in relation to transactions with an effective date on or after 12 March 2008.

96 Withdrawal of group relief

(1) Part 1 of Schedule 7 to FA 2003 (group relief) is amended as follows.

(2) In paragraph 3(5), for "paragraph 4" substitute "paragraphs 4 and 4ZA".

(3) In paragraph 4 (cases in which group relief not withdrawn)—

(a) omit sub-paragraphs (2) and (3), and

(b) in sub-paragraph (5), for "sub-paragraphs (3) and (4)" substitute "sub-paragraph (4)".

(4) After that paragraph insert—

"Group relief not withdrawn where vendor leaves group

4ZA (1) Group relief is not withdrawn under paragraph 3 where the purchaser ceases to be a member of the same group as the vendor because the vendor leaves the group.

(2) The vendor is regarded as leaving the group if the companies cease to be members of the same group by reason of a transaction relating to shares in—

(a) the vendor, or

(b) another company that—

(i) is above the vendor in the group structure, and

(ii) as a result of the transaction ceases to be a member of the same group as the purchaser.

(3) For the purpose of sub-paragraph (2) a company is "above" the vendor in the group structure if the vendor, or another company that is above the vendor in the group structure, is a 75% subsidiary of the company.

(4) But if there is a change in the control of the purchaser after the vendor leaves the group, paragraphs 3, 4(6) and (7), 5 and 6 have effect as if the purchaser had then ceased to be a member of the same group as the vendor (but see sub-paragraph (7)).

(5) For the purposes of this paragraph there is a change in the control of the purchaser if—

(a) a person who controls the purchaser (alone or with others) ceases to do so,

(b) a person obtains control of the purchaser (alone or with others), or

(c) the purchaser is wound up.

(6) For the purposes of sub-paragraph (5) a person does not control, or obtain control of, the purchaser if that person is under the control of another person or other persons.

(7) Sub-paragraph (4) does not apply where—

(a) there is a change in the control of the purchaser because a loan creditor (within the meaning of section 417(7) to (9) of the Taxes Act 1988) obtains control of, or ceases to control, the purchaser, and

(b) the other persons who controlled the purchaser before that change continue to do so.

(8) In this paragraph references to "control" shall be interpreted in accordance with section 416 of the Taxes Act 1988 (subject to sub-paragraph (6))."

(5) In paragraph 4A (withdrawal of group relief in certain cases involving successive transactions)—

(a) in sub-paragraph (1), in the words following paragraph (d), for "and 4" substitute ", 4 and 4ZA",

(b) after that sub-paragraph insert—

"(1A) Sub-paragraph (1) has effect subject to sub-paragraph (3A).",

(c) in sub-paragraph (3)—

(i) for "sub-paragraph (1)(a)" substitute "this paragraph", and

(ii) for "this sub-paragraph" substitute "this paragraph", and

(d) after sub-paragraph (3) insert—

"(3A) Sub-paragraph (1) does not apply where—

(a) there is a change in the control of the purchaser because a loan creditor (within the meaning of section 417(7) to (9) of the Taxes Act 1988) obtains control of, or ceases to control, the purchaser, and

(b) the other persons who controlled the purchaser before that change continue to do so."

(6) The amendments made by this section have effect in relation to transactions with an effective date on or after 13 March 2008.

97 Transfers of interests in property-investment partnerships

(1) Schedule 31 contains provision relating to stamp duty land tax chargeable on transfers to, and of interests in, property-investment partnerships.

(2) Part 1 of that Schedule (transfer of interest in partnership: "relevant partnership property"), and this section so far as relating to that Part—

(a) have effect in respect of transfers occurring on or after 19 July 2007 (subject to subsection (3)), and

(b) are treated as having come into force on that day.

(3) Subsections (14) and (17) of section 72 of FA 2007 (partnerships) apply in relation to the amendments made by Part 1 of that Schedule as they apply in relation to the amendments made by subsections (6) and (10) of that section.

Stamp duty

98 Exemption from ad valorem stamp duty for low value transactions

(1) Paragraph 1 of Schedule 13 to FA 1999 (charge to stamp duty on conveyance or transfer on sale) is amended as follows.

(2) In sub-paragraph (3), for "(4)" substitute "(3A)".

(3) After that sub-paragraph insert—

"(3A) Stamp duty is not chargeable under sub-paragraph (1) on a transfer of stock or marketable securities where—

(a) the amount or value of the consideration for the sale is £1,000 or under, and

(b) the instrument is certified at £1,000."

(4) In paragraph 6(1) (meaning of instrument being certified at an amount), for "paragraph" substitute "paragraphs 1(3A) and".

(5) The amendments made by this section have effect in relation to instruments executed on or after 13 March 2008 and not stamped before 19 March 2008.

(6) For the purposes of section 14(4) of the Stamp Act 1891 (c. 39) (instruments not to be given in evidence etc unless stamped in accordance with the law in force at the time of first execution), the law in force at the time of execution of an instrument—

(a) executed on or after 13 March 2008 but before 19 March 2008, and

(b) not stamped before 19 March 2008,

shall be deemed to be the law as varied in accordance with this section.

99 Abolition of fixed stamp duty on certain instruments

(1) Schedule 32 contains provision abolishing fixed stamp duty on certain instruments.

(2) The amendments and saving made by that Schedule have effect in relation to instruments executed on or after 13 March 2008 and not stamped before 19 March 2008.

(3) For the purposes of section 14(4) of the Stamp Act 1891 (instruments not to be given in evidence etc unless stamped in accordance with the law in force at the time of first execution), the law in force at the time of execution of an instrument—

(a) executed on or after 13 March 2008 but before 19 March 2008, and

(b) not stamped before 19 March 2008,

shall be deemed to be the law as varied in accordance with Schedule 32.

100 Gifts inter vivos

(1) In FA 1985, omit section 82(5) and (9) (adjudication of certain gifts inter vivos).

(2) Accordingly, omit paragraph 9 of Schedule 14 to FA 1999.

(3) The amendments made by this section have effect in relation to instruments executed on or after 13 March 2008, other than instruments effecting a land transaction (within the meaning of paragraph 22 of Schedule 32).

(4) For the purposes of section 14(4) of the Stamp Act 1891 (instruments not to be given in evidence etc unless stamped in accordance with the law in force at the time of first execution), the law in force at the time of execution of such an instrument shall be deemed to be the law as varied in accordance with this section.

101 Loan capital

(1) Section 79 of FA 1986 (stamp duty and loan capital) is amended as follows.

(2) In subsection (6), for "subsection (7)" substitute "subsections (7) to (7B)".

(3) After subsection (7A) insert—

"(7B) Subsection (4) shall not be prevented from applying to a capital market instrument by virtue of subsection (6)(b) by reason only that the capital market investment concerned carries or has carried a right to interest which ceases or reduces if, or to the extent that, the issuer, after meeting or providing for other obligations specified in the capital market arrangement concerned, has insufficient funds available from that

capital market arrangement to pay all or part of the interest otherwise due."

(4) After subsection (12) insert—

"(13) In this section—

"capital market instrument" means an instrument transferring a capital market investment issued as part of a capital market arrangement, and

"capital market investment" and "capital market arrangement" have the same meaning as in section 72B of the Insolvency Act 1986 (see paragraphs 1 to 3 of Schedule 2A to that Act)."

(5) The amendments made by this section have effect in relation to any instrument executed on or after the day on which this Act is passed.

PART 6

OIL

Petroleum revenue tax

102 Meaning of "participator"

(1) In section 12 of OTA 1975 (interpretation of Part 1), the definition of "participator" is amended as follows.

(2) In the words before paragraph (a), after "chargeable period" insert "("the relevant chargeable period")".

(3) In paragraphs (a), (b) and (c), for "that chargeable period" substitute "the relevant chargeable period".

(4) At the end of paragraph (c) insert "and

(d) a former participator to whom an amount is attributed under paragraph 2A(2) of Schedule 5 in respect of a default payment made in relation to the field in the relevant chargeable period; and

(e) a former participator to whom an amount was attributed under paragraph 2A(2) of Schedule 5 in respect of a default payment made in relation to the field in either of the two chargeable periods preceding the relevant chargeable period; and

(f) a person who—

(i) made a default payment in relation to the field (whether the person was then a current participator or former participator),

(ii) is not a participator during the relevant chargeable period under any of paragraphs (a) to (e) of this definition, and

(iii) receives, in the relevant chargeable period, reimbursement expenditure (within the meaning of section 108(1)(c) of the Finance Act 1991) in respect of the default payment; and

(g) a person who—

(i) made a default payment in relation to the field (whether the person was then a current participator or former participator),

(ii) is not a participator during the relevant chargeable period under any of paragraphs (a) to (f) of this definition, and

(iii) received, in either of the two chargeable periods preceding the relevant chargeable period, reimbursement expenditure (within the meaning of section 108(1)(c) of the Finance Act 1991) in respect of the default payment;

and for the purposes of paragraphs (f)(i) and (g)(i), "current participator", "former participator" and "default payment" have the same meaning as in paragraph 2A of Schedule 5;".

(5) The amendments made by this section have effect in relation to expenditure incurred after 30 June 2008.

103 Abandonment expenditure: default by participator met by former participator

(1) In Schedule 5 to OTA 1975 (allowance of expenditure, other than abortive exploration expenditure), for paragraph 2A substitute—

"2A (1) This paragraph applies if—

(a) a current participator ("the defaulter") has defaulted on a liability under—

(i) a relevant agreement, or

(ii) an abandonment programme,

to make a payment towards abandonment expenditure, and

(b) a current or former participator ("the contributing participator") pays an amount in or towards meeting the whole or part of the default ("a default payment").

(2) If a claim is made under this Schedule for the allowance of the abandonment expenditure, the amount of the default payment is to be attributed to the contributing participator for the purposes of paragraphs 2(4)(b) and 3(1)(c).

(3) But the amount attributed under sub-paragraph (2) may not exceed—

(a) so much of the sum in default as the contributing participator is required to meet in accordance with—

(i) the relevant agreement, or

(ii) the abandonment programme, or

(b) such other amount as the participator may be required to meet in accordance with a direction given under Part 4 of the Petroleum Act 1998.

(4) Sub-paragraph (2) is subject to paragraph 2B.

(5) In determining the amount which is to be attributed to the contributing participator under sub-paragraph (2), account shall be taken of the whole of the defaulter's interest in the relevant oil field.

(6) But in determining the share of the abandonment expenditure to be attributed to the defaulter under paragraph 2(4)(b), the amount which would be attributed by reference to the defaulter's interest in the relevant oil field is to be reduced or (as the case may be) extinguished by the deduction of the aggregate of—

(a) the amount attributed to the contributing participator under sub-paragraph (2), and

(b) any other amounts attributed under sub-paragraph (2) to other current or former participators who make default payments in respect of the defaulter's default.

2B (1) No amount is to be attributed to a contributing participator under paragraph 2A(2) unless the following conditions are all met.

(2) The first condition is that the contributing participator is not connected with the defaulter, applying section 839 of the Taxes Act (connected persons) for the purposes of this sub-paragraph.

(3) The second condition is that, at the end of the claim period for which the claim is made, the defaulter still has an interest in the relevant oil field which, under paragraph 2(4)(b), falls to be taken into account in determining the shares in the abandonment expenditure.

(4) The third condition is that the relevant participators have taken all reasonable steps by way of legal remedy—

(a) to secure that the defaulter meets the whole of the liability referred to in paragraph 2A(1)(a), and

(b) to enforce any guarantee or other security provided in respect of that liability.

(5) In sub-paragraph (4) "relevant participators" means—

(a) each current participator (other than the defaulter), and

(b) each former participator who makes a default payment in respect of the defaulter's default.

2C (1) An amount attributed under paragraph 2A(2) is—

(a) in the case of a current participator, to be an addition to the share of the abandonment expenditure referable to the current participator's interest in the oil field, or

(b) in the case of a former participator, to be the share of the abandonment expenditure referable to the former participator's interest in the oil field.

(2) In paragraphs 2A and 2B and this paragraph—

"abandonment expenditure" means expenditure which is allowable for an oil field by virtue of section 3(1)(i) or (j);

"abandonment programme" means an abandonment programme approved under Part 4 of the Petroleum Act 1998 (including any such programme as revised);

"current participator" means a person who is, by virtue of paragraph (a), (b) or (c) of the definition in section 12, a participator in the relevant oil field in the chargeable period in which the abandonment expenditure is incurred;

"former participator" means a person who—

(a) is not a current participator, but

(b) was, by virtue of paragraph (a), (b) or (c) of the definition in section 12, a participator in the relevant oil field in any chargeable period before the chargeable period in which the abandonment expenditure is incurred;

"relevant agreement" has the meaning given by section 104(5)(a) of the Finance Act 1991;

"relevant oil field" means the oil field to which the abandonment expenditure relates;

"sum in default" means the amount of the payment which the defaulter is liable to make as mentioned in paragraph 2A(1)(a), less the aggregate of—

(a) so much of that payment as has been made by the defaulter, and

(b) so much of that payment as has been met by virtue of any guarantee or security provided in respect of the defaulter's liability.

(3) For the purposes of paragraph 2A, a current participator is to be regarded as defaulting on a liability to make a payment towards abandonment expenditure if the following conditions are met.

(4) The first condition is that the current participator has failed to make the payment in full on the due day.

(5) The second condition is that—

(a) any of the payment remains unpaid on the sixtieth day after the due day, or

(b) before that sixtieth day, the current participator's interest in a relevant licence becomes liable under the relevant agreement to be sold or forfeited, in whole or in part, by reason of the failure to meet the liability.

(6) In sub-paragraphs (4) and (5) "due day" means the day on which the payment towards abandonment expenditure becomes due under the relevant agreement or the abandonment programme."

(2) The amendment made by subsection (1) has effect in relation to expenditure incurred after 30 June 2008.

104 Abandonment expenditure: deductions from ring fence income

(1) FA 1991 is amended as follows.

(2) Section 64 (relief for expenditure incurred by a participator in meeting defaulter's abandonment expenditure) is amended as follows.

(3) In subsection (1)(a)—

(a) omit "(as set out in section 107 of this Act)", and

(b) for "sub-paragraph (1)(a)" substitute "sub-paragraph (2)".

(4) In subsection (1)(b)—

(a) for "sub-paragraph (4)" substitute "sub-paragraph (2)", and

(b) for "qualifying" substitute "contributing".

(5) In subsections (2), (3), (4) and (5) (in each place), for "qualifying" substitute "contributing".

(6) Section 65 (reimbursement by defaulter in respect of certain abandonment expenditure) is amended as follows.

(7) In subsection (1)(a)—
(a) omit "(as set out in section 107 of this Act)", and
(b) for "sub-paragraph (1)(a)" substitute "sub-paragraph (2)".

(8) In subsection (1)(b), for "sub-paragraph (4)" substitute "sub-paragraph (2)".

(9) In subsections (1) (in each place), (4), (5) (in each place), (6), (7) (in each place) and (8), for "qualifying" substitute "contributing".

(10) The amendments made by this section have effect in relation to expenditure incurred after 30 June 2008.

105 Abandonment expenditure: former participator reimbursed by defaulter

(1) Section 108 of FA 1991 (reimbursement by defaulter in respect of certain abandonment expenditure) is amended as follows.

(2) In subsection (1)(a), omit "(as set out in section 107 above)".

(3) For subsection (1)(b) substitute—
"(b) an amount is attributed to a contributing participator under paragraph 2A(2) of Schedule 5 to the principal Act; and".

(4) In subsection (1)(c), for "qualifying participator" substitute "contributing participator".

(5) In subsection (4), for "qualifying participator" (in each place) substitute "contributing participator".

(6) In subsection (5), for "qualifying participator" substitute "contributing participator".

(7) In subsection (7), for "qualifying participator" substitute "contributing participator".

(8) The amendments made by this section have effect in relation to expenditure incurred after 30 June 2008.

106 Returns of relevant sales of oil

(1) Section 62 of FA 1987 (returns of relevant sales of oil) is amended as follows.

(2) After subsection (3) insert—

"(3A) Subsection (4) applies to a participator in an oil field in any case where—
(a) paragraph 2 of Schedule 2 to the principal Act requires the participator to make a return for any chargeable period (including cases where the latest time for the delivery of that return is deferred), and
(b) there are any relevant sales of Category 2 oil (as defined in subsection (6) below)."

(3) In subsection (4), for the words before paragraph (a) substitute—

"(4) In such a case, that participator shall also be required, not later than the end of the second month after the end of that chargeable period, to deliver to the Board a return of all relevant sales of Category 2 oil stating—".

(4) In subsection (4), in paragraphs (d), (e) and (f), for "oil" (in each place) substitute "Category 2 oil".

(5) In subsection (6)—

(a) in the words before paragraph (a), for "oil", in each place except in the expression "oil field", substitute "Category 2 oil",

(b) in paragraph (a), for "subsection (4)" substitute "subsection (3A)",

(c) in paragraph (c), for "oil" substitute "Category 2 oil", and

(d) omit paragraph (d) and the "and" before it.

(6) After subsection (8) insert—

"(8A) For provision about the meaning of "Category 2 oil", see paragraph 2 of Schedule 3 to the principal Act (which applies by virtue of section 72(6) below)."

(7) The amendments made by this section have effect in relation to chargeable periods ending on or after 30 June 2008.

107 Elections for oil fields to become non-taxable

(1) Section 185 of FA 1993 is amended as follows.

(2) Before subsection (1) insert—

"(A1) In this Part of this Act—

"non-taxable field" means an oil field which meets the conditions in subsection (1), (1ZA) or (1A), and

"taxable field" means an oil field which is not a non-taxable field."

(3) In subsection (1)—

(a) for the words before paragraph (a) substitute—

"(1) An oil field meets the conditions in this subsection if it is an oil field—", and

(b) omit the words after paragraph (b).

(4) After that subsection insert—

"(1ZA) An oil field meets the conditions in this subsection if—

(a) the field does not meet the conditions in subsection (1), and

(b) an election under Schedule 20A that the field is to be non-taxable is in effect."

(5) In subsection (1A), before paragraph (a) insert—

"(za) the field does not meet the conditions in subsection (1),".

(6) Before Schedule 21 to FA 1993, insert Schedule 20A that is set out in Part 1 of Schedule 33 to this Act.

(7) Part 2 of Schedule 33 contains other amendments relating to the amendments made by this section.

Corporation tax

108 Capital allowances: plant and machinery for use in ring fence trade

(1) In section 52(3) of CAA 2001 (amount of first-year allowances), for the two entries in the table relating to section 45F substitute—

"Expenditure qualifying under section 45F (expenditure for use wholly in a ring fence trade)	100%".

(2) The amendment made by subsection (1) has effect in relation to expenditure incurred on or after 12 March 2008.

109 Capital allowances: decommissioning expenditure

(1) Section 163 of CAA 2001 (meaning of "abandonment expenditure") is amended as follows.

(2) For the heading substitute "**Meaning of "general decommissioning expenditure"**".

(3) For subsections (1) to (3) substitute—

"(1) Expenditure is "general decommissioning expenditure" for the purposes of sections 164 and 165 if the conditions in subsections (3) and (4) are met.

(2) But that is subject to subsections (4ZA) to (4ZC).

(3) The expenditure must have been incurred on decommissioning plant or machinery—

(a) which has been brought into use for the purposes of a ring fence trade, and

(b) which—

(i) is, or forms part of, an offshore installation or a submarine pipeline, or

(ii) when last in use for the purposes of a ring fence trade, was, or formed part of, such an installation or pipeline."

(4) After subsection (4) insert—

"(4ZA) An amount of general decommissioning expenditure determined in accordance with subsection (1) is to be reduced under subsection (4ZB) if it appears that the decommissioned plant and machinery—

(a) was brought into use partly for the purposes of the ring fence trade and partly for the purposes of another trade, or

(b) was brought into use wholly for the purposes of the ring fence trade, but has, at any time since, not been used wholly for those purposes.

(4ZB) The amount determined in accordance with subsection (1) is to be reduced to an amount which is just and reasonable having regard to the relevant circumstances.

(4ZC) The relevant circumstances include, in particular, the extent to which the decommissioned plant and machinery has not been used for the purposes of the ring fence trade."

(5) In subsection (5)(b), omit ""abandonment programme",".

(6) Schedule 34 contains amendments consequential on this section.

(7) The amendments made by this section and that Schedule have effect in relation to expenditure incurred on or after 12 March 2008.

110 Capital allowances: abandonment expenditure after ceasing ring fence trade

(1) Section 165 of CAA 2001 (abandonment expenditure within 3 years of ceasing ring fence trade) is amended as follows.

(2) In the heading, for "**within 3 years of**" substitute "**after**".

(3) For subsection (2) substitute—

"(2) "The post-cessation period" means the period that—

(a) begins with the day following the last day on which the former trader carried on the ring fence trade, and

(b) ends with the day on which condition A and condition B are both met (or, if they are met on different days, the later of those days).

(2A) Condition A is met if each approved abandonment programme that relates wholly or partly to relevant plant and machinery has ceased to have effect.

(2B) Condition B is met if the Secretary of State is satisfied that no other abandonment programmes that relate wholly or partly to relevant plant and machinery will be approved.

(2C) For the purposes of condition A, an approved abandonment programme ceases to have effect if and when—

(a) the programme has been carried out to the satisfaction of the Secretary of State, or

(b) approval of the programme has been withdrawn."

(4) After subsection (4) insert—

"(4A) Abandonment expenditure is to be disregarded for the purposes of this section if the expenditure is incurred in decommissioning plant and machinery at a time—

(a) after an abandonment programme relating wholly or partly to the plant and machinery has had its approval withdrawn, and

(b) when no other abandonment programme relating wholly or partly to the plant and machinery is approved."

(5) After subsection (5) insert—

"(6) For the purposes of this section, it does not matter if approval of an abandonment programme that relates to relevant plant and machinery

(including approval of the first such programme) is given before or after the start of the post-cessation period.

(7) In this section—

"abandonment programme" means an abandonment programme under Part 4 of the Petroleum Act 1998;

"approved", in relation to an abandonment programme, means approved or revised under Part 4 of the Petroleum Act 1998 (and "approval" is to be construed accordingly);

"relevant plant and machinery" means plant and machinery—

(a) which has been brought into use for the purposes of the ring fence trade that has ceased, and

(b) which, when last in use for the purposes of that ring fence trade, was, or formed part of, an offshore installation or submarine pipeline;

and for this purpose "offshore installation" and "submarine pipeline" have the same meaning as in Part 4 of the Petroleum Act 1998;

"withdrawn", in relation to approval of an abandonment programme, means withdrawn under Part 4 of the Petroleum Act 1998."

(6) Section 393A of ICTA (losses: set off against profits of the same, or an earlier, accounting period) is amended as follows.

(7) In subsection (11)—

(a) for "In any case where" substitute "Subsection (11A) applies in any case where",

(b) in paragraph (a), for "within 3 years of" substitute "after", and

(c) omit the words after paragraph (b).

(8) After that subsection insert—

"(11A) In relation to any claim under subsection (1)—

(a) to the extent that the claim relates to an increase falling within subsection (11)(a), this section shall have effect as if—

(i) in subsection (10), "the relevant period" were substituted for "the period of two years", and

(ii) after subsection (10) there were inserted—

"(10ZA) In subsection (10) "relevant period" means the period calculated by adding two years to the post-cessation period (within the meaning of section 165 of the Capital Allowances Act).";

(b) to the extent that the claim relates to expenditure falling within subsection (11)(b), subsection (10) shall have effect with the substitution of "five years" for "two years"."

(9) The amendments made by this section have effect in relation to ring fence trades that cease to be carried on or after 12 March 2008.

111 Losses: set off against profits of earlier accounting periods

(1) In ICTA, after section 393A insert—

"393B Losses of ring fence trade: set off against profits of an earlier accounting period

(1) This section applies if these conditions are met—

(a) a company makes a claim under section 393A(1) requiring that a loss incurred in a ring fence trade be set off against profits;

(b) section 393A(2A) applies in relation to that claim (three year set off period) by virtue of—

(i) section 393A(2B) (loss precedes cessation of trade), or

(ii) section 393A(2C) (loss arises in year when general decommissioning expenditure incurred); and

(c) the loss incurred in the ring fence trade that may be set off under section 393A ("L") exceeds the profits against which L may be set off under section 393A ("P").

(2) The profits of the ring fence trade of an accounting period are to be relieved under subsection (3) if that period—

(a) falls wholly or partly before the three year set off period, and

(b) ends on or after 17 April 2002.

(3) Subject to any relief for an earlier loss, those profits of that accounting period shall be treated as reduced by—

(a) the amount by which L exceeds P, or

(b) so much of that amount as cannot be relieved under this subsection against profits of the ring fence trade of a later accounting period.

(4) Subsection (3) is subject to subsection (5) in the case of an accounting period that falls partly (but not wholly) before the three year set off period.

(5) The amount of the reduction of the profits of the ring fence trade that may be made under subsection (3) shall not exceed a part of those profits proportionate to the part of the accounting period that falls before the three year set off period.

(6) Subsection (3) is subject to subsection (7) in the case of an accounting period that begins before 17 April 2002 and ends on or after that date.

(7) The amount of the reduction of the profits of the ring fence trade that may be made under subsection (3) shall not exceed a part of those profits proportionate to the part of the accounting period that falls after 16 April 2002.

(8) In this section—

"ring fence" has the same meaning as in section 162 of the Capital Allowances Act;

"three year set off period" means the period of three years that applies to the claim under section 393A(1) by virtue of section 393A(2A) and section 393A(2B) or (2C)."

(2) Schedule 35 contains minor and consequential amendments relating to the amendments made by this section.

(3) The amendments made by this section and that Schedule have effect in relation to losses incurred in accounting periods beginning on or after 12 March 2008.

112 Ring fence trade: no deduction for expenses of investment management

(1) In section 492 of ICTA (treatment of oil extraction activities etc for tax purposes), after subsection (3) insert—

"(3A) No deduction under section 75 (expenses of management of investment business) shall be allowed from a company's ring fence profits."

(2) The amendment made by subsection (1) has effect in relation to expenses referable to accounting periods ending on or after 12 March 2008 (but see also subsections (3) and (4)).

(3) In the case of expenses referable to a straddling period, a deduction of the relevant fraction of those expenses shall be allowed under section 75 of ICTA from the company's ring fence profits.

(4) But the deduction allowed under subsection (3) may not exceed the total amount of the expenses referable to the straddling period that have actually been paid—

(a) during the first portion of the straddling period, or

(b) before the start of the straddling period.

(5) In this section—

"first portion", in relation to a straddling period, means the portion which—

(a) begins with the first day of the straddling period, and

(b) ends with 11 March 2008,

"relevant fraction" means—

$$\frac{P}{T}$$

where—

P is the number of days in the first portion of the straddling period, and

T is the total number of days in the straddling period, and

"straddling period" means an accounting period beginning before 12 March 2008 and ending on or after that date.

PART 7

ADMINISTRATION

CHAPTER 1

INFORMATION ETC

New information etc powers

113 Information and inspection powers

(1) Schedule 36 contains provision about the powers of officers of Revenue and Customs to obtain information and to inspect businesses.

(2) That Schedule comes into force on such day as the Treasury may by order made by statutory instrument appoint.

(3) An order under subsection (2) may contain transitional provision and savings.

114 Computer records etc

(1) This section applies to any enactment that, in connection with an HMRC matter—

(a) requires a person to produce a document or cause a document to be produced,

(b) requires a person to permit the Commissioners or an officer of Revenue and Customs—

(i) to inspect a document, or

(ii) to make or take copies of or extracts from or remove a document,

(c) makes provision about penalties or offences in connection with the production or inspection of documents, including in connection with the falsification of or failure to produce or permit the inspection of documents, or

(d) makes any other provision in connection with a requirement mentioned in paragraph (a) or (b).

(2) An enactment to which this section applies has effect as if—

(a) any reference in the enactment to a document were a reference to anything in which information of any description is recorded, and

(b) any reference in the enactment to a copy of a document were a reference to anything onto which information recorded in the document has been copied, by whatever means and whether directly or indirectly.

(3) An authorised person may, at any reasonable time, obtain access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with a relevant document.

(4) In subsection (3) "relevant document" means a document that a person has been, or may be, required pursuant to an enactment to which this section applies—

(a) to produce or cause to be produced, or

(b) to permit the Commissioners or an officer of Revenue and Customs to inspect, to make or take copies of or extracts from or to remove.

(5) An authorised person may require—

(a) the person by whom or on whose behalf the computer is or has been so used, or

(b) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,

to provide the authorised person with such reasonable assistance as may be required for the purposes of subsection (3).

(6) Any person who—

(a) obstructs the exercise of a power conferred by this section, or

(b) fails to comply within a reasonable time with a requirement under subsection (5),

is liable to a penalty of £300.

(7) Paragraphs 45 to 49 and 52 of Schedule 36 (assessment of and appeals against penalties) apply in relation to a penalty under this section as they apply in relation to a penalty under paragraph 39 of that Schedule.

(8) Omit the following—

(a) section 10 of FA 1985 (production of computer records etc in connection with assigned matters),

(b) section 127 of FA 1988 (production of computer records etc in connection with the Taxes Acts), and

(c) paragraphs 11(2) to (4) and 13(2) and (3) of Schedule 1 to the Civil Evidence Act 1995 (c. 38).

(9) In this section—

"authorised person" means a person who is, or is a member of a class of persons who are, authorised by the Commissioners to exercise the powers under subsection (3),

"the Commissioners" means the Commissioners for Her Majesty's Revenue and Customs,

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

"HMRC matter" means a matter in relation to which the Commissioners, or officers of Revenue and Customs, have a power or duty, and

"produce", in relation to a document, includes furnish, deliver and any other equivalent expression.

Other measures

115 Record-keeping

(1) Schedule 37 contains provision about the obligations to keep records for the purposes of income tax, capital gains tax, corporation tax and value added tax.

(2) The amendments made by that Schedule come into force on such day as the Treasury may by order made by statutory instrument appoint.

116 Disclosure of tax avoidance schemes

(1) Schedule 38 contains amendments relating to the disclosure of tax avoidance schemes.

(2) The amendments made by that Schedule come into force on such day as the Treasury may by order made by statutory instrument appoint; and different days may be appointed for different purposes.

117 Power to open or unpack containers

(1) CEMA 1979 is amended as follows.

(2) In section 1(1) (interpretation), in the definition of "container", after "and any" insert "baggage,".

(3) Section 159 (power to examine and take account of goods) is amended as follows.

(4) In subsection (1)—
(a) after "for that purpose" insert "open or unpack any container or", and
(b) insert at the end "and search it or anything in it."

(5) In subsection (4), insert at the end "; but if an officer opens or unpacks any container, or searches it or anything in it, the Commissioners are to bear the expense of doing so."

CHAPTER 2

TIME LIMITS FOR CLAIMS AND ASSESSMENTS ETC

General

118 Time limits for assessments, claims etc

(1) Schedule 39 contains provision about time limits for assessments, claims etc.

(2) The amendments and saving made by that Schedule come into force on such day as the Treasury may by order made by statutory instrument appoint.

(3) An order under subsection (2)—
(a) may make different provision for different purposes, and
(b) may include transitional provision and further savings.

Income tax and corporation tax

119 Correction and amendment of tax returns

(1) In section 9ZB(1) of TMA 1970 (correction of personal or trustee return by HMRC)—
(a) after "correct" insert "—
(a) ", and

(b) insert at the end ", and

(b) anything else in the return that the officer has reason to believe is incorrect in the light of information available to the officer."

(2) In section 12ABB(1) of that Act (correction of partnership return by HMRC)—

(a) after "correct" insert "—

(a) ", and

(b) insert at the end ", and

(b) anything else in the return that the officer has reason to believe is incorrect in the light of information available to the officer."

(3) Schedule 18 to FA 1998 (company tax returns) is amended as follows.

(4) In paragraph 16(1) (correction of company tax return by HMRC)—

(a) after "correct" insert "—

(a) ", and

(b) insert at the end ", and

(b) anything else in the return that the officer has reason to believe is incorrect in the light of information available to the officer."

(5) In paragraph 31 (amendment of return by company during enquiry), in sub-paragraph (4), for paragraph (b) substitute—

"(b) in any other case, the amendment takes effect as part of the amendments made by the closure notice."

(6) In paragraph 34 (amendment of company tax return after enquiry), for sub-paragraphs (1) and (2) substitute—

"(1) This paragraph applies where a closure notice is given to a company by an officer.

(2) The closure notice must—

(a) state that, in the officer's opinion, no amendment is required of the return that was the subject of the enquiry, or

(b) make the amendments of that return that are required—

(i) to give effect to the conclusions stated in the notice, and

(ii) in the case of a return for the wrong period, to make it a return appropriate to the designated period.

(2A) The officer may by further notice to the company make any amendments of other company tax returns delivered by the company that are required to give effect to the conclusions stated in the closure notice."

(7) In sub-paragraph (3) of that paragraph, for "any such amendment of a company's return" substitute "an amendment of a company's return under sub-paragraph (2) or (2A)".

(8) In sub-paragraph (4)(c) of that paragraph, for "notice of amendment" substitute "closure notice".

(9) In paragraph 61(1)(a) and (3)(a) (consequential claims etc), for "34(2)(b)" substitute "34(2A)".

(10) In paragraph 88 (conclusiveness of amounts stated in return)—
(a) in sub-paragraph (3)(b), omit the words from "and" to the end,
(b) in sub-paragraph (3)(c), for "34(2)" substitute "34",
(c) in sub-paragraph (4)(b), for "the end of the period specified in paragraph 34(1)" substitute "the completion of the enquiry", and
(d) in sub-paragraph (4)(c), for "34(2)" substitute "34".

(11) In paragraph 93(1)(b) (general jurisdiction of Special or General Commissioners), for "34(2)" substitute "34".

(12) In the following provisions, for "34(2)" substitute "34"—
(a) in TMA 1970—
(i) section 46B(2)(aa) (questions to be determined by Special Commissioners),
(ii) section 46C(2)(b) (jurisdiction of Special Commissioners over certain claims included in returns),
(iii) section 46D(2)(aa) (questions to be determined by Land Tribunal), and
(iv) section 55(1)(a)(ii) (recovery of tax not postponed), and
(b) in ICTA, section 754(2E) (assessment, recovery and postponement of tax).

(13) The amendments made by this section come into force on such day as the Treasury may by order appoint.

VAT

120 VAT: time limits for assessments of excess credits etc

(1) In section 73 of VATA 1994 (assessment of overpaid VAT credits etc), after subsection (6) insert—

"(6A) In the case of an assessment under subsection (2), the prescribed accounting period referred to in subsection (6)(a) and in section 77(1)(a) is the prescribed accounting period in which the repayment or refund of VAT, or the VAT credit, was paid or credited."

(2) Section 80 of that Act (credit for, or repayment of, overstated or overpaid VAT) is amended as follows.

(3) After subsection (4A) insert—

"(4AA) An assessment under subsection (4A) shall not be made more than 2 years after the later of—
(a) the end of the prescribed accounting period in which the amount was credited to the person, and
(b) the time when evidence of facts sufficient in the opinion of the Commissioners to justify the making of the assessment comes to the knowledge of the Commissioners."

(4) In subsection (4C), for "(2)" substitute "(3)".

(5) The amendments made by this section are treated as having come into force on 19 March 2008.

121 Old VAT claims: extended time limits

(1) The requirement in section 80(4) of VATA 1994 that a claim under that section be made within 3 years of the relevant date does not apply to a claim in respect of an amount brought into account, or paid, for a prescribed accounting period ending before 4 December 1996 if the claim is made before 1 April 2009.

(2) The requirement in section 25(6) of VATA 1994 that a claim for deduction of input tax be made at such time as may be determined by or under regulations does not apply to a claim for deduction of input tax that became chargeable, and in respect of which the claimant held the required evidence, in a prescribed accounting period ending before 1 May 1997 if the claim is made before 1 April 2009.

(3) In this section—

"input tax" and "prescribed accounting period" have the same meaning as in VATA 1994 (see section 96 of that Act), and

"the required evidence" means the evidence of the charge to value added tax specified in or under regulation 29(2) of the Value Added Tax Regulations 1995 (S.I. 1995/2518).

(4) This section is treated as having come into force on 19 March 2008.

CHAPTER 3

PENALTIES

122 Penalties for errors

(1) Schedule 40 contains provisions amending Schedule 24 to FA 2007 (penalties for errors in returns etc).

(2) That Schedule comes into force on such day as the Treasury may by order appoint.

(3) An order under subsection (2)—

(a) may commence a provision generally or only for specified purposes, and

(b) may appoint different days for different provisions or for different purposes.

(4) The Treasury may by order make any incidental, supplemental, consequential, transitional, transitory or saving provision which may appear appropriate in consequence of, or otherwise in connection with, Schedule 24 to FA 2007 or Schedule 40.

(5) An order under subsection (4) may include provision amending, repealing or revoking any provision of any Act or subordinate legislation whenever passed or made (including this Act and any Act amended by it).

(6) An order under subsection (4) may make different provision for different purposes.

(7) The power to make an order under this section is exercisable by statutory instrument.

(8) A statutory instrument containing an order under subsection (4) which includes provision amending or repealing any provision of an Act is subject to annulment in pursuance of a resolution of the House of Commons.

123 Penalties for failure to notify etc

(1) Schedule 41 contains provisions for imposing penalties on persons in respect of failures to notify HMRC that they are chargeable to tax etc and certain wrongdoings relating to invoices showing VAT and excise duties.

(2) That Schedule comes into force on such day as the Treasury may by order appoint.

(3) An order under subsection (2)—
(a) may commence a provision generally or only for specified purposes, and
(b) may appoint different days for different provisions or for different purposes.

(4) The Treasury may by order make any incidental, supplemental, consequential, transitional, transitory or saving provision which may appear appropriate in consequence of, or otherwise in connection with, Schedule 41.

(5) An order under subsection (4) may include provision amending, repealing or revoking any provision of any Act or subordinate legislation whenever passed or made (including this Act and any Act amended by it).

(6) An order under subsection (4) may make different provision for different purposes.

(7) The power to make an order under this section is exercisable by statutory instrument.

(8) A statutory instrument containing an order under subsection (4) which includes provision amending or repealing any provision of an Act is subject to annulment in pursuance of a resolution of the House of Commons.

CHAPTER 4

APPEALS ETC

Reviews and appeals etc: general

124 HMRC decisions etc: reviews and appeals

(1) The Treasury may by order made by statutory instrument make provision—
(a) for and in connection with reviews by the Commissioners, or by an officer of Revenue and Customs, of HMRC decisions, and
(b) in connection with appeals against HMRC decisions.

(2) An order under subsection (1) may, in particular, contain provision about—
(a) the circumstances in which, or the time within which—
(i) a right to a review may be exercised, or

(ii) an appeal may be made, and

(b) the circumstances in which, or the time at which, an appeal or review is, or may be treated as, concluded.

(3) An order under subsection (1) may, in particular, contain provision about the payment of sums by, or to, the Commissioners in cases where—

(a) a right to a review is exercised, or

(b) an appeal is made or determined.

(4) That includes provision about payment of sums where an appeal has been determined, but a further appeal may be or has been made, including provision—

(a) requiring payments to be made,

(b) enabling payments to be postponed, or

(c) imposing conditions in connection with the making or postponement of payments.

(5) An order under subsection (1) may, in particular, contain provision about interest on any sum that is payable by, or to, the Commissioners in accordance with a decision made on the determination of an appeal.

(6) Provision under subsection (1) may be made by amending, repealing or revoking any provision of any Act or subordinate legislation (whenever passed or made, including this Act and any Act amended by it).

(7) An order under subsection (1) may—

(a) provide that any provision contained in the order comes into force on a day appointed by an order of the Treasury made by statutory instrument (and may provide that different days may be appointed for different purposes),

(b) contain incidental, supplemental, consequential, transitional, transitory and saving provision, and

(c) make different provision for different purposes.

(8) A statutory instrument containing an order under subsection (1) may not be made unless a draft of it has been laid before and approved by resolution of the House of Commons.

(9) But if the order, or any other order under subsection (1) contained in the statutory instrument, is made in connection with a transfer of functions carried out under the Tribunals, Courts and Enforcement Act 2007 (c. 15), the statutory instrument may only be made if a draft of it has been laid before and approved by resolution of each House of Parliament.

(10) In this section—

(a) references to appeals against HMRC decisions include any other kind of proceedings relating to an HMRC matter, and

(b) references to the making, determination or conclusion of appeals are to be read accordingly.

(11) In this section—

"the Commissioners" means the Commissioners for Her Majesty's Revenue and Customs;

"HMRC decision" means—

(a) any decision of the Commissioners relating to an HMRC matter, or

(b) any decision of an officer of Revenue and Customs relating to an HMRC matter,

and references to an HMRC decision include references to anything done by such a person in connection with making such a decision or in consequence of such a decision;

"HMRC matter" means any matter connected with a function of the Commissioners or an officer of Revenue and Customs.

Customs and excise decisions subject to review and appeal

125 Alcoholic liquor duties

(1) Schedule 42 contains amendments of FA 1994 making certain decisions about alcoholic liquor duties subject to review and appeal.

(2) The amendments made by that Schedule have effect in relation to decisions made on or after the day on which this Act is passed.

126 Security under CEMA 1979

(1) In paragraph 2(1)(s) of Schedule 5 to FA 1994 (decisions under section 157 of CEMA 1979 subject to review and appeal)—

(a) after "any security" insert "(or further security)", and

(b) insert at the end ", guarantee or other security".

(2) The amendments made by subsection (1) have effect in relation to decisions made on or after the day on which this Act is passed.

CHAPTER 5

PAYMENT AND ENFORCEMENT

Taking control of goods etc

127 Enforcement by taking control of goods: England and Wales

(1) This section applies if a person does not pay a sum that is payable by that person to the Commissioners under or by virtue of an enactment or under a contract settlement.

(2) The Commissioners may use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (c. 15) (taking control of goods) to recover that sum.

(3) This section extends to England and Wales only.

128 Summary warrant: Scotland

(1) This section applies if a person does not pay a sum that is payable by that person to the Commissioners under or by virtue of any enactment or under a contract settlement.

(2) An officer of Revenue and Customs may apply to the sheriff for a summary warrant.

(3) An application under subsection (2) must be accompanied by a certificate which—

(a) complies with subsection (4), and

(b) is signed by the officer.

(4) A certificate complies with this subsection if—

(a) it states that—

(i) none of the persons specified in the application has paid the sum payable by that person,

(ii) the officer has demanded payment from each such person of the sum payable by that person, and

(iii) the period of 14 days beginning with the day on which the demand is made has expired without payment being made, and

(b) it specifies the sum payable by each person specified in the application.

(5) Subsection (4)(a)(iii) does not apply to an application under subsection (2) insofar as it relates to—

(a) sums payable in respect of value added tax,

(b) sums payable in respect of deductions required to be made under section 61 of FA 2004 (sub-contractors in the construction industry), and

(c) sums payable by a person in that person's capacity as an employer.

(6) The sheriff must, on an application by an officer of Revenue and Customs under subsection (2), grant a summary warrant in, or as nearly as may be in, the form prescribed by Act of Sederunt.

(7) A summary warrant granted under subsection (6) authorises the recovery of the sum payable by—

(a) attachment,

(b) money attachment,

(c) earnings arrestment,

(d) arrestment and action of furthcoming or sale.

(8) Subject to subsection (9) and without prejudice to section 39(1) of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) (expenses of attachment)—

(a) the sheriff officer's fees, and

(b) any outlays necessarily incurred by that officer,

in connection with the execution of a summary warrant are to be chargeable against the person in relation to whom the warrant was granted.

(9) No fees are to be chargeable by the sheriff officer against the person in relation to whom the summary warrant was granted for collecting, and accounting to the Commissioners for, sums paid to that officer by that person in respect of the sum payable.

(10) This section extends to Scotland only.

129 Consequential provision and commencement

(1) Part 1 of Schedule 43 contains provision consequential on section 127.

(2) Part 2 of that Schedule contains provision consequential on section 128.

(3) The extent of the amendments and repeals in Schedule 43 is the same as the provision amended or repealed.

(4) Sections 127 and 128 and Schedule 43 come into force on such day as the Commissioners may by order made by statutory instrument appoint.

(5) An order under subsection (4) may—

(a) make different provision for different purposes, and

(b) contain transitional provision and savings.

Set off

130 Set-off: England and Wales and Northern Ireland

(1) This section applies where there is both a credit and a debit in relation to a person.

(2) The Commissioners may set the credit against the debit (subject to section 131 and any obligation of the Commissioners to set the credit against another sum).

(3) The obligations of the Commissioners and the person concerned are discharged to the extent of any set-off under subsection (2).

(4) "Credit", in relation to a person, means—

(a) a sum that is payable by the Commissioners to the person under or by virtue of an enactment, or

(b) a relevant sum that may be repaid to the person by the Commissioners.

(5) For the purposes of subsection (4), in relation to a person, "relevant sum" means a sum that was paid in connection with any liability (including any purported or anticipated liability) of that person to make a payment to the Commissioners under or by virtue of an enactment or under a contract settlement.

(6) "Debit", in relation to a person, means a sum that is payable by the person to the Commissioners under or by virtue of an enactment or under a contract settlement.

(7) In this section references to sums paid, repaid or payable by or to a person (however expressed) include sums that have been or are to be credited by or to a person.

(8) This section has effect without prejudice to any other power of the Commissioners to set off amounts.

(9) In section 429(5) of ITA 2007 (giving through self-assessment)—

(a) in the definition of "tax repayment", for "set-off that falls to be made against the individual's liabilities" substitute "relevant set-off", and

(b) insert at the end—

""relevant set-off", in relation to an individual, means any set-off that falls to be made against the individual's liabilities, other than any set-off under section 130 of FA 2008."

(10) Subsections (1) to (8) extend to England and Wales and Northern Ireland only.

131 No set-off where insolvency procedure has been applied

(1) This section applies where—
  (a) an insolvency procedure has been applied to a person, and
  (b) there is a post-insolvency credit in relation to that person.

(2) The Commissioners may not use the power under section 130 to set that post-insolvency credit against a pre-insolvency debit in relation to the person.

(3) "Post-insolvency credit" means a credit that—
  (a) became due after the insolvency procedure was applied to the person, and
  (b) relates to, or to matters occurring at, times after it was so applied.

(4) "Pre-insolvency debit" means a debit that—
  (a) arose before the insolvency procedure was applied to the person, or
  (b) arose after that procedure was so applied but relates to, or to matters occurring at, times before it was so applied.

(5) Subject to subsection (6), an insolvency procedure is to be taken, for the purposes of this section, to be applied to a person when—
  (a) a bankruptcy order or winding up order is made or an administrator is appointed in relation to that person,
  (b) that person is put into administrative receivership,
  (c) if the person is a corporation, that person passes a resolution for voluntary winding up,
  (d) a voluntary arrangement comes into force in relation to that person, or
  (e) a deed of arrangement takes effect in relation to that person.

(6) In this section references to the application of an insolvency procedure to a person do not include—
  (a) the application of an insolvency procedure to a person at a time when another insolvency procedure applies to the person, or
  (b) the application of an insolvency procedure to a person immediately upon another insolvency procedure ceasing to have effect.

(7) For the purposes of this section—
  (a) a person shall be treated as being in administrative receivership throughout any continuous period for which there is an administrative receiver of that person (disregarding any temporary vacancy in the office of receiver), and
  (b) the reference in subsection (5) to a person being put into administrative receivership shall be interpreted accordingly.

(8) In this section—
  "administrative receiver" means an administrative receiver within the meaning of section 251 of the Insolvency Act 1986 (c. 45) or Article 5(1) of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)),
  "administrator" means a person appointed to manage the affairs, business and property of another person under Schedule B1 to that Act or to that Order,
  "credit" and "debit" have the same meaning as in section 130,
  "deed of arrangement" means a deed of arrangement registered in accordance with the Deeds of Arrangement Act 1914 (c. 47) or Chapter

1 of Part 8 the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), and

"voluntary arrangement" means a voluntary arrangement approved in accordance with Part 1 or Part 8 of the Insolvency Act 1986 (c. 45) or Part 2 or Chapter 2 of Part 8 of the Insolvency (Northern Ireland) Order 1989.

(9) This section extends to England and Wales and Northern Ireland only.

132 VAT: requirement to set-off

(1) Section 81 of VATA 1994 (set-off of credits etc) is amended as follows.

(2) For subsection (4C) substitute—

"(4C) In this section, references to the application of an insolvency procedure to a person do not include—

(a) the application of an insolvency procedure to a person at a time when another insolvency procedure applies to the person, or

(b) the application of an insolvency procedure to a person immediately upon another insolvency procedure ceasing to have effect."

(3) In subsection (5)—

(a) omit paragraph (a),

(b) in paragraph (b)—

(i) for "that Act of 1986" substitute "the Insolvency Act 1986", and

(ii) for "that Order of 1989" substitute "the Insolvency (Northern Ireland) Order 1989", and

(c) before the "and" at the end of paragraph (b) insert—

"(ba) "administrator" means a person appointed to manage the affairs, business and property of another person under Schedule B1 to that Act or to that Order;".

133 Set-off etc where right to be paid a sum has been transferred

(1) This section applies where there has been a transfer from one person ("the original creditor") to another person ("the current creditor") of a right to be paid a sum ("the transferred sum") by the Commissioners.

(2) The Commissioners—

(a) must set the transferred sum against a sum payable to them by the original creditor if they would have had an obligation to do so under or by virtue of an enactment had the original creditor retained the right, and

(b) may do so if they would have had a power to do so under or by virtue of an enactment or under a rule of law had the original creditor retained the right.

(3) Subsection (2) applies whether the sum payable by the original creditor to the Commissioners first became payable before or after the transfer (but not if it only became payable after the Commissioners discharged their obligation to pay the transferred sum to the current creditor).

(4) The following are discharged to the extent of any set-off under this section—

(a) the obligations of the Commissioners in relation to the current creditor, and

(b) the obligations of the original creditor.

(5) An obligation under or by virtue of an enactment (other than this section) to set the transferred sum against a sum payable to the Commissioners by a person other than the original creditor has effect subject to the obligation under subsection (2)(a) and to any exercise of the power under subsection (2)(b).

(6) A power under or by virtue of an enactment (other than this section) or under a rule of law to set the transferred sum against a sum payable to the Commissioners by a person other than the original creditor has effect subject to the obligation under subsection (2)(a).

(7) In determining the sum (if any) to be paid, the Commissioners may make any reduction that they could have made if the original creditor had retained the right to be paid the transferred sum (in addition to any other reduction that they are entitled to make), including a reduction arising from any defence to a claim for the sum.

(8) In this section—

(a) references to the transfer of a right are to its transfer by assignment, assignation or any other means, except that they do not include its transfer by means of a direction under section 429 of ITA 2007 (giving through self-assessment returns),

(b) references to a sum that is payable by or to a person are to a sum that is to be paid, repaid or credited by or to that person and references to the payment of the sum (however expressed) are to be interpreted accordingly, and

(c) where a right in relation to a sum has been transferred more than once, references to the original creditor are to the person from whom the right was first transferred (except in subsection (1)).

(9) Where the right to be paid the transferred sum is dependent on the making of a claim—

(a) subsection (2) does not apply unless a claim in respect of the transferred sum has been made, and

(b) the references in subsections (2) and (7) to the obligations or powers that the Commissioners would have had if the original creditor had retained the right are references to those that they would have had if the original creditor had also made the claim in respect of the transferred sum.

(10) This section has effect where the right to be paid the transferred sum was transferred from the original creditor on or after 25 June 2008.

134 Retained funding bonds: tender by Commissioners

(1) Section 939 of ITA 2007 (duty to retain bonds where issue treated as payment of interest) is amended as follows.

(2) After subsection (4) insert—

"(4A) If bonds are tendered in accordance with subsection (4), the Commissioners for Her Majesty's Revenue and Customs may tender the bonds in satisfaction of any amount that is payable by the

Commissioners to the relevant creditor in connection with the relevant debt.

(4B) For the purposes of subsection (4A)—

(a) "relevant creditor" and "relevant debt" mean the creditor and the debt mentioned in subsection (1)(a), and

(b) a bond is to be taken to have the same value that it had at the time of its issue.

(4C) If bonds that are to be tendered in accordance with subsection (4) or (4A) are subject to restrictions on their tender or transfer, the restrictions do not prevent the bonds from being—

(a) tendered in accordance with that subsection, or

(b) transferred from the person tendering them to the person to whom they are tendered."

(3) Omit subsection (5).

(4) In ITA 2007, after section 940 insert—

"940A No appropriate bond or combination of bonds

(1) This section applies if—

(a) the Commissioners for Her Majesty's Revenue and Customs hold one or more bonds tendered in accordance with section 939(4),

(b) the Commissioners wish to tender bonds in accordance with section 939(4A) in satisfaction of an amount payable to the relevant creditor, and

(c) the Commissioners consider that they do not hold a bond, or combination of bonds, that is appropriate for satisfying the amount payable.

(2) If requested to do so by the Commissioners, the bond issuer must secure that the Commissioners hold a bond, or combination of bonds, that the Commissioners consider to be appropriate for satisfying the amount payable.

(3) If requested to do so by the bond issuer, a person must assist the bond issuer to comply with subsection (2).

(4) The duty under subsection (2), or under subsection (3), does not apply if it would be impracticable for the bond issuer, or the other person, to comply with the duty.

(5) The matters which the Commissioners may take into account when considering whether or not a bond or combination of bonds is appropriate for satisfying the amount payable include—

(a) the value of a bond at the time of its issue,

(b) the interest which the relevant creditor, or any other person, has in a bond (including the nature or size of the interest), and

(c) the terms on which a bond is issued.

(6) For the purposes of this section—

(a) "bond issuer" means the person by or through whom bonds were issued, and

(b) "relevant creditor" and "relevant debt" have the same meanings as in section 939(4A)."

(5) The amendments made by this section have effect in relation to funding bonds issued on or after 12 March 2008.

Other measures

135 Interest on unpaid tax in case of disaster etc of national significance

(1) This section applies in any case where the Commissioners agree that the payment of a relevant sum may be deferred by reason of circumstances arising as a result of a disaster or emergency specified in an order under this section (an "agreement for deferred payment").

(2) In subsection (1) "relevant sum" means a sum to meet any liability to the Commissioners arising under or by virtue of an enactment or a contract settlement.

(3) No interest on the amount deferred is chargeable in respect of the relief period and no liability to a surcharge on the deferred amount arises during that period.

(4) The relief period is the period—

(a) beginning with a date specified in the order or, if the Commissioners so direct, a later date from which the agreement for deferred payment has effect, and

(b) ending with the date on which the agreement for deferred payment ceases to have effect or, if earlier, the date on which the order is revoked.

(5) The agreement for deferred payment ceases to have effect at the end of the period of deferment specified in the agreement or, if the Commissioners agree to extend (or further extend) that period by reason of circumstances arising as a result of the disaster or emergency, with the end of that extended (or further extended) period.

(6) If the agreement for deferred payment is an agreement for payment by instalments, the period of deferment in relation to each instalment ends with the date on or before which that instalment is to be paid; but if an instalment is not paid by the agreed date and the Commissioners do not agree to extend the period of deferment, the whole of the agreement for deferred payment is to be treated as ceasing to have effect on that date.

(7) This section applies whether the agreement for deferred payment was made—

(a) before or after the amount to which it relates becomes due and payable, or

(b) before or after the making of the order concerned.

(8) If in any case the Commissioners are satisfied that, although no agreement for deferred payment was made, one could have been made, this section applies as if one had been made; and the terms of the notional agreement for deferred payment are to be assumed to be such as the Commissioners are satisfied would have been agreed in the circumstances.

(9) An order under this section may be made only in relation to a disaster or emergency which the Treasury consider to be of national significance.

(10) Such an order—

(a) may specify a disaster or emergency which has begun (or both begun and ended) before it is made (including one which has begun, or both begun and ended, before the passing of this Act), and

(b) may specify a date before the date on which it is made (including a date before the passing of this Act).

(11) The power to make an order under this section is exercisable by the Treasury by statutory instrument.

(12) A statutory instrument containing such an order is subject to annulment in pursuance of a resolution of the House of Commons.

(13) In FA 2001, omit section 107 (interest on unpaid tax etc: foot and mouth disease); but the repeal of that section does not affect any agreement for deferred payment made before this Act is passed.

136 Fee for payment

(1) The Commissioners may by regulations provide that, where a person makes a payment to the Commissioners or a person authorised by the Commissioners using a method of payment specified in the regulations, the person must also pay a fee specified in, or determined in accordance with, the regulations.

(2) A method of payment may only be specified in regulations made under this section if the Commissioners expect that they, or the person authorised by them, will be required to pay a fee or charge (however described) in connection with amounts paid using that method of payment.

(3) Regulations under this section—

(a) may make provision about the time and manner in which the fee must or may be paid,

(b) may make provision generally or only for specified purposes, and

(c) may make different provision for different purposes.

(4) Regulations under this section are to be made by statutory instrument.

(5) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

137 County court proceedings

(1) In section 25 of CRCA 2005 (conduct of civil proceedings)—

(a) after subsection (1) insert—

"(1A) An officer of Revenue and Customs or a person authorised by the Commissioners may conduct county court proceedings for the recovery of an amount payable to the Commissioners under or by virtue of an enactment or under a contract settlement.", and

(b) after subsection (5) insert—

"(6) In this section "contract settlement" means an agreement made in connection with any person's liability to make a payment to the Commissioners under or by virtue of an enactment."

(2) In section 66 of TMA 1970 (county court proceedings)—

(a) in subsection (1), omit "commenced in the name of a collector", and
(b) omit subsection (2).

(3) Accordingly, in FA 1984, omit section 57(2).

(4) In section 244 of IHTA 1984 (right to address court), omit "county court or".

(5) In paragraph 3 of Schedule 4 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) (recovery of contributions where income tax recovery provisions not applicable)—
(a) in sub-paragraph (1), omit "commenced in the name of an authorised officer", and
(b) omit sub-paragraph (2).

(6) In paragraph 5 of Schedule 12 to FA 2003 (stamp duty land tax)—
(a) in sub-paragraph (1), omit "brought in the name of the collector", and
(b) omit sub-paragraph (2).

(7) Nothing in subsections (2) to (6) affects proceedings commenced or brought in the name of a collector or authorised officer before this Act is passed.

138 Certificates of debt

(1) In CRCA 2005, after section 25 insert—

"25A Certificates of debt

(1) A certificate of an officer of Revenue and Customs that, to the best of that officer's knowledge and belief, a relevant sum has not been paid is sufficient evidence that the sum mentioned in the certificate is unpaid.

(2) In subsection (1) "relevant sum" means a sum payable to the Commissioners under or by virtue of an enactment or under a contract settlement (within the meaning of section 25).

(3) Any document purporting to be such a certificate shall be treated as if it were such a certificate until the contrary is proved.

(4) Subsection (1) has effect subject to any provision treating the certificate as conclusive evidence."

(2) Schedule 44 contains provisions consequential on this section.

Supplementary

139 Interpretation of Chapter

In this Chapter—
"the Commissioners" means the Commissioners for Her Majesty's Revenue and Customs, and
"contract settlement" means an agreement made in connection with any person's liability to make a payment to the Commissioners under or by virtue of an enactment.

PART 8

MISCELLANEOUS

Inheritance tax

140 Charge on termination of interest in possession where new interest acquired

(1) In section 53 of IHTA 1984 (exceptions from charge on termination of interest in possession), for subsection (2A) substitute—

"(2A) Subsection (2) above applies by virtue of the person becoming beneficially entitled on or after 12 March 2008 to another interest in possession in the property only if that other interest is—

(a) a disabled person's interest, or

(b) a transitional serial interest;

and that is the case irrespective of whether the person's beneficial entitlement to the interest in possession in the property which comes to an end is one which began before, or on or after, 22 March 2006."

(2) The amendment made by subsection (1) is treated as having come into force on 22 March 2006 (so that paragraph 14(3) of Schedule 20 to FA 2006 is treated as never having had effect).

141 Interest in possession settlements: extension of transitional period

(1) In Chapter 2 of Part 3 of IHTA 1984 (interests in possession etc)—

(a) in section 49C (transitional serial interest: interest to which person becomes entitled on or after 22 March 2006 and before 6 April 2008), in subsection (3) and in the heading,

(b) in section 49D (transitional serial interest: interest to which person becomes entitled on death of spouse or civil partner on or after 6 April 2008), in subsection (3) and in the heading, and

(c) in section 49E (transitional serial interest: contracts of life insurance), in subsection (3),

for "April" substitute "October".

(2) The amendments made by subsection (1) are treated as having come into force on 6 April 2008.

Insurance premium tax

142 Tax representatives

(1) In Part 3 of FA 1994 (insurance premium tax), omit the following provisions (which relate to tax representatives)—

(a) sections 57 and 58,

(b) in section 65(1), paragraph (b) and the "and" before it,

(c) in section 73(1), the definition of "tax representative", and

(d) in Schedule 7, paragraph 18 and, in paragraph 20, ", 18(2)".

(2) In consequence of the repeals made by subsection (1), omit sections 27(4) and (5) of FA 1997.

143 Overseas insurers

(1) Section 65 of FA 1994 (insurance premium tax: liability of insured where insurer not established in United Kingdom) is amended as follows.

(2) In subsection (1), for the words after "time" substitute "the insurer—

(a) does not have any business establishment or other fixed establishment in the United Kingdom, and

(b) is established in a country or territory in respect of which it appears to the Commissioners that the condition in subsection (1A) below is met."

(3) After that subsection insert—

"(1A) The condition mentioned in subsection (1)(b) above is that—

(a) the country or territory is neither a member State nor a part of a member State, and

(b) there is no provision for mutual assistance between the United Kingdom and the country or territory similar in scope to the assistance provided for between the United Kingdom and each other member State by the mutual assistance provisions.

(1B) In subsection (1A) above "the mutual assistance provisions" means—

(a) section 134 of, and Schedule 39 to, the Finance Act 2002 (recovery of taxes etc due in other member States), and

(b) section 197 of the Finance Act 2003 (exchange of information between tax authorities of member States)."

Vehicle excise duty

144 Rebates

(1) VERA 1994 is amended as follows.

(2) In section 10 (transfer and surrender of vehicle licences), omit subsections (2) and (3) and, in the heading, "**and surrender**".

(3) For section 19 (rebates on surrender of licences) substitute—

"19 Rebates

(1) If the relevant person makes an application to the Secretary of State under this subsection for a rebate of the duty paid on a vehicle licence in force for a vehicle, the person is entitled to receive from the Secretary of State the amount specified in subsection (2).

(2) That amount is an amount equal to one-twelfth of the annual rate of duty chargeable on the licence (at the time when it was taken out) in respect of each complete month of the period of the currency of the licence which is unexpired when the application is made.

(3) An application under subsection (1) may only be made if—

(a) the vehicle has been stolen,

(b) the vehicle has been destroyed and the Secretary of State is notified of that,

(c) an application for a nil licence for the vehicle is made in accordance with regulations under section 22,

(d) the vehicle is neither used nor kept on a public road and the particulars and declaration required to be furnished and made by regulations under section 22(1D) are furnished and made in relation to it in accordance with the regulations,

(e) the vehicle has been sold or disposed of and the particulars prescribed by regulations under section 22(1)(d) are furnished in relation to it in accordance with the regulations, or

(f) the vehicle has been removed from the United Kingdom with a view to its remaining permanently outside the United Kingdom and the Secretary of State is notified of that.

(4) In subsection (1) "the relevant person" means the person in whose name the vehicle is registered at the time when the application is made; but in a case within subsection (3)(e) also includes the person in whose name it was registered immediately before being sold or disposed of.

(5) The Secretary of State may specify conditions which must be complied with by a person before making an application under subsection (1).

(6) The conditions that may be specified include (in particular)—

(a) a condition requiring the surrender of the licence,

(b) a condition requiring that particulars which are required to be furnished to the Secretary of State are transmitted to the Secretary of State by such electronic means as may be specified, and

(c) in a case within subsection (3)(a), conditions relating to the reporting to the police that the vehicle has been stolen.

(7) Where an application is made under subsection (1) and the licence is not surrendered on the making of the application, it ceases to be in force when the application is made.

(8) Where a trade licence is surrendered to the Secretary of State under section 14(2), the holder of the licence is entitled to receive from the Secretary of State (by way of rebate of the duty paid on the licence) an amount equal to one-twelfth of the annual rate of duty chargeable on the licence (at the time when it was taken out) in respect of each complete month of the period of the currency of the licence which is unexpired at the date of the surrender."

(4) In section 22(1D) (requirement to furnish particulars etc in certain circumstances), omit paragraph (a) (surrender under section 10(2)).

(5) In—

(a) section 31(7)(a),

(b) section 31B(9)(a)(i), and

(c) section 31C(7)(a),

(meaning of "expiry"), after "surrender" insert "or ceasing to be in force under section 19(7)".

(6) In consequence of the amendment made by subsection (3), omit section 14 of FA 2001.

(7) The amendments made by this section come into force on 1 January 2009.

145 Offence of using or keeping unlicensed vehicle

Schedule 45 contains provision in relation to the offence of using or keeping an unlicensed vehicle.

146 Rates for new lower-emission vans

(1) Part 1B of Schedule 1 to VERA 1994 (annual rates of duty: light goods vehicles) is amended as follows.

(2) In paragraph 1J(a) and (b) (rates), after "a" insert "pre-2007 or post-2008".

(3) In paragraph 1K (meaning of "lower-emission van"), for ""lower-emission van"" substitute ""pre-2007 lower-emission van"".

(4) After paragraph 1L insert—

"1M For the purposes of paragraph 1J, a vehicle to which this Part of this Schedule applies is a "post-2008 lower-emission van" if—

(a) the vehicle is first registered on or after 1 January 2009 and before 1 January 2011,

(b) it is a vehicle to which Regulation (EC) No 715/2007 of the European Parliament and of the Council applies (see Article 2 of that Regulation),

(c) it is powered by a compression ignition engine, and

(d) the emissions from it do not exceed any of the emission limit values specified in Table 1 of Annex 1 to that Regulation in relation to vehicles so powered."

147 Not exhibiting licence: period of grace

In section 33 of VERA 1994 (not exhibiting licence), after subsection (1A) insert—

"(1B) A person is not guilty of an offence under subsection (1) or (1A) by using or keeping a vehicle on a public road during any of the 5 working days following the time when a licence or nil licence for the vehicle, or a relevant declaration applying to the vehicle, ceases to be in force, if an application for a licence or nil licence for or in respect of the vehicle to run from that time has been received before that time.

(1C) In subsection (1B) "working day" means any day other than—

(a) a Saturday or Sunday, or

(b) a day which is Christmas Eve, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.

(1D) For the purposes of subsection (1B)—

(a) there is a relevant declaration applying to a vehicle if the particulars and declaration required to be furnished and made by regulations under section 22(1D) have been furnished and made in relation to the vehicle in accordance with the regulations, and

(b) the relevant declaration ceases to be in force if, after the particulars and declaration have been furnished and made—

(i) the vehicle is used or kept on a public road (otherwise than under a trade licence), or

(ii) the period of 12 months beginning with the day on which the particulars and declaration were furnished and made expires."

148 Reduced pollution certificates

(1) Section 61B of VERA 1994 (certificates as to reduced pollution) is amended as follows.

(2) In subsection (1), after paragraph (b) insert—

"(ba) for the production of information and making of declarations for the purposes of a determination (including provision about the person to whom, and the time at which and manner in which, the information is to be produced and the declarations are to be made);".

(3) In paragraph (c) of that subsection, for "examination of an eligible vehicle, for the purposes of the determination mentioned in paragraph (b)," substitute "Secretary of State to specify cases in which a determination is to be made only after an examination of an eligible vehicle".

(4) In paragraph (d) of that subsection, for "for such an examination" substitute "in respect of a determination".

(5) In paragraph (e) of that subsection, for "on a prescribed examination," substitute "in accordance with the regulations,".

(6) In subsection (3)—

(a) in paragraph (a), for "in accordance with the regulations" substitute "(or, if not previously examined, examined) in accordance with the regulations ("a post-certification examination")",

(b) in paragraph (b), for "such a re-examination" substitute "a post-certification examination", and

(c) in paragraph (c), for "the prescribed re-examination" substitute "a post-certification examination".

Climate change levy and landfill tax

149 Climate change levy: coal mine methane no longer to be renewable source

(1) In paragraph 19 of Schedule 6 to FA 2000 (exemption: electricity from renewable sources), omit sub-paragraph (4A) (coal mine methane to be regarded as renewable source).

(2) Accordingly, omit—

(a) section 126 of FA 2002 (which inserted sub-paragraph (4A)), and

(b) regulation 47(2A) of the Climate Change Levy (General) Regulations 2001 (S.I. 2001/838).

(3) The repeals and revocation made by this section have effect in relation to electricity generated on or after 1 November 2008.

150 Climate change levy accounting documents: abolition of self-identification

In paragraph 143(2) of Schedule 6 to FA 2000 (requirements to be met by invoice if it is to be a "climate change levy accounting document"), omit paragraph (a) (requirement that it must state that it is a climate change levy accounting document).

151 Landfill tax credit: withdrawing approval of environmental bodies

(1) Part 3 of FA 1996 (landfill tax) is amended as follows.

(2) In section 53(4)(d) (withdrawal of approval of environmental body or regulatory body), for "approval of an environmental body or the regulatory body to be withdrawn" substitute "the withdrawal of approval of an environmental body by the Commissioners or by the regulatory body, and the withdrawal of approval of the regulatory body by the Commissioners,".

(3) In section 54(1) (review of Commissioners' decisions), after paragraph (c) insert—

"(ca) a decision to withdraw approval of an environmental body under any provision contained in regulations by virtue of section 53(4)(d) above;".

(4) The amendments made by this section are treated as having come into force on 19 March 2008.

Aviation

152 Aviation duty

The Commissioners for Her Majesty's Revenue and Customs may incur expenditure in preparing for the introduction of a new duty chargeable in respect of flights by aircraft.

153 Air passenger duty: class of travel with large seat pitch

(1) In section 30 of FA 1994 (rate of air passenger duty), after subsection (10) insert—

"(11) But a class of travel is not standard class travel if the seats for passengers whose agreement for carriage provides for that class of travel have a pitch exceeding 1.016 metres (40 inches).

(12) For this purpose "pitch", in relation to a seat, means the distance between a fixed point on the seat and the same point on the seat immediately in front of it; but where there is no seat immediately in front of the seat, the seat is to be treated as having the same pitch as the seat immediately behind it."

(2) The amendment made by subsection (1) has effect in relation to any carriage of a passenger on an aircraft which begins on or after 1 November 2008.

Alternative finance arrangements

154 Stamp duty and stamp duty reserve tax: alternative finance investment bonds

(1) FA 1986 is amended as follows.

(2) In section 78(7) (stamp duty: loan capital), after paragraph (c) insert—

"(d) any capital raised under arrangements which fall within section 48A of the Finance Act 2005 (alternative finance investment bonds)."

(3) In section 79 (loan capital: instruments not chargeable to stamp duty), after subsection (8) insert—

"(8A) In the application of this section to loan capital that falls within paragraph (d) of section 78(7) (alternative finance investment bonds)—

(a) subsection (6) has effect as if—

(i) paragraph (a) were omitted, and

(ii) for paragraph (c) there were substituted—

"(c) a right at the end of the bond term (within the meaning of section 48A(1) of the Finance Act 2005) to a payment of an amount that exceeds the aggregate of—

(i) the amount paid for the issue of the bond, and

(ii) the notional payment amount;

and for this purpose the "notional payment amount" means the amount of the payments that would represent a reasonable commercial return (within the meaning of section 48A(1) of the Finance Act 2005) on the bond over the bond term, less the amount of the payments actually made.",

(b) subsections (6)(b), (7), (7A), (7B) and (13) have effect as if references to interest were references to additional payments ("additional payments" having the same meaning as in section 48A of the Finance Act 2005), and

(c) subsections (7B) and (13) also have effect as if—

(i) references to a capital market investment were references to the loan capital falling within paragraph (d) of section 78(7), and

(ii) references to a capital market arrangement were to the arrangements under which that loan capital is raised."

(4) In section 99 (stamp duty reserve tax: interpretation), after subsection (9) insert—

"(9A) But "unit trust scheme" does not include arrangements falling within section 48A of the Finance Act 2005 (alternative finance investment bonds)."

(5) The amendments made by subsections (2) and (3) have effect in relation to instruments executed on or after the day on which this Act is passed (and for this purpose it does not matter when the arrangements falling within section 48A of FA 2005 are made).

(6) The amendment made by subsection (4) has effect in relation to—

(a) agreements to transfer chargeable securities made on or after the day on which this Act is passed, and

(b) the transfer, issue or appropriation of chargeable securities after that day in pursuance of an agreement made after that day;

(and for this purpose it does not matter when the arrangements falling within section 48A of FA 2005 are made).

155 Alternative property finance: anti-avoidance

(1) FA 2003 is amended as follows.

(2) For the heading of section 73A substitute "**Sections 71A to 73: relationship with Schedule 7**".

(3) After section 73A insert—

"73AB Sections 71A to 72A: arrangements to transfer control of financial institution

(1) Section 71A, 72 or 72A does not apply to alternative finance arrangements if those arrangements, or any connected arrangements, include arrangements for a person to acquire control of the relevant financial institution.

(2) That includes arrangements for a person to acquire control of the relevant financial institution only if one or more conditions are met (such as the happening of an event or doing of an act).

(3) In this section—

"alternative finance arrangements" means the arrangements referred to in section 71A(1), 72(1) or 72A(1);

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);

"connected arrangements" means any arrangements entered into in connection with the making of the alternative finance arrangements (including arrangements involving one or more persons who are not parties to the alternative finance arrangements);

"relevant financial institution" means the financial institution which enters into the alternative finance arrangements.

(4) Section 840 of the Taxes Act 1988 applies for the purposes of determining who has control of the relevant financial institution."

(4) The amendment made by subsection (3) has effect in relation to alternative finance arrangements entered into on or after 12 March 2008.

156 Alternative finance arrangements: power to vary Chapter 5 of Part 2 of FA 2005

(1) Section 98 of FA 2006 (alternative finance arrangements: variation of Chapter 5 of Part 2 of FA 2005 by order) is amended as follows.

(2) For the heading substitute "**Orders amending Chapter 5 of Part 2 of FA 2005"**.

(3) For subsection (1) substitute—

"(1) The Treasury may by order amend Chapter 5 of Part 2 of FA 2005 (alternative finance arrangements).

(1A) The amendments that may be made by an order under subsection (1) include—

(a) the variation of provision already included in Chapter 5, and

(b) the introduction into Chapter 5 of new provision relating to alternative finance arrangements."

(4) For subsection (3) substitute—

"(3) An order under this section shall be made by statutory instrument.

(4) If a statutory instrument containing an order under this section—

(a) introduces into Chapter 5 of Part 2 of FA 2005 new provision relating to alternative finance arrangements, or

(b) amends an enactment which is not contained in that Chapter, but is contained in an Act,

it shall not be made unless a draft has been laid before and approved by resolution of the House of Commons.

(5) In any other case, a statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.

(6) In this section "alternative finance arrangements" means arrangements which in the Treasury's opinion—

(a) equate in substance to a loan, deposit or other transaction of a kind that generally involves the payment of interest, and

(b) achieve a similar effect without including provision for the payment of interest."

157 Government borrowing: alternative finance arrangements

(1) The Treasury may by regulations make provision for raising money through alternative finance arrangements.

(2) Regulations under subsection (1) must specify the purpose or purposes for which money may be raised through each kind of alternative finance arrangements that, under regulations under subsection (1), is available for raising money.

(3) The Treasury may not raise money through a particular kind of alternative finance arrangements unless, in the Treasury's opinion, raising the money would be in accordance with the provision made under subsection (2) in relation to that kind of arrangements.

(4) Regulations under subsection (2) may, in particular, specify a purpose or purposes for which money may be raised under the National Loans Act 1968 (c. 13).

(5) Money to be raised under regulations made under this section—

(a) may be raised either within or outside the United Kingdom, and

(b) may be raised either in sterling or in any other currency or medium of exchange, whether national or international.

(6) Subsection (5) is subject to provision made in or under the regulations.

(7) Schedule 46 contains further provision about regulations under this section.

(8) In this section and Schedule 46 "alternative finance arrangements" means arrangements which in the Treasury's opinion—

(a) equate in substance to a loan, deposit or other transaction of a kind that generally involves the payment of interest (including the issuance of government securities), but

(b) achieve a similar effect to such a transaction without including provision for the payment of interest.

Payments from Exchequer accounts

158 Power of Treasury to make payments

(1) This section applies if a person makes a claim which, in the Treasury's opinion, is a financial claim that concerns an Exchequer account.

(2) The Treasury may pay money from any Exchequer account—

(a) to satisfy the claim (in whole or in part), or

(b) to enable the claim to be satisfied (in whole or in part) from another government account.

(3) The reference in this section to a financial claim that concerns an Exchequer account includes, in particular, either of the following cases.

(4) The first case is where a financial claim relates to—

(a) a case where money is paid into a government account, but the money should not have, or need not have, been paid into that account, or

(b) a case where money should have been, or needed to be, paid out of a government account, but the money—

(i) was not paid out of that account, or

(ii) was paid out of that account, but not as it should have been, or needed to be, paid.

(5) The second case is where a financial claim relates to the exercise of functions that relate to an Exchequer account (whether the functions are exercisable by the Treasury or another person).

(6) In this section—

"Exchequer account" means—

(a) the Consolidated Fund,

(b) the Debt Management Account,

(c) the Exchange Equalisation Account, or

(d) the National Loans Fund;

and a reference to an Exchequer account includes a reference to the assets or liabilities of the account;

"financial claim" means a claim (whether or not legally enforceable) for the payment of an amount of money, including a claim in respect of—

(a) money paid or not paid by any person,

(b) interest earned or not earned by any person, or

(c) loss, costs or expenses incurred by any person;

"government account" means—

(a) an Exchequer account, or
(b) any other account in which money is held by or on behalf of Her Majesty's Government in the United Kingdom.

159 Payments from certain Exchequer accounts: mechanism

(1) This section applies to money to be paid under section 158 from—
(a) the Consolidated Fund, or
(b) the National Loans Fund.

(2) In the case of the Consolidated Fund—
(a) the Comptroller and Auditor General shall on receipt of a requisition from the Treasury grant a credit on the Exchequer Account at the Bank of England (or on its growing balance), and
(b) an issue shall be made on orders given to the Bank by the Treasury in accordance with a credit granted under paragraph (a).

(3) An issue made under subsection (2) shall be recorded in the daily account under section 15(5) of the Exchequer and Audit Departments Act 1866 (c. 39).

(4) In the case of the National Loans Fund—
(a) the Comptroller and Auditor General shall at the request of the Treasury grant a credit on the National Loans Fund, and
(b) a payment out of the Fund shall be made by the Treasury in accordance with a credit granted under paragraph (a).

(5) A payment made under subsection (4) shall be recorded in the daily account under section 1(2) of the National Loans Act 1968 (c. 13).

Other matters

160 Power to give statutory effect to concessions

(1) The Treasury may by order make provision for and in connection with giving effect to any existing HMRC concession.

(2) "Existing HMRC concession" means a statement made by the Commissioners for Her Majesty's Revenue and Customs before the passing of this Act, and having effect at that time, that they will treat persons as if they were entitled to—
(a) a reduction in a liability to a tax or duty, or
(b) any other concession relating to a tax or duty,
to which they are not, or may not be, entitled in accordance with the law.

(3) For this purpose "statement" means a statement of any sort, whether it was described as an extra-statutory concession, a statement of practice, an interpretation, a decision or a press release or in any other way.

(4) The reference in subsection (2) to the Commissioners for Her Majesty's Revenue and Customs includes the Commissioners of Inland Revenue and the Commissioners of Customs and Excise.

(5) An order under this section—
(a) may give effect to an existing HMRC concession with or without modification,

(b) may include supplementary, incidental, consequential or transitional provision, and

(c) may include provisions amending (or repealing or revoking) any enactment or instrument (whenever passed or made).

(6) The power to make an order under this section is exercisable by statutory instrument.

(7) No order is to be made under this section unless a draft of the order has been laid before, and approved by a resolution of, the House of Commons.

161 Fuel duty: definition of "ultra low sulphur diesel"

(1) In section 1(6) of HODA 1979 (definition of "ultra low sulphur diesel"), omit paragraphs (b) and (c) (but not the "and" at the end of paragraph (c)).

(2) The amendment made by subsection (1) is treated as having come into force on 4 September 2007.

162 Duties: abolition of disregard of fractions of penny

In section 137 of CEMA 1979 (calculation of excise duty etc), omit subsection (4) (fractions of penny to be disregarded in calculation of duty).

163 National savings

(1) Section 10 of the National Debt Act 1972 (c. 65) (national savings stamps and gift tokens) is amended as follows.

(2) In subsection (2), after "tokens; and" insert "(subject to regulations under subsection (2A))".

(3) After that subsection insert—

"(2A) Where the Treasury has issued a sum to the National Debt Commissioners under subsection (2), it may by regulations require them to repay to the National Loans Fund, in the way specified in the regulations, so much of that sum as may be specified in, or determined in accordance with, the regulations."

164 EU emissions trading: criminal offences

(1) Section 16 of FA 2007 (EU emissions trading: charges for allocations) is amended as follows.

(2) In subsection (4)(c), for "imposition and recovery of penalties" substitute "creation of criminal offences, or for the imposition and recovery of civil penalties,".

(3) After subsection (6) insert—

"(6A) Subsection (4)(c) does not permit the creation of a criminal offence with maximum penalties in excess of the maximum penalties which an instrument under section 2(2) of the European Communities Act 1972 may provide in respect of an offence created by such an instrument."

PART 9

FINAL PROVISIONS

165 Interpretation

(1) In this Act—

"ALDA 1979" means the Alcoholic Liquor Duties Act 1979 (c. 4),
"BGDA 1981" means the Betting and Gaming Duties Act 1981 (c. 63),
"CAA 2001" means the Capital Allowances Act 2001 (c. 2),
"CEMA 1979" means the Customs and Excise Management Act 1979 (c. 2),
"CRCA 2005" means the Commissioners for Revenue and Customs Act 2005 (c. 11),
"CTTA 1984" means the Capital Transfer Tax Act 1984 (c. 51),
"HODA 1979" means the Hydrocarbon Oil Duties Act 1979 (c. 5),
"ICTA" means the Income and Corporation Taxes Act 1988 (c. 1),
"IHTA 1984" means the Inheritance Tax Act 1984 (c. 51),
"ITA 2007" means the Income Tax Act 2007 (c. 3),
"ITEPA 2003" means the Income Tax (Earnings and Pensions) Act 2003 (c. 1),
"ITTOIA 2005" means the Income Tax (Trading and Other Income) Act 2005 (c. 5),
"OTA 1975" means the Oil Taxation Act 1975 (c. 22),
"TCGA 1992" means the Taxation of Chargeable Gains Act 1992 (c. 12),
"TMA 1970" means the Taxes Management Act 1970 (c. 9),
"TPDA 1979" means the Tobacco Products Duty Act 1979 (c. 7),
"VATA 1994" means the Value Added Tax Act 1994 (c. 23), and
"VERA 1994" means the Vehicle Excise and Registration Act 1994 (c. 22).

(2) In this Act—

"FA", followed by a year, means the Finance Act of that year, and
"F(No.2)A", followed by a year, means the Finance (No.2) Act of that year.

166 Short title

This Act may be cited as the Finance Act 2008.

SCHEDULES

SCHEDULE 1

Section 5

ABOLITION OF STARTING AND SAVINGS RATES AND CREATION OF STARTING RATE FOR SAVINGS

PART 1

AMENDMENTS OF ITA 2007

1 ITA 2007 is amended as follows.

2 For section 7 (savings rate) substitute—

"7 The starting rate for savings

The starting rate for savings is 10%."

3 (1) Section 10 (income charged at main rates: individuals) is amended as follows.

(2) Omit subsection (1).

(3) For subsection (2) substitute—

"(2) Income tax on an individual's income up to the basic rate limit is charged at the basic rate (except to the extent that, in accordance with section 12, it is charged at the starting rate for savings)."

(4) In subsection (4), omit the entry relating to section 12.

(5) Insert at the end—

"(6) The basic rate limit is increased in some circumstances: see—

(a) section 414(2) (gift aid relief), and

(b) section 192(4) of FA 2004 (relief for pension contributions).

(7) See section 21 for indexation of the basic rate limit."

(6) Accordingly, in the heading, omit "**starting,**".

4 In section 11(2) (income charged at the basic rate: persons other than individuals), omit the reference to section 12.

5 For section 12 substitute—

"12 Income charged at the starting rate for savings

(1) Income tax is charged at the starting rate for savings (rather than the basic rate) on so much of an individual's income up to the starting rate limit for savings as is savings income.

(2) This is subject to any provisions of the Income Tax Acts (apart from section 10) which provide for income of an individual to be charged at different rates of income tax in some circumstances.

(3) The starting rate limit for savings is £2,320.

(4) See section 21 for indexation of the starting rate limit for savings.

(5) Section 16 has effect for determining the extent to which a person's income up to the starting rate limit for savings consists of savings income."

6 In section 13 (income charged at dividend ordinary and dividend upper rates: individuals)—

(a) in subsection (1)(b), omit "starting or", and

(b) in subsection (4), omit "starting,".

7 In section 16(1) (savings and dividend income to be treated as highest part of total income), for the words from "the rate" to the end substitute "—

(a) the extent to which a person's income up to the starting rate limit for savings consists of savings income, and

(b) the rate at which income tax would be charged on a person's dividend income apart from section 13."

8 (1) Section 17 (repayment: tax paid at basic rate instead of starting rate or savings rate) is amended as follows.

(2) In subsection (1), for "starting or savings rate" substitute "starting rate for savings".

(3) Accordingly, in the heading, for "**starting or savings rate**" substitute "**starting rate for savings**".

9 For the heading before section 20 substitute—

"*Indexation of basic rate limit and starting rate limit for savings*".

10 Omit section 20 (starting rate limit and basic rate limit).

11 (1) Section 21 (indexation of starting and basic rate limits) is amended as follows.

(2) Omit subsection (2).

(3) After subsection (3) insert—

"(3A) The starting rate limit for savings for the tax year is the amount found as follows.

Step 1

Increase the starting rate limit for savings for the previous tax year by the same percentage as the percentage increase in the retail prices index.

Step 2

If the result of Step 1 is a multiple of £10, it is the starting rate limit for savings for the tax year.

If the result of Step 1 is not a multiple of £10, round it up to the nearest amount which is a multiple of £10.

That amount is the starting rate limit for savings for the tax year."

(4) In subsection (4), for "(2) and (3)" substitute "(3) and (3A)".

(5) In subsection (5)—

(a) for "section 20" substitute "sections 10 and 12",

(b) for "(2) and (3)" substitute "(3) and (3A)", and

(c) for "starting rate limit and the basic rate limit" substitute "basic rate limit and starting rate limit for savings".

(6) Accordingly, in the heading, for "**starting rate limit and the basic rate limit**" substitute "**basic rate limit and starting rate limit for savings**".

12 In section 31(2), omit "or savings rate".

13 (1) Section 158 (form and amount of EIS relief) is amended as follows.

(2) In subsection (2), for "savings rate" substitute "EIS rate".

(3) After that subsection insert—

"(2A) In this Part "the EIS rate" means 20%."

14 In section 209(3) (withdrawal or reduction of EIS relief: disposal of shares)—

(a) in the formula, for "S" substitute "EISR", and

(b) for the definition of "S" substitute "EISR is the EIS rate."

15 In section 210(1)(b) (cases where maximum EIS relief not obtained), for "savings rate for that year" substitute "EIS rate".

16 In section 213(2) (withdrawal or reduction of EIS relief: value received by investor)—

(a) in the formula, for "S" substitute "EISR", and

(b) for the definition of "S" substitute "EISR is the EIS rate."

17 In section 220(1)(b) (cases where maximum EIS relief not obtained), for "savings rate for that year" substitute "EIS rate".

18 In section 224(2) (withdrawal or reduction of EIS relief: repayments etc of share capital to other persons)—

(a) in the formula, for "S" substitute "EISR", and

(b) for the definition of "S" substitute "EISR is the EIS rate."

19 In section 229(1)(b) (cases where maximum EIS relief not obtained), for "savings rate for that year" substitute "EIS rate".

20 In section 414(2) (relief for gifts to charity), for "section 20" substitute "section 10".

21 In section 486(1) (how allowable expenses are to be set against trust rate income), in Step 5, for "savings rate" substitute "basic rate".

22 (1) Section 498 (types of income tax for purposes of section 497) is amended as follows.

(2) In subsection (1), in Type 3A, for "savings rate" substitute "basic rate".

(3) In that subsection, in Type 4, omit "or at the savings rate".

(4) In subsection (2A), for "savings rate" substitute "basic rate".

23 In section 504(3) (treatment of income of unauthorised unit trust), omit "or at the savings rate".

24 In section 745(1) (rates of tax applicable to income charged under sections 720 and 727 etc), for "savings rate" substitute "starting rate for savings".

25 In section 851(2) (deduction by deposit-takers and building societies), for "savings rate" substitute "basic rate".

26 In section 874(2) (deduction from payments of yearly interest), for "savings rate" substitute "basic rate".

27 In section 889(4) (deduction from payments in respect of building society securities), for "savings rate" substitute "basic rate".

28 In section 892(2) (deduction from UK public dividends), for "savings rate" substitute "basic rate".

29 In section 901(4) (deduction from annual payments made by other persons), for "the applicable rate (see section 902)" substitute "the basic rate in force for the tax year in which the payment is made".

30 Omit section 902 (meaning of "applicable rate" in section 901).

31 In section 919(2) (manufactured interest on UK securities: payments by UK residents etc), for "savings rate" substitute "basic rate".

32 In section 939(2) (duty to retain bonds where issue treated as payment of interest), for "savings rate" substitute "basic rate".

33 (1) Section 989 (definitions) is amended as follows.

(2) In the definition of "basic rate limit", for "20(2)" substitute "10".

(3) Omit the definition of "savings rate".

(4) For the definitions of "starting rate" and "starting rate limit" substitute—

> ""starting rate for savings" has the meaning given by section 7,
>
> "starting rate limit for savings" has the meaning given by section 12,".

34 In section 1014(5)(b)(i) (orders and regulations not subject to annulment), for "starting rate limit and basic rate limit" substitute "basic rate limit and starting rate limit for savings".

35 In Schedule 1 (consequential amendments), omit paragraphs 85(2), 86, 112, 151, 152, 191, 244, 259, 279, 530, 535(2), 536(3), 537, 538, 564, 565 and 592(47) and (49).

36 (1) Schedule 4 (index of defined expressions) is amended as follows.

(2) After the entry relating to "EIS" insert—

"EIS rate (in Part 5)	section 158(2A)".

(3) For the entries relating to "starting rate" and "starting rate limit"

substitute—

"starting rate for savings	section 7
starting rate limit for savings	section 12".

(4) Omit the entry relating to "savings rate".

PART 2

OTHER AMENDMENTS

TMA 1970

37 TMA 1970 is amended as follows.

38 In section 7(6) (notice of liability to income tax and capital gains tax), for ", the savings rate or the starting rate" substitute "or the starting rate for savings".

39 In section 91(3)(c) (effect of interest on reliefs), for ", the savings rate or the starting rate" substitute "or the starting rate for savings".

ICTA

40 ICTA is amended as follows.

41 In section 468(1A) (authorised unit trusts), for "savings rate" substitute "basic rate".

42 In section 468A(1) (open-ended investment companies), for "savings rate" substitute "basic rate".

43 In section 552(5)(f)(i) (information: duty of insurers), for "savings rate" substitute "basic rate".

44 In section 699A(4)(b) (untaxed sums comprised in the income of the estate), for "savings rate" substitute "basic rate".

45 In section 701(3A) (estates of deceased persons in administration), omit—
(a) ", the savings rate" (in both places),
(b) "at the savings rate or", and
(c) sub-paragraph (ii) of paragraph (b) and the "and" before it.

46 Omit section 789(2) (double taxation arrangements made under old law: surtax).

FA 1989

47 In section 88(1) of FA 1989 (insurance companies: policy holders' share of profits), for "savings rate" substitute "basic rate".

TCGA 1992

48 In section 150A(3)(b) of TCGA 1992 (enterprise investment schemes), for "savings rate" substitute "basic rate".

FA 1996

49 Omit paragraph 21 of Schedule 6 to FA 1996 (which amends section 789(2) of ICTA).

ITTOIA 2005

50 ITTOIA 2005 is amended as follows.

51 In section 465A(1)(b) (gains from contracts for life insurance etc: amounts for which individuals liable to be treated as highest part of total income), for "savings rate" substitute "basic rate".

52 In section 466(2) (gains from contracts for life insurance etc: personal representatives), for "savings rate" substitute "basic rate".

53 In section 467(7) (gains from contracts for life insurance etc: UK resident trustees), for "savings rate" substitute "basic rate".

54 (1) Section 530 (gains from contracts for life insurance etc: income tax treated as paid) is amended as follows.

(2) In subsection (1), for "savings rate" substitute "basic rate".

(3) Omit subsection (6).

55 In section 535(3) (gains from contracts for life insurance etc: top slicing relief)—

(a) for "SRL" in both places substitute "BRL", and

(b) for "savings rate" substitute "basic rate".

56 In section 536(1) (gains from contracts for life insurance etc: top slicing relieved liability-one chargeable event), for "savings rate" substitute "basic rate".

57 In section 537 (gains from contracts for life insurance etc: top slicing relieved liability-two or more chargeable events), for "savings rate" substitute "basic rate".

58 In section 539(5) (gains from contracts for life insurance etc: relief for deficiencies)—

(a) omit Step 2,

(b) in Step 3, for "2" substitute "1" and omit "other", and

(c) in Step 5, omit the sentence relating to Step 2.

59 In section 669(3)(a)(i) (reduction in residuary income: inheritance tax on accrued income), for ", at the savings rate" substitute "of an amount not exceeding the starting rate limit for savings, at the starting rate for savings".

60 In section 679(3) (income from which basic amounts are treated as paid), omit paragraph (b) (apart from the "and" at the end).

61 In section 680(4) (income treated as bearing income tax), for "savings rate" substitute "basic rate".

62 (1) Section 680A (income treated as savings income or dividend income) is amended as follows.

(2) In subsection (1)—

(a) for "Subsections (2) and (3) apply" substitute "Subsection (3) applies", and
(b) omit "the savings rate or".

(3) Omit subsection (2).

(4) In subsection (3), for the words from the beginning to "it" substitute "The income".

(5) In subsection (4)—
(a) for "Subsections (5) and (6) apply" substitute "Subsection (6) applies", and
(b) omit "the savings rate or".

(6) Omit subsection (5).

(7) In subsection (6), for the words from the beginning to "it" substitute "The income".

(8) Accordingly, in the heading omit "**savings income or**".

63 (1) Schedule 4 (index of defined expressions) is amended as follows.

(2) For the entry relating to "starting rate" substitute—

"starting rate for savings	section 7 of ITA 2007 (as applied by section 989 of that Act)
starting rate limit for savings	section 12 of ITA 2007 (as applied by section 989 of that Act)".

(3) Omit the entry relating to "savings rate".

F(No.2)A 2005

64 In section 7(5) of F(No.2)A 2005 (charge to income tax on social security pension lump sum)—
(a) omit paragraph (b), and
(b) in paragraph (c), for "exceeds the starting rate limit" substitute "is greater than nil".

PART 3

COMMENCEMENT

65 Apart from the amendments made by paragraph 11, the amendments made by this Schedule have effect for the tax year 2008-09 and subsequent tax years.

SCHEDULE 2

Section 8

CAPITAL GAINS TAX REFORM

Rate: consequentials

1 TCGA 1992 is amended as follows.

2 In section 2(7)(a) (chargeable gains and allowable losses), omit "77 or".

3 Omit section 6 (rates: special cases).

4 In section 13(7A) (attribution of gains to members of non-resident companies: ordering rules), omit paragraphs (b) to (d).

5 Omit sections 77 to 79 (charge on settlor with interest in settlement).

6 Omit section 88(6) (gains of dual resident settlements: sections 77 to 79 to be ignored).

7 (1) Schedule 4A (disposal of interest in settled property: deemed disposal of underlying assets) is amended as follows.

(2) In paragraph 7—
(a) in sub-paragraph (4), for "77(2) to (5) and (8)" substitute "169F(2) to (6)", and
(b) in sub-paragraph (5)(c), for "77(2A)(a) or (b)" substitute "169F(3A)(a) or (b)".

(3) In paragraph 12—
(a) for "section 79(1) and (3) to (5A)" substitute "paragraphs 7 and 8(1), (3), (6) and (7) of Schedule 5", and
(b) for "sections 77 and 78" substitute "section 86".

8 (1) Schedule 4B (transfers of value by trustees linked with trustee borrowing) is amended as follows.

(2) In paragraph 1(1), omit "77,".

(3) In paragraph 3, omit—
(a) in sub-paragraph (1), "77,", and
(b) sub-paragraph (2),
and in the heading before it omit "77,".

9 Omit paragraph 6(3) of Schedule 4C (attribution of gains to beneficiaries: sections 77 to 79 to be ignored).

10 In paragraph 1(1) of Schedule 5 (construction of section 86(1)(e)), for "sections 3 and 77 to 79" substitute "section 3".

11 Chapter 4 of Part 2 of FA 2005 (trusts with vulnerable beneficiary) is amended as follows.

12 In section 23(4) (introduction), for "33" substitute "32".

13 In section 26(1) (income tax: amount of relief), in the definition of VQTI, after "extra" insert "income".

14 (1) Section 28 (vulnerable person's liability: VQTI) is amended as follows.

(2) In subsection (1), after "total" (in both cases) insert "income".

(3) In subsection (2), omit "and capital gains tax".

(4) In subsection (4), omit paragraph (b) and the "and" before it.

(5) In subsection (7), omit paragraph (b) and the "and" before it.

15 In section 30 (qualifying trust gains: special capital gains tax treatment), omit subsections (1A) and (3A).

16 (1) Section 31 (UK resident vulnerable persons: section 77 treatment) is amended as follows.

(2) For subsections (2) and (3) substitute—

"(2) The trustees' liability to capital gains tax for the tax year is to be reduced by an amount equal to—

TQTG – VQTG

where—

TQTG is the amount of capital gains tax to which the trustees would (apart from this Chapter) be liable for the tax year in respect of the qualifying trust gains, and

VQTG is the amount arrived at under subsection (3).

(3) That amount is—

TLVA – TLVB

where—

TLVB is the total amount of capital gains tax to which the vulnerable person is liable for the tax year, and

TLVA is what TLVB would be if the qualifying trust gains accrued to the vulnerable person (instead of to the trustees) and no allowable losses were deducted from the qualifying trust gains."

(3) In the heading, for "**section 77 treatment**" substitute "**amount of relief**".

17 (1) Section 32 (non-UK resident vulnerable persons: amount of relief) is amended as follows

(2) In subsection (2), for the definition of VQTG substitute—

"VQTG is the amount arrived at under subsection (3)."

(3) After that subsection insert—

"(3) That amount is—

TLVA – TLVB

where—

TLVB is the total amount of capital gains tax to which the vulnerable person would be liable for the tax year if the vulnerable person's taxable amount for the tax year for the purposes of section 3 of TCGA 1992 were equal to the vulnerable person's deemed CGT taxable amount for the tax year (if any), and

TLVA is what TLVB would be if the vulnerable person's taxable amount for the tax year for the purposes of section 3 of TCGA 1992 were equal to the aggregate of the vulnerable person's

deemed CGT taxable amount for the tax year (if any) and the amount of the qualifying trust gains.

(4) For the purposes of this section the vulnerable person's deemed CGT taxable amount for the tax year is to be determined in accordance with Schedule 1."

18 Omit section 33 (non-UK resident vulnerable person's liability: VQTG).

19 In section 41(3) (interpretation), for "33" substitute "32".

20 (1) Schedule 1 (non-UK resident vulnerable persons: interpretation) is amended as follows.

(2) Omit paragraphs 1 and 2.

(3) Omit paragraph 4.

(4) In paragraph 7(1), for "paragraphs 4 and 6" substitute "paragraph 6".

21 In consequence of section 8 and paragraphs 1 to 20, omit—

(a) paragraphs 27 to 29 of Schedule 17 to FA 1995,
(b) paragraphs 24 and 25 of Schedule 4 to F(No.2)A 1997,
(c) in FA 1998—
  (i) section 120, and
  (ii) paragraph 6(1) of Schedule 21,
(d) section 26 of FA 1999,
(e) section 37 of FA 2000,
(f) paragraph 3 of Schedule 11 to FA 2002,
(g) paragraph 2 of Schedule 21 to FA 2004,
(h) paragraphs 427 and 428 of Schedule 1 to ITTOIA 2005,
(i) section 44(2) of FA 2005,
(j) paragraphs 3, 13, 29, 31 and 48(1) of Schedule 12 to FA 2006, and
(k) paragraphs 295, 296 and 301 of Schedule 1 to ITA 2007.

22 The amendments made by paragraphs 1 to 21 have effect for the tax year 2008-09 and subsequent tax years.

Abolition of taper relief

23 TCGA 1992 is amended as follows.

24 (1) Section 2 (chargeable gains and allowable losses) is amended as follows.

(2) For subsections (4) to (6) substitute—

"(4) If chargeable gains are treated by virtue of section 87 or 89(2) as accruing to a person in a tax year ("the relevant deemed gains")—

(a) subsection (2) has effect as if the relevant deemed gains had not accrued, and
(b) the amount on which the person is charged to capital gains tax for that year is the sum of—
  (i) the amount given by subsection (2) as it has effect by virtue of paragraph (a), and
  (ii) the amount of the relevant deemed gains.

(5) In subsection (4) the reference to section 87 or 89(2) is to that section read, where appropriate, with section 10A."

(3) In subsection (7), omit—

(a) in paragraph (b) of the first sentence, sub-paragraph (ii) and the "and" before it,

(b) in paragraph (c) of the first sentence, "("the equal tapered amounts")", and

(c) in the words following paragraph (c) in the first sentence, and in the second sentence (in both places), "equal-tapered".

(4) Omit subsection (8).

25 Omit section 2A (taper relief).

26 (1) Section 3 (annual exempt amount) is amended as follows.

(2) In subsection (5), for the words from "which, after" to the end of paragraph (c) substitute "which".

(3) In subsection (5C)(c)—

(a) for "in a year in which any amount falls to be brought into account by virtue of section 2(5)(b)" substitute "if section 2(4) applies for that year,", and

(b) for "falling to be so brought into account" substitute "mentioned in section 2(4)(b)(ii)".

27 In section 3A(2) (reporting limits)—

(a) omit paragraph (a), and

(b) in paragraph (b), for "such a deduction does fall to be made is the amount before deduction of losses or any reduction for taper relief" substitute "a deduction falls to be made in respect of allowable losses is the amount before the deduction".

28 Omit section 13(10A) (attribution of gains to members of non-resident companies).

29 (1) Section 62 (death) is amended as follows

(2) In subsection (2A), for "brought into account for that year by virtue of section 2(5)(b)" substitute "treated as accruing by virtue of section 87 or 89(2) (read, where appropriate, with section 10A)".

(3) Omit subsection (2B).

30 In section 86(1)(e) (attribution of gains to settlors with interest in non-resident or dual resident settlements), for the words after "under section 2(2)" substitute "if the assumption as to residence specified in subsection (3) below were made;".

31 (1) Section 86A (attribution of gains to settlor in section 10A cases) is amended as follows.

(2) In subsection (2)—

(a) for "the tapered section 86(1)(e) amount" substitute "the amount falling within section 86(1)(e)", and

(b) for "the tapered section 86(1)(e) amounts" substitute "the amounts falling within section 86(1)(e)".

(3) Omit subsection (2A).

(4) Omit subsection (2B).

(5) In subsection (7), for "the tapered section 10A amount" substitute "the amount (or aggregate amount) falling in accordance with that section to be so attributed".

(6) Omit subsection (7A).

32 Omit section 150D (enterprise investment scheme: application of taper relief).

33 In subsection (8) of section 165 (relief for gifts of business assets), for paragraph (aa) substitute—

"(aa) "holding company", "trading company" and "trading group" have the meaning given by section 165A; and".

34 After that section insert—

"165A Meaning of "holding company", "trading company" and "trading group"

(1) This section has effect for the interpretation of section 165 (and this section).

(2) "Holding company" means a company that has one or more 51% subsidiaries.

(3) "Trading company" means a company carrying on trading activities whose activities do not include to a substantial extent activities other than trading activities.

(4) For the purposes of subsection (3) above "trading activities" means activities carried on by the company—

(a) in the course of, or for the purposes of, a trade being carried on by it,

(b) for the purposes of a trade that it is preparing to carry on,

(c) with a view to its acquiring or starting to carry on a trade, or

(d) with a view to its acquiring a significant interest in the share capital of another company that—

(i) is a trading company or the holding company of a trading group, and

(ii) if the acquiring company is a member of a group of companies, is not a member of that group.

(5) Activities do not qualify as trading activities under subsection (4)(c) or (d) above unless the acquisition is made, or the company starts to carry on the trade, as soon as is reasonably practicable in the circumstances.

(6) The reference in subsection (4)(d) above to the acquisition of a significant interest in the share capital of another company is to an acquisition of ordinary share capital in the other company—

(a) such as would make that company a 51% subsidiary of the acquiring company, or

(b) such as would give the acquiring company a qualifying shareholding in a joint venture company without making the two companies members of the same group of companies.

(7) For the purpose of determining whether a company which has a qualifying shareholding in a joint venture company is a trading company—

(a) any holding by it of shares in the joint venture company is to be disregarded, and

(b) it is to be treated as carrying on an appropriate proportion of the activities of the joint venture company or, where the joint venture company is the holding company of a trading group, of the activities of that group;

and in paragraph (b) above "appropriate proportion" means a proportion corresponding to the percentage of the ordinary share capital of the joint venture company held by the company.

(8) "Trading group" means a group of companies—

(a) one or more of whose members carry on trading activities, and

(b) the activities of whose members, taken together, do not include to a substantial extent activities other than trading activities.

(9) For the purposes of subsection (8) above "trading activities" means activities carried on by a member of the group—

(a) in the course of, or for the purposes of, a trade being carried on by any member of the group,

(b) for the purposes of a trade that any member of the group is preparing to carry on,

(c) with a view to any member of the group acquiring or starting to carry on a trade, or

(d) with a view to any member of the group acquiring a significant interest in the share capital of another company that—

(i) is a trading company or the holding company of a trading group, and

(ii) is not a member of the same group of companies as the acquiring company.

(10) Activities do not qualify as trading activities under subsection (9)(c) or (d) above unless the acquisition is made, or the group member in question starts to carry on the trade, as soon as is reasonably practicable in the circumstances.

(11) The reference in subsection (9)(d) above to the acquisition of a significant interest in the share capital of another company is to an acquisition of ordinary share capital in the other company—

(a) such as would make that company a member of the same group of companies as the acquiring company, or

(b) such as would give the acquiring company a qualifying shareholding in a joint venture company without making the joint venture company a member of the same group of companies as the acquiring company.

(12) For the purpose of determining whether a group of companies is a trading group in a case where any one or more members of the group has a qualifying shareholding in a joint venture company which is not a member of the group—

(a) every holding of shares in the joint venture company by a member of the group having a qualifying shareholding in it is to be disregarded, and

(b) each member of the group having such a qualifying shareholding is to be treated as carrying on an appropriate proportion of the activities of the joint venture company or, where the joint venture company is a holding company of a trading group, of the activities of that group;

and in paragraph (b) above "appropriate proportion" means a proportion corresponding to the percentage of the ordinary share capital of the joint venture company held by the member of the group.

(13) For the purposes of this section the activities of the members of a group of companies are to be treated as one business (with the result that activities are disregarded to the extent that they are intra-group activities).

(14) In this section—

"51% subsidiary" has the meaning given by section 838 of the Taxes Act,

"group of companies" means a company which has one or more 51% subsidiaries together with those subsidiaries,

"joint venture company" means a company—

(a) which is a trading company or the holding company of a trading group, and

(b) 75% or more of the ordinary share capital of which (in aggregate) is held by not more than 5 persons (the shareholdings of members of a group of companies being regarded for the purposes of this paragraph as held by a single company),

"ordinary share capital" has the meaning given by section 989 of ITA 2007,

"qualifying shareholding", in relation to a company and a joint venture company, means—

(a) the holding by the company of 10% or more of the ordinary share capital of the joint venture company, or

(b) (where the company is a member of a group of companies) the holding by the company and the other members of the group (between them) of 10% or more of that ordinary share capital, and

"trade" means (subject to section 241(3)) anything which—

(a) is a trade, profession or vocation, within the meaning of the Income Tax Acts, and

(b) is conducted on a commercial basis and with a view to the realisation of profits."

35 Omit section 214C (re-organisations of mutual business: gains not eligible for taper relief) and the heading before it.

36 In section 228(8) (relief for employee share ownership trusts), for "meanings given by paragraph 22 of Schedule A1" substitute "same meaning as in section 165 (see section 165A)".

37 In section 241(3A) (furnished holiday lettings), omit "Schedule A1 (taper relief),".

38 In section 253(14)(b) (relief for loans to traders), for "meaning given by paragraph 22 of Schedule A1" substitute "same meaning as in section 165 (see section 165A)".

39 Omit section 261C(2)(a) (treating trading loss etc as CGT loss: meaning of "the maximum amount").

40 In section 279(2)(a) (foreign assets: delayed remittances), omit "(before the application of any taper relief)".

41 In section 279A(7)(b) (deferred unascertainable consideration: election for treatment of loss), for "any amounts that fall to be brought into account for that year under section 2(4)(b) by virtue of section 2(5)(b)," substitute "the total amount of chargeable gains treated as accruing in that year by virtue of section 87 or 89(2) (read, where appropriate, with section 10A),".

42 In section 279B(1) (provisions supplementary to section 279A), for paragraph (b) substitute—

"(b) the person would be so chargeable if—

(i) chargeable gains accrued to the person in the year, and

(ii) the amount calculated under section 2(2) for the year in relation to the person exceeded the exempt amount for the year (within the meaning of section 3)."

43 (1) Section 279C (effect of election under section 279A) is amended as follows.

(2) For subsections (3) and (4) substitute—

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

(4) The first year limit is the amount calculated under section 2(2) (read, where appropriate, with section 2(4)(a)) for the first eligible year.

(4A) For the purpose of making that calculation—

(a) no account is to be taken of the relevant loss, but

(b) the effect of any previous election under section 279A is to be taken into account."

(3) In subsection (6)(c), for "the provisions specified in subsection (8) below" substitute "amounts of chargeable gains treated as accruing in that later year by virtue of section 87 or 89(2) (read, where appropriate, with section 10A)".

(4) Omit subsection (8).

(5) Omit subsection (10).

44 Omit section 284B(1) (provisions supplementary to section 284A).

45 Omit Schedule A1 (taper relief).

46 Schedule 4C (transfers of value: attribution of gains to beneficiaries) is amended as follows.

47 (1) Paragraph 6 (gains attributed to settlor) is amended as follows.

(2) In sub-paragraph (1), for "the tapered amount of any chargeable gains" substitute "the amount of any chargeable gains".

(3) Omit sub-paragraph (1A).

48 Omit paragraph 11 (taper relief).

49 Omit Schedule 5BA (application of taper relief to enterprise investment scheme).

50 Omit paragraph 15 of Schedule 7D (enterprise management incentives).

51 In paragraph 45D(7) of Schedule 26 to FA 2002 (derivative contracts), for the words after "(6)" substitute ""holding company" and "trading company" have the same meaning as in section 165 of TCGA 1992 (see section 165A of that Act)."

52 In paragraph 86(2) of Schedule 7 to ITEPA 2003 (transitionals and savings), omit the second sentence.

53 Omit section 185G(3)(c) of FA 2004 (disposal by person holding taxable interest directly).

54 Omit section 161(5) of ITA 2007 (other tax reliefs relating to EIS).

55 In consequence of paragraphs 23 to 54, omit—

(a) in FA 1998—
  (i) section 121(1) and (2),
  (ii) section 140(5),
  (iii) Schedule 20, and
  (iv) paragraphs 2, 4, 6(3) and (4), 7 and 9 of Schedule 21,

(b) in FA 1999—
  (i) section 72, and
  (ii) Schedule 7,

(c) sections 66 and 67 of FA 2000,

(d) in FA 2001—
  (i) section 78, and
  (ii) Schedule 26,

(e) in FA 2002—
  (i) sections 46 and 47,
  (ii) paragraph 5(13) of Schedule 9,
  (iii) Schedule 10, and
  (iv) paragraphs 2(2) and 4 to 6 of Schedule 11,

(f) in FA 2003—
  (i) section 160, and
  (ii) paragraph 5 of Schedule 29,

(g) in Schedule 21 to FA 2004—
  (i) paragraphs 3(4) and 8, and
  (ii) in paragraph 10, in sub-paragraph (4), ", 8(2)" and sub-paragraph (6),

(h) paragraphs 13 and 27 of Schedule 12 to FA 2006, and
(i) paragraphs 313 and 343 of Schedule 1 to ITA 2007.

56 (1) The amendments made by paragraph 31(2) and (3) have effect where the intervening year is the tax year 2008-09 or any subsequent tax year.

(2) The amendments made by paragraphs 41 and 43 have effect where the eligible year is the tax year 2008-09 or any subsequent tax year.

(3) The other amendments made by paragraphs 23 to 55 have effect in relation to chargeable gains accruing or treated as accruing in the tax year 2008-09 or any subsequent tax year.

Abolition of "kink" test

57 TCGA 1992 is amended as follows.

58 (1) Section 35 (assets held on 31 March 1982) is amended as follows.

(2) In subsection (2)—
(a) for "Subject to the following provisions of this section, in" substitute "In", and
(b) for "him" substitute "that person".

(3) After that subsection insert—

"(2A) For the purposes of corporation tax, subsection (2) above has effect subject to subsections (3) to (8) below (and see also subsections (9) and (10))."

(4) In subsection (3)(d), for the words after "any of" substitute "the no gain/no loss provisions."

(5) In subsection (4), for "him" substitute "that person".

(6) In subsection (5), for "him" (in both places) substitute "that person".

(7) In subsection (6), omit—
(a) paragraph (a),
(b) in paragraph (aa), "in the case of an election for the purposes of corporation tax,", and
(c) in paragraph (b), "in either case".

(8) In subsection (7), for "him" substitute "that person".

(9) In subsection (9), after "effect" insert "for the purposes of corporation tax".

(10) In subsection (10), insert at the end "for the purposes of capital gains tax and corporation tax".

59 After that section insert—

"35A Disposal of asset acquired on no gain/no loss disposal

(1) This section applies for the purposes of capital gains tax in relation to a disposal of an asset if—
(a) the person making the disposal acquired the asset after 31 March 1982 and before 6 April 2008,

(b) the disposal by which the person acquired the asset ("the relevant disposal"), and any previous disposal of the asset after 31 March 1982, was a disposal on which, by virtue of any enactment, neither a gain nor a loss accrued to the person making the disposal, and

(c) section 35(2) did not apply to the relevant disposal.

(2) It is to be assumed that section 35(2) did apply to the relevant disposal (and that section 56(2) applied to the relevant disposal accordingly)."

60 In section 55(5) (indexation allowance: assets acquired on no gain/no loss disposal), for "enactments specified in section 35(3)(d)" substitute "no gain/no loss provisions".

61 In section 73(1) (death of life tenant: exclusion of chargeable gain), for "6th April 1965" substitute "31 March 1982".

62 In section 175(2C) (replacement of business assets by member of group), for "enactments specified in section 35(3)(d)" substitute "no gain/no loss provisions".

63 In section 288 (interpretation), after subsection (3) insert—

"(3A) For the purposes of this Act, the following are "the no gain/no loss provisions"—

(a) sections 58, 73, 139, 140A, 140E, 171, 211, 215, 216, 217A, 218 to 221, 257(3), 258(4), 264 and 267(2) of this Act;

(b) section 148 of the 1979 Act;

(c) section 148 of the Finance Act 1982;

(d) section 130(3) of the Transport Act 1985;

(e) section 486(8) of the Taxes Act;

(f) paragraph 2(1) of Schedule 7 to the Broadcasting Act 1996;

(g) paragraphs 3 and 9 of Schedule 26 to the Transport Act 2000;

(h) paragraphs 3, 18, 29 and 32 of Schedule 9 to the Energy Act 2004;

(i) paragraph 9 of Schedule 4 to the Consumers, Estate Agents and Redress Act 2007."

64 (1) Schedule 2 (assets held on 6 April 1965) is amended as follows.

(2) Omit paragraph 1(3).

(3) In paragraph 4—

(a) omit sub-paragraph (6),

(b) in sub-paragraph (8), for "him" substitute "the person",

(c) in sub-paragraph (9)—

(i) for "either section 58 or" (in both places) substitute "section",

(ii) omit "the spouse or civil partner of the holder, or", and

(iii) for "him" substitute "the holder",

(d) in sub-paragraph (10)(a), for "he" (in both places) substitute "the person", and

(e) in sub-paragraph (11), omit—

(i) paragraph (a),

(ii) in paragraph (b), "in the case of an election for the purposes of corporation tax,", and

(iii) in paragraph (c), "in either case,".

(4) In paragraph 17(3) omit—

(a) paragraph (a),

(b) in paragraph (b), "in the case of an election for the purposes of corporation tax,", and

(c) in paragraph (c), "in either case,".

(5) Omit paragraph 22.

65 (1) Schedule 3 (assets held on 31 March 1982) is amended as follows.

(2) In paragraph 1—

(a) in sub-paragraph (1)—

(i) for "Where—" substitute "For the purposes of corporation tax, where—", and

(ii) for "he" (in each place) substitute "the person", and

(b) in sub-paragraph (2), for "enactments specified in section 35(3)(d)" substitute "no gain/no loss provisions".

(3) In paragraph 2(1) and (3), omit "58 or".

66 In paragraph 7 of Schedule 4 (deferred charges on pre-31 March 1982 gains), for "enactments specified in section 35(3)(d)" substitute "no gain/no loss provisions".

67 In paragraph 7 of Schedule 4ZA (sub-fund settlements), for "sections 104(1) and 109(2)(a)" substitute "section 104(1)".

68 In paragraph 12(b) of Schedule 7A (restriction on set-off or pre-entry losses), for "enactment specified in section 35(3)(d)" substitute "of the no gain/no loss provisions".

69 (1) FA 1997 is amended as follows.

(2) In section 89(8)(a) (earn-out rights), for "enactments specified in section 35(3)(d) of that Act" substitute "no gain/no loss provisions (within the meaning of that Act: see section 288(3A) of that Act)".

(3) In paragraph 7(1)(b) of Schedule 12 (leasing arrangements: finance leases and loans), for "enactments specified in section 35(3)(d) of the Taxation of Chargeable Gains Act 1992" substitute "no gain/no loss provisions (within the meaning of the Taxation of Chargeable Gains Act 1992: see section 288(3A) of that Act)".

70 In consequence of paragraphs 57 to 69, omit—

(a) in F(No.2)A 1992—

(i) section 46(2),

(ii) paragraph 21(2) of Schedule 9, and

(iii) paragraph 5(9) of Schedule 17,

(b) in FA 1994—

(i) paragraph 2(2) of Schedule 24, and

(ii) paragraph 4(3) of Schedule 25,

(c) paragraph 2(3) of Schedule 4 to the Coal Industry Act 1994 (c. 21),

(d) paragraph 3 of Schedule 7 to the Broadcasting Act 1996 (c. 55),
(e) in the Transport Act 2000 (c. 38)—
(i) paragraph 2(3) of Schedule 7, and
(ii) paragraph 37 of Schedule 26,
(f) paragraph 36 of Schedule 9 to the Energy Act 2004 (c. 20),
(g) paragraph 33 of Schedule 10 to the Railways Act 2005 (c. 14),
(h) section 59(2) of F(No.2)A 2005,
(i) paragraph 14(3) of Schedule 9 to FA 2007, and
(j) paragraph 11 of Schedule 7 to the Consumers, Estate Agents and Redress Act 2007 (c. 17).

71 The amendments made by paragraphs 57 to 70 have effect in relation to disposals on or after 6 April 2008.

Abolition of "halving relief"

72 TCGA 1992 is amended as follows.

73 In section 36 (reduction of deferred charges where wholly or partly attributable to pre-31 March 1982 increase in value), for "tax" substitute "corporation tax in respect of chargeable gains".

74 (1) Schedule 4 (deferred charges on pre-31 March 1982 gains) is amended as follows.

(2) Before paragraph 1 insert—

"Application of Schedule

A1 This Schedule applies only for the purposes of corporation tax."

(3) In paragraph 2(5), omit—
(a) ", 162, 165", and
(b) "of this Act and section 79 of the Finance Act 1980".

(4) In paragraph 4(2), omit "168 (as modified by section 67(6)),".

(5) In paragraph 9(1), omit—
(a) in paragraph (b), "in the case of a disposal made by, or a gain treated as accruing to, a person chargeable to corporation tax,",
(b) paragraph (c), and
(c) "or (as the case may be) on or before such later date".

75 In consequence of paragraph 74, omit paragraph 43 of Schedule 21 to FA 1996.

76 The amendments made by paragraphs 72 to 75 have effect in relation to disposals which occur on or after 6 April 2008 and to which Schedule 4 to TCGA 1992 would otherwise apply.

Abolition of indexation allowance

77 TCGA 1992 is amended as follows.

78 At the beginning of Chapter 4 of Part 2 (indexation allowance), insert—

"52A Chapter to apply only for corporation tax purposes

This Chapter applies only for the purposes of corporation tax."

79 In section 53 (indexation allowance), omit—

(a) subsection (1A), and

(b) in subsection (4), ", 110A".

80 (1) Section 54 (calculation of indexation allowance) is amended as follows.

(2) In subsection (1), for "the relevant month" substitute "the month in which the disposal occurs".

(3) Omit subsection (1A).

81 (1) Section 145 (call options: indexation allowance) is amended as follows.

(2) In subsection (1), omit "(subject to subsection (1A) below)".

(3) Omit subsection (1A).

82 In consequence of the amendments made by paragraphs 77 to 81, omit section 122(1) to (3) and (5) of FA 1998.

83 The amendments made by paragraphs 77 to 82 have effect in computing gains on disposals made on or after 6 April 2008.

Simplification of pooling etc

84 TCGA 1992 is amended as follows.

85 (1) Section 104 (share pooling: general interpretative provisions) is amended as follows.

(2) For subsections (2) and (2A) substitute—

"(2) For the purposes of corporation tax, subsection (1) does not apply to any securities acquired by a company before 1 April 1982.

(2A) See also sections 105 to 105B and—

(a) section 106A in the case of capital gains tax, or

(b) sections 107 to 114 in the case of corporation tax."

(3) In subsection (3), omit ", 110A".

(4) After that subsection insert—

"(3A) For the purposes of capital gains tax section 35(2) applies in relation to a section 104 holding as if the reference to an asset were to any of the securities constituting or forming part of the section 104 holding which were held by the person making the disposal on 31 March 1982."

(5) In subsection (5), omit ", 110A".

86 In section 105 (disposal on or before day of acquisition), after subsection (2)

insert—

"(3) None of the securities which, by virtue of this section, are identified with other securities shall be regarded as forming part of an existing section 104 holding or as constituting a section 104 holding."

87 (1) Section 106A (identification of securities: general rules for capital gains tax) is amended as follows.

(2) After subsection (5) insert—

"(5ZA) None of the securities which, by virtue of subsection (5) above, are identified with other securities shall be regarded as forming part of an existing section 104 holding or as constituting a section 104 holding."

(3) In subsection (6), before "securities" (in each place) insert "relevant".

(4) Omit subsection (7).

(5) Omit subsection (8).

(6) For subsection (10) substitute—

"(10) In this section—

"securities" means any securities within the meaning of section 104 or any relevant securities, and

"relevant securities" means—

(a) securities within the meaning of Chapter 2 of Part 12 of ITA 2007 (accrued income profits),

(b) qualifying corporate bonds, and

(c) securities which are, or have at any time been, material interests in a non-qualifying offshore fund, within the meaning of Chapter 5 of Part 17 of the Taxes Act."

(7) In the heading, omit "**general rules for**".

88 In the heading of section 107 (identification of securities etc: general rules), insert at the end "**for corporation tax**".

89 In the heading of section 108 (identification of relevant securities), insert at the end "**for corporation tax**".

90 (1) Section 109 (pre-April 1982 share pools) is amended as follows.

(2) In subsection (1), for "This" substitute "For the purposes of corporation tax, this".

(3) In the heading, for "**Pre-April**" substitute "**Corporation tax: pre-April**".

91 For the heading of section 110 substitute "**Indexation for section 104 holdings for corporation tax**".

92 Omit section 110A (indexation for section 104 holdings: CGT).

93 In the heading of section 112 (parallel pooling regulations), insert at the end "**: corporation tax**".

94 (1) Section 113 (calls on shares) is amended as follows.

(2) Before subsection (1) insert—

"(A1) This section has effect for the purposes of corporation tax."

(3) In the heading, insert at the end "**: corporation tax**".

95 (1) Section 114 (consideration for options) is amended as follows.

(2) Before subsection (1) insert—

"(A1) This section has effect for the purposes of corporation tax."

(3) In the heading, insert at the end "**: corporation tax**".

96 In FA 1998, omit—

(a) section 123(1) and (2), and

(b) section 125(2) and (3).

97 Chapter 6 of Part 4 of ITA 2007 (losses on disposals of shares) is amended as follows.

98 (1) Section 147 (limits on share loss relief) is amended as follows.

(2) In subsection (1)(b)—

(a) in sub-paragraph (i), omit "or a 1982 holding" and "or" at the end, and

(b) for sub-paragraph (ii) substitute—

"(ii) at a time earlier than the time of the disposal but after 5 April 2008 formed part of a section 104 holding, or

(iii) at a time earlier than that time and than 6 April 2008 formed part of an old section 104 holding or a 1982 holding, and".

(3) In subsection (7)—

(a) in the definition of "section 104 holding", after "1992" insert "and "old section 104 holding" is a holding that was a section 104 holding within the meaning of that provision as it applied in relation to disposals before 6 April 2008", and

(b) in the definition of "1982 holding", insert at the end "as it applied in relation to disposals before 6 April 2008".

99 (1) Section 148 (disposal of shares forming part of mixed holding) is amended as follows.

(2) In subsection (3)(a)(ii), omit "or a 1982 holding".

(3) In subsection (5), omit "or 1982".

(4) In subsection (9), for "and "1982 holding" have" substitute "has".

100 The amendments made by paragraphs 84 to 99 have effect in relation to disposals on or after 6 April 2008.

Meaning of "tax year"

101 (1) Section 288 of TCGA 1992 (interpretation) is amended as follows.

(2) In subsection (1), for the definition of "year of assessment" substitute—

""year of assessment" means tax year;".

(3) After that subsection insert—

"(1ZA) In this Act and other enactments relating to capital gains tax "tax year" means a year beginning on 6 April and ending on the following 5 April; and "the tax year 2008-09" means the tax year beginning on 6 April 2008 (and any corresponding expression in which two years are similarly mentioned is to be read in the same way)."

102 In consequence of the amendments made by paragraph 101, omit—

(a) the definition of "tax year" in section 41(1) of FA 2005, and

(b) paragraph 342(2)(i) of Schedule 1 to ITA 2007.

SCHEDULE 3

Section 9

ENTREPRENEURS' RELIEF

Introduction

1 TCGA 1992 is amended as follows.

Main provisions

2 In Part 5 (transfer of business assets), after section 169G insert—

"CHAPTER 3

ENTREPRENEURS' RELIEF

169H Introduction

(1) This Chapter provides relief from capital gains tax in respect of qualifying business disposals (to be known as "entrepreneurs' relief").

(2) The following are qualifying business disposals—

(a) a material disposal of business assets: see section 169I,

(b) a disposal of trust business assets: see section 169J, and

(c) a disposal associated with a relevant material disposal: see section 169K.

(3) But in the case of certain qualifying business disposals, entrepreneurs' relief is given only in respect of disposals of relevant business assets comprised in the qualifying business disposal: see section 169L.

(4) Section 169M makes provision requiring the making of a claim for entrepreneurs' relief.

(5) Sections 169N to 169P make provision as to the amount of entrepreneurs' relief.

(6) Sections 169Q and 169R make provision about reorganisations.

(7) Section 169S contains interpretative provisions for the purposes of this Chapter.

169I Material disposal of business assets

(1) There is a material disposal of business assets where—

(a) an individual makes a disposal of business assets (see subsection (2)), and

(b) the disposal of business assets is a material disposal (see subsections (3) to (7)).

(2) For the purposes of this Chapter a disposal of business assets is—

(a) a disposal of the whole or part of a business,

(b) a disposal of (or of interests in) one or more assets in use, at the time at which a business ceases to be carried on, for the purposes of the business, or

(c) a disposal of one or more assets consisting of (or of interests in) shares in or securities of a company.

(3) A disposal within paragraph (a) of subsection (2) is a material disposal if the business is owned by the individual throughout the period of 1 year ending with the date of the disposal.

(4) A disposal within paragraph (b) of that subsection is a material disposal if—

(a) the business is owned by the individual throughout the period of 1 year ending with the date on which the business ceases to be carried on, and

(b) that date is within the period of 3 years ending with the date of the disposal.

(5) A disposal within paragraph (c) of subsection (2) is a material disposal if condition A or B is met.

(6) Condition A is that, throughout the period of 1 year ending with the date of the disposal—

(a) the company is the individual's personal company and is either a trading company or the holding company of a trading group, and

(b) the individual is an officer or employee of the company or (if the company is a member of a trading group) of one or more companies which are members of the trading group.

(7) Condition B is that the conditions in paragraphs (a) and (b) of subsection (6) are met throughout the period of 1 year ending with the date on which the company—

(a) ceases to be a trading company without continuing to be or becoming a member of a trading group, or

(b) ceases to be a member of a trading group without continuing to be or becoming a trading company,

and that date is within the period of 3 years ending with the date of the disposal.

(8) For the purposes of this section—

(a) an individual who disposes of (or of interests in) assets used for the purposes of a business carried on by the individual on

entering into a partnership which is to carry on the business is to be treated as disposing of a part of the business,

(b) the disposal by an individual of the whole or part of the individual's interest in the assets of a partnership is to be treated as a disposal by the individual of the whole or part of the business carried on by the partnership, and

(c) at any time when a business is carried on by a partnership, the business is to be treated as owned by each individual who is at that time a member of the partnership.

169J Disposal of trust business assets

(1) There is a disposal of trust business assets where—

(a) the trustees of a settlement make a disposal of settlement business assets (see subsection (2)),

(b) there is an individual who is a qualifying beneficiary (see subsection (3)), and

(c) the relevant condition is met (see subsections (4) and (5)).

(2) In this Chapter "settlement business assets" means—

(a) assets consisting of (or of interests in) shares in or securities of a company, or

(b) assets (or interests in assets) used or previously used for the purposes of a business,

which are part of the settled property.

(3) An individual is a qualifying beneficiary if the individual has, under the settlement, an interest in possession (otherwise than for a fixed term) in—

(a) the whole of the settled property, or

(b) a part of it which consists of or includes the settlement business assets disposed of.

(4) In relation to a disposal of settlement business assets within paragraph (a) of subsection (2) the relevant condition is that, throughout a period of 1 year ending not earlier than 3 years before the date of the disposal—

(a) the company is the qualifying beneficiary's personal company and is either a trading company or the holding company of a trading group, and

(b) the qualifying beneficiary is an officer or employee of the company or (if the company is a member of a group of companies) of one or more companies which are members of the trading group.

(5) In relation to a disposal of settlement business assets within paragraph (b) of that subsection, the relevant condition is that—

(a) the settlement business assets are used for the purposes of the business carried on by the qualifying beneficiary throughout the period of 1 year ending not earlier than 3 years before the date of the disposal, and

(b) the qualifying beneficiary ceases to carry on the business on the date of the disposal or within the period of three years before that date.

(6) In subsection (5)—

(a) the reference to a business carried on by the qualifying beneficiary includes a business carried on by a partnership of which the qualifying beneficiary is a member, and

(b) the reference to the qualifying beneficiary ceasing to carry on the business includes the qualifying beneficiary ceasing to be a member of the partnership or the partnership ceasing to carry on the business.

169K Disposal associated with relevant material disposal

(1) There is a disposal associated with a relevant material disposal if conditions A, B and C are met.

(2) Condition A is that an individual makes a material disposal of business assets which consists of—

(a) the disposal of the whole or part of the individual's interest in the assets of a partnership, or

(b) the disposal of (or of interests in) shares in or securities of a company.

(3) Condition B is that the individual makes the disposal as part of the withdrawal of the individual from participation in the business carried on by the partnership or by the company or (if the company is a member of a trading group) a company which is a member of the trading group.

(4) Condition C is that, throughout the period of 1 year ending with the earlier of—

(a) the date of the material disposal of business assets, and

(b) the cessation of the business of the partnership or company,

the assets which (or interests in which) are disposed of are in use for the purposes of the business.

(5) For the purposes of this Chapter the disposal mentioned in Condition B is the disposal associated with a relevant material disposal.

169L Relevant business assets

(1) If a qualifying business disposal is one which does not consist of the disposal of (or of interests in) shares in or securities of a company, entrepreneurs' relief is given only in respect of the disposal of relevant business assets comprised in the qualifying business disposal.

(2) In this Chapter "relevant business assets" means assets (including goodwill) which are, or are interests in, assets to which subsection (3) applies, other than excluded assets (see subsection (4) below).

(3) This subsection applies to assets which—

(a) in the case of a material disposal of business assets, are assets used for the purposes of a business carried on by the individual or a partnership of which the individual is a member,

(b) in the case of a disposal of trust business assets, are assets used for the purposes of a business carried on by the

qualifying beneficiary or a partnership of which the qualifying beneficiary is a member, or

(c) in the case of a disposal associated with a relevant material disposal, are assets used for the purposes of a business carried on by the partnership or company.

(4) The following are excluded assets—

(a) shares and securities, and

(b) assets, other than shares or securities, which are held as investments.

169M Relief to be claimed

(1) Entrepreneurs' relief is to be given only on the making of a claim.

(2) A claim for entrepreneurs' relief in respect of a qualifying business disposal must be made—

(a) in the case of a disposal of trust business assets, jointly by the trustees and the qualifying beneficiary, and

(b) otherwise, by the individual.

(3) A claim for entrepreneurs' relief in respect of a qualifying business disposal must be made on or before the first anniversary of the 31 January following the tax year in which the qualifying business disposal is made.

(4) A claim for entrepreneurs' relief in respect of a qualifying business disposal may only be made if the amount resulting under section 169N(1) is a positive amount.

169N Amount of relief: general

(1) Where a claim is made in respect of a qualifying business disposal—

(a) the relevant gains (see subsection (5)) are to be aggregated, and

(b) any relevant losses (see subsection (6)) are to be aggregated and deducted from the aggregate arrived at under paragraph (a).

(2) The resulting amount is to be reduced by 4/9ths.

(3) But if the aggregate of—

(a) the amount resulting under subsection (1), and

(b) the total of the amounts resulting under that subsection by virtue of its operation in relation to earlier relevant qualifying business disposals (if any),

exceeds £1 million, the reduction is to be made in respect of only so much (if any) of the amount resulting under subsection (1) as (when added to that total) does not exceed £1 million.

(4) The amount arrived at under subsections (1) to (3) is to be treated for the purposes of this Act as a chargeable gain accruing at the time of the disposal to the individual or trustees by whom the claim is made.

(5) In subsection (1)(a) "relevant gains" means—

(a) if the qualifying business disposal is of (or of interests in) shares in or securities of a company (or both), the gains

accruing on the disposal (computed in accordance with the provisions of this Act fixing the amount of chargeable gains), and

(b) otherwise, the gains accruing on the disposal of any relevant business assets comprised in the qualifying business disposal (so computed).

(6) In subsection (1)(b) "relevant losses" means—

(a) if the qualifying business disposal is of (or of interests in) shares in or securities of a company (or both), any losses accruing on the disposal (computed in accordance with the provisions of this Act fixing the amount of allowable losses, on the assumption that notice has been given under section 16(2A) in respect of them), and

(b) otherwise, any losses accruing on the disposal of any relevant business assets comprised in the qualifying business disposal (so computed, on that assumption).

(7) In subsection (3) "earlier relevant qualifying business disposals" means—

(a) where the qualifying business disposal is made by an individual, earlier qualifying business disposals made by the individual and earlier disposals of trust business assets in respect of which the individual is the qualifying beneficiary, and

(b) where the qualifying business disposal is a disposal of trust business assets in respect of which an individual is the qualifying beneficiary, earlier disposals of trust business assets in respect of which that individual is the qualifying beneficiary and earlier qualifying business disposals made by that individual.

(8) If, on the same day, there is both a disposal of trust business assets in respect of which an individual is the qualifying beneficiary and a qualifying business disposal by the individual, this section applies as if the disposal of trust business assets were later.

(9) Any gain or loss taken into account under subsection (1) is not to be taken into account under this Act as a chargeable gain or an allowable loss.

169O Amount of relief: special provisions for certain trust disposals

(1) This section applies where, on a disposal of trust business assets, there is (in addition to the qualifying beneficiary) at least one other beneficiary who, at the material time, has an interest in possession in—

(a) the whole of the settled property, or

(b) a part of it which consists of or includes the shares or securities (or interests in shares or securities) or assets (or interests in assets) disposed of.

(2) Only the relevant proportion of the amount which would otherwise result under subsection (1) of section 169N is to be treated as so resulting.

(3) And the balance of that amount, with no reduction under subsection (2) of that section, is accordingly a chargeable gain for the purposes of this Act.

(4) For the purposes of this section "the relevant proportion" of an amount is the same proportion of the amount as that which, at the material time—

(a) the qualifying beneficiary's interest in the income of the part of the settled property comprising the shares or securities (or interests in shares or securities) or assets (or interests in assets) disposed of, bears to

(b) the interests in that income of all the beneficiaries (including the qualifying beneficiary) who then have interests in possession in that part of the settled property.

(5) In subsection (4) "the qualifying beneficiary's interest" means the interest by virtue of which he is the qualifying beneficiary (and not any other interest the qualifying beneficiary may have).

(6) In this section "the material time" means the end of the latest period of 1 year which ends not earlier than 3 years before the date of the disposal and—

(a) in the case of a disposal of settlement business assets within paragraph (a) of subsection (2) of section 169J, throughout which the conditions in paragraphs (a) and (b) of subsection (4) of that section are met, and

(b) in the case of a disposal of settlement business assets within paragraph (b) of subsection (2) of that section, throughout which the business is carried on by the qualifying beneficiary.

169P Amount of relief: special provision for certain associated disposals

(1) This section applies where, on a disposal associated with a relevant material disposal, any of the conditions in subsection (4) is met.

(2) Only such part of the amount which would otherwise result under subsection (1) of section 169N as is just and reasonable is to be treated as so resulting.

(3) And the balance of that amount, with no reduction under subsection (2) of that section, is accordingly a chargeable gain for the purposes of this Act.

(4) The conditions referred to in subsection (1) are—

(a) that the assets which (or interests in which) are disposed of are in use for the purposes of the business for only part of the period in which they are in the ownership of the individual,

(b) that only part of the assets which (or interests in which) are disposed of are in use for the purposes of the business for that period,

(c) that the individual is concerned in the carrying on of the business (whether personally, as a member of a partnership or as an officer or employee of a company which is the individual's personal company) for only part of the period in which the assets which (or interests in which) are disposed of are in use for the purposes of the business, and

(d) that, for the whole or any part of the period for which the assets which (or interests in which) are disposed of are in use for the purposes of the business, their availability is dependent on the payment of rent.

(5) In determining how much of an amount it is just and reasonable to bring into account under subsection (2) regard is to be had to—

(a) in a case within paragraph (a) of subsection (4), the length of the period for which the assets are in use as mentioned in that paragraph,

(b) in a case within paragraph (b) of that subsection, the part of the assets that are in use as mentioned in that paragraph,

(c) in a case within paragraph (c) of that subsection, the length of the period for which the individual is concerned in the carrying on of the business as mentioned in that paragraph, and

(d) in a case within paragraph (d) of that subsection, the extent to which any rent paid is less than the amount which would be payable in the open market for the use of the assets.

169Q Reorganisations: disapplication of section 127

(1) This section applies where—

(a) there is a reorganisation (within the meaning of section 126), and

(b) the original shares and the new holding (within the meaning of that section) would fall to be treated by virtue of section 127 as the same asset.

(2) If an election is made under this section, a claim for entrepreneurs' relief may be made as if the reorganisation involved a disposal of the original shares; and if such a claim is made section 127 does not apply.

(3) An election under this section must be made—

(a) if the reorganisation would (apart from section 127) involve a disposal of trust business assets, jointly by the trustees and the qualifying beneficiary, and

(b) otherwise, by the individual.

(4) An election under this section must be made on or before the first anniversary of the 31 January following the tax year in which the reorganisation takes place.

(5) The references in this section to a reorganisation (within the meaning of section 126) includes an exchange of shares or securities which is treated as such a reorganisation by virtue of section 135 or 136.

169R Reorganisations involving acquisition of qualifying corporate bonds

(1) This section applies where the calculation under section 116(10)(a) has effect to produce a chargeable gain for an individual by reason of a relevant transaction.

(2) This Chapter has effect as if—

(a) (despite section 116(10)) the relevant transaction were a disposal, and

(b) the disposal were a disposal of business assets consisting of the old asset made by the individual at the time of the relevant transaction.

(3) Where the disposal would be a material disposal of business assets and entrepreneurs' relief is claimed in respect of it—

(a) the amount resulting under section 169N(1) is to be taken to be the amount of the chargeable gain produced by the calculation under section 116(10)(a), and

(b) accordingly, the amount arrived at under section 169N(1) to (3) (or a corresponding part of it) is the amount deemed to accrue by virtue of section 116(10)(b) on a disposal of the whole or part of the new asset.

(4) In this section "new asset", "old asset" and "relevant transaction" have the meaning given by section 116.

169S Interpretation of Chapter

(1) For the purposes of this Chapter "a business" means anything which—

(a) is a trade, profession or vocation, and

(b) is conducted on a commercial basis and with a view to the realisation of profits.

(2) References in this Chapter to a disposal of an interest in shares in a company include a disposal of an interest in shares treated as made by virtue of section 122.

(3) For the purposes of this Chapter "personal company", in relation to an individual, means a company—

(a) at least 5% of the ordinary share capital of which is held by the individual, and

(b) at least 5% of the voting rights in which are exercisable by the individual by virtue of that holding.

(4) For the purposes of subsection (3) if the individual holds any shares in the company jointly or in common with one or more other persons, the individual is to be treated as sole holder of so many of them as is proportionate to the value of the individual's share (and as able to exercise voting rights by virtue of that holding).

(5) In this Chapter—

"disposal associated with a relevant material disposal" has the meaning given by section 169K,

"disposal of business assets" has the meaning given by section 169I(2),

"disposal of trust business assets" has the meaning given by section 169J,

"employment" has the meaning given by section 4 of ITEPA 2003,

"entrepreneurs' relief" has the meaning given by section 169H(1),

"holding company" has the same meaning as in section 165 (see section 165A),

"material disposal of business assets" has the meaning given by section 169I,

"office" has the meaning given by section 5(3) of ITEPA 2003,

"ordinary share capital" has the same meaning as in the Income Tax Acts (see section 989 of ITA 2007),

"qualifying business disposal" has the meaning given by section 169H(2),

"relevant business asset" has the meaning given by section 169L,

"rent", in relation to an asset, includes any form of consideration given for the use of the asset,

"securities", in relation to a company, includes any debentures of the company which are deemed by subsection (6) of section 251 to be securities for the purposes of that section,

"settlement business assets" has the meaning given by section 169J(2),

"trade" has the same meaning as in the Income Tax Acts (see section 989 of ITA 2007), and

"trading company" and "trading group" have the same meaning as in section 165 (see section 165A)."

Other amendments

3 In section 241(3A) (furnished holiday lettings), after the entry relating to section 165 insert—

"section 169S(1) (entrepreneurs' relief),".

4 In paragraph 1(1)(b) of Schedule 5B (enterprise investment scheme: re-investment), after "164FA," insert "section 169N,".

Commencement

5 The amendments made by this Schedule have effect in relation to disposals, reorganisations (within the meaning of section 169Q of TCGA 1992) and relevant transactions (within the meaning of section 116 of TCGA 1992) taking place on or after 6 April 2008.

Transitionals: section 169P(4)(d)

6 Section 169P of TCGA 1992 has effect in a case where the period for which the assets are in use for the purposes of the business began before 6 April 2008 as if the reference in subsection (4)(d) of that section to that period were to so much of it as falls on or after that date.

Transitionals: reorganisations

7 (1) This paragraph applies where, by virtue of section 116(10)(b), a chargeable gain is deemed to accrue to an individual on a disposal made on or after 6 April 2008 (a "relevant disposal") by reason of a relevant transaction to which the individual was a party taking place before that date.

(2) Subject as follows, Chapter 3 of Part 5 (as inserted by this Schedule) has effect as if—

(a) (despite section 116(10)) the relevant transaction were a disposal of the old asset made by the individual,

(b) that Chapter applied in relation to that disposal (even though made before 6 April 2008), and

(c) for the purposes of the time limit for making a claim for entrepreneurs' relief, that disposal were made at the time of the first relevant disposal.

(3) In sub-paragraph (2) "the first relevant disposal" means the first disposal made on or after 6 April 2008 on which a chargeable gain is deemed to accrue to the individual by reason of the relevant transaction.

(4) Where entrepreneurs' relief is claimed by virtue of this paragraph—

(a) the amount of the chargeable gain produced by the calculation under section 116(10)(a), reduced by

(b) any amount deemed to accrue under section 116(10)(b) and (12) before 6 April 2008 by reason of the relevant transaction,

is to be treated as constituting the amount resulting under section 169N(1).

(5) Accordingly (but subject as follows), the amount of the chargeable gain which is deemed to accrue by virtue of section 116(10)(b) on the relevant disposal is that arrived at under section 169N(1) to (3) (in accordance with sub-paragraph (4)).

(6) The amount of the chargeable gain which is deemed to accrue by virtue of section 116(10)(b) on the relevant disposal is the amount specified in sub-paragraph (7)—

(a) except in a case within paragraph (b), where the relevant disposal is not a disposal of the whole of the new asset, and

(b) in a case in which part of the new asset was disposed of before 6 April 2008, where the relevant disposal is not a disposal of the whole of the part not so disposed of.

(7) The amount referred to in sub-paragraph (6) is the appropriate proportion of the amount in sub-paragraph (5); and "the appropriate proportion" means the proportion of the new asset, or of so much of the new asset as was not disposed of before 6 April 2008, which is disposed of on the relevant disposal.

(8) In this paragraph—

"new asset",

"old asset", and

"relevant transaction",

have the meaning given by section 116.

(9) References in this paragraph to any provision are to be read as they would be if this paragraph formed part of TCGA 1992.

Transitionals: EIS and VCT

8 (1) This paragraph applies where there is a relevant chargeable event in a case in which the original gain would, apart from Schedule 5B (enterprise investment scheme) or Schedule 5C (venture capital trusts), have accrued before 6 April 2008.

(2) "Relevant chargeable event" means a chargeable event under—

(a) paragraph 3(1) of Schedule 5B, or
(b) paragraph 3(1) of Schedule 5C,

which occurs on or after 6 April 2008 in relation to any of the relevant shares held by the investor immediately before the first relevant chargeable event.

(3) In this paragraph "the first relevant chargeable event" means the first relevant chargeable event in the case.

(4) The following provisions apply if—
(a) the relevant disposal would have been a material disposal of business assets had Chapter 3 of Part 5 applied in relation to it (even though made before 6 April 2008), and
(b) a claim is made on or before the first anniversary of the 31 January following the tax year in which the first relevant chargeable event occurs.

(5) In this paragraph "the relevant disposal" means—
(a) where the original gain would have accrued in accordance with section 164F or 164FA, paragraphs 4 and 5 of Schedule 5B or paragraphs 4 and 5 of Schedule 5C (the "original gain event"), the relevant underlying disposal, and
(b) otherwise, the disposal on which the original gain would have accrued ("the original gain disposal").

(6) In sub-paragraph (5)(a) "the relevant underlying disposal" means the disposal (not being a disposal within paragraph 3 of Schedule 5B or 5C) by virtue of which Schedule 5B or 5C has effect.

(7) Subject as follows, the amount treated as accruing on the relevant chargeable event in respect of the original gain event or original gain disposal is the amount which would be arrived at under section 169N(1) to (3) if—
(a) the relevant chargeable event were a qualifying business disposal (within the meaning of Chapter 3 of Part 5), and
(b) the relevant proportion of the postponed gain constituted the amount resulting under section 169N(1);

and "the relevant proportion" means the proportion of the relevant shares which is held by the investor immediately before the first relevant chargeable event.

(8) The amount treated as accruing on the relevant chargeable event in respect of the original gain event or original gain disposal is that specified in sub-paragraph (9) where the relevant chargeable event is not a chargeable event in relation to all the relevant shares held by the investor immediately before the first relevant chargeable event.

(9) The amount referred to in sub-paragraph (8) is the appropriate proportion of the amount in sub-paragraph (7); and "the appropriate proportion" means the proportion of the relevant shares held by the investor immediately before the first relevant chargeable event as respects which the relevant chargeable event is a chargeable event.

(10) In this paragraph—
"chargeable event" is to be construed in accordance with paragraph 3 of Schedule 5B or paragraph 3 of Schedule 5C,
"investor" has the same meaning as in paragraph 1 of Schedule 5B or paragraph 1 of Schedule 5C,

"the original gain" has the same meaning as in paragraph 1 of Schedule 5B or paragraph 1 of Schedule 5C,

"the postponed gain" means so much of the original gain as is treated by paragraph 2(2)(a) of Schedule 5B or paragraph 2(2)(a) of Schedule 5C as not having accrued at the accrual time, and

"relevant shares" has the same meaning as in Schedule 5B or Schedule 5C.

(11) References in this paragraph to any provision are to be read as they would be if this paragraph formed part of TCGA 1992.

SCHEDULE 4

Section 10

INHERITANCE TAX: TRANSFER OF NIL-RATE BAND ETC

Amendments of IHTA 1984

1 IHTA 1984 is amended as follows.

2 After section 8 insert—

"8A Transfer of unused nil-rate band between spouses and civil partners

(1) This section applies where—

(a) immediately before the death of a person (a "deceased person"), the deceased person had a spouse or civil partner ("the survivor"), and

(b) the deceased person had unused nil-rate band on death.

(2) A person has unused nil-rate band on death if—

$$M > VT$$

where—

M is the maximum amount that could be transferred by a chargeable transfer made (under section 4 above) on the person's death if it were to be wholly chargeable to tax at the rate of nil per cent. (assuming, if necessary, that the value of the person's estate were sufficient but otherwise having regard to the circumstances of the person); and

VT is the value actually transferred by the chargeable transfer so made (or nil if no chargeable transfer is so made).

(3) Where a claim is made under this section, the nil-rate band maximum at the time of the survivor's death is to be treated for the purposes of the charge to tax on the death of the survivor as increased by the percentage specified in subsection (4) below (but subject to subsection (5) and section 8C below).

(4) That percentage is—

$$\frac{E}{NRBMD} \times 100$$

where—

E is the amount by which M is greater than VT in the case of the deceased person; and

NRBMD is the nil-rate band maximum at the time of the deceased person's death.

(5) If (apart from this subsection) the amount of the increase in the nil-rate band maximum at the time of the survivor's death effected by this section would exceed the amount of that nil-rate band maximum, the amount of the increase is limited to the amount of that nil-rate band maximum.

(6) Subsection (5) above may apply either—

(a) because the percentage mentioned in subsection (4) above (as reduced under section 8C below where that section applies) is more than 100 because of the amount by which M is greater than VT in the case of one deceased person, or

(b) because this section applies in relation to the survivor by reference to the death of more than one person who had unused nil-rate band on death.

(7) In this Act "nil-rate band maximum" means the amount shown in the second column in the first row of the Table in Schedule 1 to this Act (upper limit of portion of value charged at rate of nil per cent.) and in the first column in the second row of that Table (lower limit of portion charged at next rate).

8B Claims under section 8A

(1) A claim under section 8A above may be made—

(a) by the personal representatives of the survivor within the permitted period, or

(b) (if no claim is so made) by any other person liable to the tax chargeable on the survivor's death within such later period as an officer of Revenue and Customs may in the particular case allow.

(2) If no claim under section 8A above has been made in relation to a person (P) by reference to whose death that section applies in relation to the survivor, the claim under that section in relation to the survivor may include a claim under that section in relation to P if that does not affect the tax chargeable on the value transferred by the chargeable transfer of value made on P's death.

(3) In subsection (1)(a) above "the permitted period" means—

(a) the period of two years from the end of the month in which the survivor dies or (if it ends later) the period of three months beginning with the date on which the personal representatives first act as such, or

(b) such longer period as an officer of Revenue and Customs may in the particular case allow.

(4) A claim made within either of the periods mentioned in subsection (3)(a) above may be withdrawn no later than one month after the end of the period concerned.

8C Section 8A and subsequent charges

(1) This section applies where—

(a) the conditions in subsection (1)(a) and (b) of section 8A above are met, and

(b) after the death of the deceased person, tax is charged on an amount under any of sections 32, 32A and 126 below by reference to the rate or rates that would have been applicable to the amount if it were included in the value transferred by the chargeable transfer made (under section 4 above) on the deceased person's death.

(2) If the tax is charged before the death of the survivor, the percentage referred to in subsection (3) of section 8A above is (instead of that specified in subsection (4) of that section)—

$$\left(\frac{\text{E}}{\text{NRBMD}} - \frac{\text{TA}}{\text{NRBME}}\right) \times 100$$

where—

E and NRBMD have the same meaning as in subsection (4) of that section;

TA is the amount on which tax is charged; and

NRBME is the nil-rate band maximum at the time of the event occasioning the charge.

(3) If this section has applied by reason of a previous event or events, the reference in subsection (2) to the fraction

$$\frac{\text{TA}}{\text{NRBME}}$$

is to the aggregate of that fraction in respect of the current event and the previous event (or each of the previous events).

(4) If the tax is charged after the death of the survivor, it is charged as if the personal nil-rate band maximum of the deceased person were appropriately reduced.

(5) In subsection (4) above—

"the personal nil-rate band maximum of the deceased person" is the nil rate band maximum which is treated by Schedule 2 to this Act as applying in relation to the deceased person's death, increased in accordance with section 8A above where that section effected an increase in that nil-rate band maximum in the case of the deceased person (as survivor of another deceased person), and

"appropriately reduced" means reduced by the amount (if any) by which the amount on which tax was charged at the rate of nil per cent. on the death of the survivor was increased by reason of the operation of section 8A above by virtue of the position of the deceased person."

3 In section 147 (Scotland: legitim etc), insert at the end—

"(10) Where the application of subsection (4) in relation to the estate of a person means that too great an increase has been made under subsection (3) of section 8A above in the case of another person, the claim under that section in that case may be amended accordingly by the Commissioners for Her Majesty's Revenue and Customs."

4 (1) Section 151BA (rates of charge under section 151B) is amended as follows.

(2) In subsection (5), for "had been in force at the time of the member's death" substitute "("the applicable Table") had been in force at the time of the member's death, but subject to subsections (6) and (9) below."

(3) After that subsection insert—

"(6) The nil-rate band maximum in the applicable Table is to be treated for the purposes of this section as reduced by the used-up percentage of the difference between—

(a) that nil-rate band maximum, and

(b) the nil-rate band maximum which was actually in force at the time of the member's death.

(7) For the purposes of subsection (6) above "the used-up percentage" is—

$$100 - \left(\frac{\text{E}}{\text{NRBM}} \times 100 \right)$$

where—

E is the amount by which M is greater than VT under section 8A(2) above in the case of the member; and

NRBM is the nil-rate band maximum at the time of the member's death."

(4) After subsection (7) insert—

"(8) The following provisions apply where—

(a) tax is charged under section 151B above, and

(b) immediately before the member's death, the member had a spouse or civil partner ("the survivor").

(9) If the survivor died before the event giving rise to the charge, tax is charged as if the personal nil-rate band maximum of the member were appropriately reduced.

(10) In subsection (9) above—

"the personal nil-rate band maximum of the member" is the nil rate band maximum in the applicable Table, increased in accordance with section 8A above where that section effected an increase in that nil-rate band maximum in the case of the member (as a survivor of another deceased person), and

"appropriately reduced" means reduced by the amount (if any) by which the amount on which tax was charged at the rate of nil per cent. on the death of the survivor was increased by reason of the operation of section 8A above by virtue of the position of the member.

(11) If the survivor did not die before the event giving rise to the charge, tax is to be charged on the death of the survivor as if the percentage referred to in section 8A(3) above in the case of the member were that specified in subsection (12) below.

(12) That percentage is—

$$\frac{\text{AE}}{\text{ANRBM}} \times 100$$

where—

AE is the adjusted excess, that is the amount by which M would be greater than VT under section 8A(2) above in the case of the member if—

(a) the taxable amount were included in the value transferred by the chargeable transfer made on the member's death, and

(b) the nil-rate band maximum at the time of the member's death were ANRBM; and

ANRBM is the adjusted nil-rate band maximum, that is the nil-rate band maximum in the applicable Table (as reduced under subsection (6) above where that subsection applies)."

5 In section 239(4) (certificates of discharge: cases where further tax not affected), after paragraph (a) (but before the "or") insert—

"(aa) that may afterwards be shown to be payable by reason of too great an increase having been made under section 8A(3) above,".

6 In section 247(2) (tax-geared penalty), after "liable" insert ", or for which any other person is liable by virtue of the operation of section 8A above,".

7 In section 272 (general interpretation), insert at the appropriate place—

""nil-rate band maximum" has the meaning given by section 8A(7);".

Amendment of TCGA 1992

8 In section 274 of TCGA 1992 (value determined for inheritance tax), for "that tax" substitute "the application of that tax to the estate".

Commencement

9 (1) The amendments made by paragraphs 2, 3 and 4(4) have effect in relation to cases where the survivor's death occurs on or after 9 October 2007.

(2) The amendments made by paragraphs 4(2) and (3) have effect in relation to deaths, cases where scheme administrators become aware of deaths and cessations of dependency occurring on or after 6 April 2008.

(3) The amendments made by paragraphs 5 and 7 are to be treated as having come into force on 9 October 2007.

(4) The amendment made by paragraph 8 has effect in relation to any ascertainment of value made on or after 6 April 2008.

Modifications for cases where deceased person died before 25 July 1986

10 (1) Section 8A of IHTA 1984 (as inserted by paragraph 2) has effect in relation to cases where the deceased person died before 25 July 1986 (and the survivor dies on or after 9 October 2007) subject as follows.

(2) Where the deceased person died on or after 1 January 1985—

(a) the references in subsection (2) to a chargeable transfer made under section 4 of IHTA 1984 are to a chargeable transfer made under section 4 of CTTA 1984, and

(b) the reference in subsection (4) to the nil-rate band maximum is to the amount shown in the second column of the first row, and the first column of the second row, of the First Table in Schedule 1 to that Act.

(3) Where the deceased person died on or after 13 March 1975 and before 1 January 1985—

(a) the references in subsection (2) to a chargeable transfer made under section 4 of IHTA 1984 are to a chargeable transfer made under section 22 of FA 1975, and

(b) the reference in subsection (4) to the nil-rate band maximum is to the amount shown in the second column of the first row, and in the first column of the second row, of the First Table in section 37 of that Act.

(4) Where the deceased person died on or after 16 April 1969 and before 13 March 1975, section 8A applies as if—

(a) M were the amount specified in paragraph (a) in Part 1 of Schedule 17 to FA 1969 at the time of the deceased person's death,

(b) VT were the aggregate principal value of all property comprised in the estate of the deceased person for the purposes of estate duty, and

(c) the reference in subsection (4) to the nil-rate band maximum were to the amount mentioned in paragraph (a).

(5) Where the deceased person died before 16 April 1969, section 8A applies as if—

(a) M were the amount specified as the higher figure in the first line, and the lower figure in the second line, in the first column of the scale in section 17 of FA 1894 at the time of the deceased person's death,

(b) VT were the principal value of the estate of the deceased person for the purposes of estate duty, and

(c) the reference in subsection (4) to the nil-rate band maximum were to the figure mentioned in paragraph (a).

11 (1) Section 8C of IHTA 1984 (as inserted by paragraph 2) has effect in relation to cases where the deceased person died before 25 July 1986 but on or after 13 March 1975 (and the survivor dies on or after 9 October 2007) subject as follows.

(2) Where the deceased person died on or after 1 January 1985—

(a) the reference in subsection (1) to sections 32, 32A and 126 of IHTA 1984 includes sections 32, 32A and 126 of CTTA 1984,

(b) the reference in that subsection to section 4 of IHTA 1984 is to section 4 of CTTA 1984,

(c) the reference in subsection (2) to the nil-rate band maximum includes the amount shown in the second column of the first row, and the first column of the second row, of the First Table in Schedule 1 to that Act,

(d) the first reference in subsection (5) to the nil-rate band maximum is to that amount, and

(e) the reference in subsection (5) to Schedule 2 to IHTA 1984 includes Schedule 2 to CTTA 1984.

(3) Where the deceased person died on or after 7 April 1976 and before 1 January 1985—

(a) the reference in subsection (1) to sections 32, 32A and 126 of IHTA 1984 includes sections 32, 32A and 126 of CTTA 1984, section 78 of FA 1976 and paragraph 2 of Schedule 9 to FA 1975,

(b) the reference in that subsection to section 4 of IHTA is to section 22 of FA 1975,

(c) the reference in subsection (2) to the nil-rate band maximum includes the amount shown in the second column of the first row, and the first column of the second row, of the First Table in Schedule 1 to CTTA 1984 and the amount shown in the second column of the first row, and in the first column of the second row, of the First Table in section 37 of FA 1975,

(d) the first reference in subsection (5) to the nil-rate band maximum is to that amount, and

(e) the reference in subsection (5) to Schedule 2 to IHTA 1984 includes Schedule 2 to CTTA 1984, Schedule 15 to FA 1980 and section 62 of FA 1978;

but, if the event occasioning the charge occurred before 27 October 1977, the reference in subsection (4) to the personal nil-rate band maximum is to the amount shown in the second column of the first row, and in the first column of the second row, of the First Table in section 37 of FA 1975 at the time of the deceased person's death.

(4) Where the deceased person died on or after 13 March 1975 and before 7 April 1976—

(a) the reference in subsection (1) to sections 32, 32A and 126 of IHTA 1984 includes paragraph 1 of Schedule 5 to that Act, section 126 of CTTA 1984 and paragraph 2 of Schedule 9 to FA 1975,

(b) the reference in that subsection to section 4 of IHTA is to section 22 of FA 1975,

(c) the reference in subsection (2) to the nil-rate band maximum includes the amount shown in the second column of the first row, and the first column of the second row, of the First Table in Schedule 1 to CTTA 1984 and the amount shown in the second column of the first row, and in the first column of the second row, of the First Table in section 37 of FA 1975, and

(d) the reference in subsection (4) to the personal nil-rate band maximum is to the amount shown in the second column of the first row, and in the first column of the second row, of the First Table in section 37 of FA 1975 at the time of the deceased person's death.

SCHEDULE 5

Section 14

FUEL DUTY: BIODIESEL AND BIOBLEND

1 HODA 1979 is amended as follows.

2 (1) Section 1 (hydrocarbon oil) is amended as follows.

(2) In subsection (1), for "Subsections (2) to (7) below" substitute "The following provisions".

(3) After subsection (7) insert—

"(8) "Kerosene" means heavy oil of which more than 50% by volume distils at a temperature of 240°C or less."

3 (1) Section 2A (power to amend definitions) is amended as follows.

(2) In subsection (1), for paragraphs (a) to (e) substitute—

"(a) biodiesel;
(b) bioethanol;
(c) unleaded petrol."

(3) Omit subsections (1A) and (1B).

4 In section 6AA (excise duty on biodiesel), after subsection (3) insert—

"(4) See section 14A (biodiesel used other than as fuel for road vehicles) for rebates on duty charged under this section."

5 In section 6AB (excise duty on bioblend), for subsections (3) and (4) substitute—

"(3) The rate per litre of duty under this section on any bioblend is the sum of—

(a) HO% of the rate per litre of duty under section 6 in the case of heavy oil, and
(b) BD% of the rate per litre of duty under section 6AA.

(4) In subsection (3)—

"HO%" means the percentage of the bioblend that is heavy oil, and

"BD%" means the percentage of the bioblend that is biodiesel,

where the percentages are by volume to the nearest 0.001%.

(4A) See section 14B (bioblend used other than as fuel for road vehicles) for rebates on duty charged under this section."

6 In section 8 (excise duty on road fuel gas)—

(a) in subsection (2), for "in" substitute "for", and
(b) omit subsection (6).

7 In section 10 (restrictions on use of duty-free oil), omit subsection (8).

8 In section 12 (rebate not allowed on fuel for road vehicles), omit subsection (3).

9 In section 13 (penalties for misuse of rebated heavy oil), omit subsection (7).

10 In section 13AA (restrictions on use of rebated kerosene), omit subsection (5).

11 In section 13AB (penalties for misuse of kerosene), omit subsections (3) and (4).

12 In section 14 (rebate on light oil for use as furnace fuel), omit subsection (9).

13 After that section insert—

"14A Rebate on biodiesel used other than as fuel for road vehicles

(1) This section applies if, at the excise duty point, it is intended that biodiesel on which duty under section 6AA is charged will not be—

(a) used as fuel for a road vehicle, or
(b) used as an additive or extender in any substance so used.

(2) A rebate of duty is to be allowed on the biodiesel at a rate of £0.0969 a litre less than the rate of duty under section 6AA.

(3) In this section "the excise duty point" has the same meaning as in section 1 of the Finance (No.2) Act 1992.

14B Rebate on bioblend used other than as fuel for road vehicles

(1) This section applies if, on the delivery for home use of bioblend on which duty under section 6AB is charged—

(a) it is intended that the bioblend will not be—

(i) used as fuel for a road vehicle, or

(ii) used as an additive or extender in any substance so used, and

(b) if the heavy oil used to produce the bioblend was kerosene, it is intended that the bioblend will not be—

(i) used as fuel for an engine within paragraph (a) or (b) of section 13AA(1), or

(ii) used as an additive or extender in any substance so used.

(2) A rebate of duty is to be allowed on the bioblend.

(3) The rate per litre of the rebate is the sum of—

(a) HO% of the relevant hydrocarbon rebate rate, and

(b) BD% of the relevant biodiesel rebate rate.

(4) "The relevant hydrocarbon rebate rate" is the rate specified in section 11(1) for the kind of heavy oil used to produce the bioblend.

(5) "The relevant biodiesel rebate rate" is—

(a) if the heavy oil used to produce the bioblend was kerosene, the rate of duty under section 6AA, and

(b) otherwise, the rate of the rebate under section 14A.

(6) Section 6AB(4) (meaning of "HO%" and "BD%") applies for the purposes of subsection (3).

14C Restrictions on use of rebated biodiesel and bioblend

(1) Rebated biodiesel or bioblend must not be—

(a) used as fuel for a road vehicle,

(b) used as an additive or extender in any substance so used, or

(c) taken into a road vehicle as fuel or as an additive or extender in any substance used as fuel.

(2) Rebated bioblend that was produced by mixing kerosene and biodiesel must not be—

(a) used as fuel for an engine within paragraph (a) or (b) of section 13AA(1),

(b) used as an additive or extender in any substance so used, or

(c) taken into the fuel supply of such an engine.

(3) Subsections (1) and (2) do not apply to a quantity of biodiesel or bioblend if the amount specified in subsection (4) has been paid to the Commissioners, in accordance with regulations, in respect of it.

(4) The amount is—

$$Q \times R$$

where—

Q is the quantity (in litres) of the biodiesel or bioblend, and

R is the rate of the rebate under section 14A or 14B at the time of payment.

(5) In subsection (3) "regulations" means regulations under section 24(1) made for the purposes of this section.

14D Penalties for misuse of rebated biodiesel or bioblend

(1) If biodiesel or bioblend is used or taken into a road vehicle in contravention of section 14C(1) or (2), the Commissioners may assess the amount specified in section 14C(4) as being excise duty due from any person who—

(a) used the biodiesel or bioblend, or

(b) was liable for it being taken into the vehicle,

and may notify the person or the person's representative accordingly.

(2) Conduct within any of the following paragraphs attracts a penalty under section 9 of the Finance Act 1994 (civil penalties)—

(a) using biodiesel or bioblend in contravention of section 14C(1) or (2),

(b) becoming liable for biodiesel or bioblend being taken into a vehicle or the fuel supply of an engine in contravention of section 14C(1) or (2), and

(c) supplying biodiesel or bioblend, intending that it will be put to a particular use that is a prohibited use.

(3) A person commits an offence if—

(a) the person intentionally uses biodiesel or bioblend in contravention of section 14C(1) or (2),

(b) the person is liable for biodiesel or bioblend being taken into a vehicle or the fuel supply of an engine in contravention of section 14C(1) or (2), and knows that the taking in is in contravention of that provision, or

(c) the person supplies biodiesel or bioblend, intending that it will be put to a particular use that is a prohibited use.

(4) "Prohibited use" means a use that would contravene section 14C(1) or (2) if no payment under section 14C(3) were made in respect of the biodiesel or bioblend.

(5) A person guilty of an offence under this section is liable—

(a) on summary conviction, to—

(i) a fine not exceeding the statutory maximum or (if it is greater) 3 times the value of the biodiesel or bioblend in question, or

(ii) imprisonment for a term not exceeding 12 months,

or both, and

(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 7 years or both.

(6) Subsection (5)(a)(ii) has effect as if the reference there to 12 months were to 6 months—

(a) in this section as it extends to England and Wales, in relation to offences committed before the commencement of section 282 of the Criminal Justice Act 2003 (increase in maximum term that may be imposed on summary conviction of offence triable either way), and

(b) in this section as it extends to Northern Ireland."

14 Omit section 17A (repayment of part of duty where biodiesel used otherwise than as road fuel).

15 (1) Section 20A (mixing: adjustment of duty) is amended as follows.

(2) For subsections (1) to (4) substitute—

"(1) Subsections (2) and (3) apply if—

(a) a relevant substance upon which duty under this Act has been charged is mixed in a pipe-line with another kind of relevant substance upon which such duty has been charged, and

(b) the mixing is approved mixing (see subsection (5)).

(2) If the Commissioners are of the opinion that—

(a) the amount of duty that would be charged on the mixture (if duty were charged at the time of mixing), is greater than

(b) the total amount of duty charged as mentioned in subsection (1)(a),

they may charge under this section a duty of excise on the mixture of an amount equal to the difference.

(3) If the Commissioners are of the opinion that the amount mentioned in subsection (2)(a) is less than the amount mentioned in subsection (2)(b), they may make under this section an allowance of an amount equal to the difference.

(4) Where a charge or allowance is made under this section, any relief or rebate which was permitted or allowed in respect of the charges mentioned in subsection (1)(a) is for the purposes of this Act to be disregarded.

(4A) In this section "relevant substance" means biodiesel, bioethanol, bioblend, bioethanol blend or hydrocarbon oil.

(4B) The cases that fall within subsection (1)(a) include cases where one kind of hydrocarbon oil is mixed with another kind of hydrocarbon oil."

(3) In subsection (5)(a), for the words from "in a" to "only)" substitute "relevant substances (or specified kinds of relevant substances) in a pipe-line".

16 (1) Section 20AAA (mixing of rebated oil) is amended as follows.

(2) Omit subsections (3) and (5).

(3) In subsection (9), for ", (2)(a) or (3)" substitute "or (2)(a)".

17 In section 20AA(1) (power to allow reliefs), after "12(2)" (in both places) insert "or 14C(3)".

18 Before section 21 (but after the heading "*Administration and enforcement*") insert—

"20AC Determination by Commissioners of composition of substance

(1) The Commissioners may, for any prescribed purpose, determine in such way as they consider appropriate the proportion of any substance that is biodiesel or bioethanol.

(2) In subsection (1) "prescribed purpose" means a purpose, prescribed by regulations made by the Commissioners, that relates to any duty under this Act."

19 In section 23 (prohibition on use etc of road fuel gas on which duty has not been paid), omit subsection (2).

20 (1) Section 24 (control of duty-free and rebated oil) is amended as follows.

(2) In subsection (1), for the words from "section 11," to "section 14(1)," substitute "any of sections 11 to 14C,".

(3) In subsection (2)—

(a) for the words from the beginning to "above" substitute "The regulations", and

(b) for the words from "subsection (2)" to the end substitute "section 12(2), 13AA(3) or 14C(3) are to be effective for the purposes of those provisions."

(4) In subsection (3)—

(a) after "hydrocarbon oil" insert ", biodiesel or bioblend", and

(b) in paragraph (b), for "or rebated light oil" substitute ", rebated light oil, rebated biodiesel or rebated bioblend".

(5) In subsection (4A)(a), after "oil" insert ", biodiesel or bioblend".

(6) In subsection (5), after "oil" insert ", biodiesel or bioblend".

21 In section 24A (penalties for misuse of marked oil), omit subsection (4).

22 (1) Section 27 (interpretation) is amended as follows.

(2) In subsection (1)—

(a) in the definition of "controlled oil", after "13AA" insert "or biodiesel or bioblend in respect of which a rebate has been allowed under section 14A or 14B",

(b) after that definition insert—

""excepted vehicle" means a vehicle that is an excepted vehicle within the meaning of Schedule 1;",

(c) after the definition of "hydrocarbon oil" insert—

""kerosene" has the meaning given by section 1(8);",

(d) in the definition of "rebate", after "14" insert ", 14A, 14B", and

(e) in the definition of "road vehicle", for the words from "vehicle which" to the end substitute "excepted vehicle;".

(3) After that subsection insert—

"(1ZA) For the purposes of this Act, a substance is used as fuel for a vehicle if (and only if) it is used as fuel for—

(a) the engine provided for propelling the vehicle, or
(b) an engine which draws fuel from the same supply as that engine.

(1ZB) For those purposes, a substance is taken into a vehicle as fuel, or as an additive or extender in any fuel, if (and only if) it is taken into the vehicle as part of the supply from which the engine provided for propelling the vehicle draws fuel.

(1ZC) For those purposes, the following persons are liable for a substance being taken into a vehicle or into the fuel supply of an engine—
(a) the person who has charge of the vehicle or engine at the time the substance is taken in, and
(b) the owner of the vehicle or engine at that time (or, if another person is entitled to possession of it at that time, that other person).

(1ZD) Subsection (1ZC) applies in relation to appliances and storage tanks as it applies in relation to vehicles."

23 In Schedule 4 (regulations under section 24), omit—
(a) in paragraph 3, "17A,", and
(b) in paragraph 22, the words from "and section 12(3)(a)" to the end.

24 In Schedule 5 (sampling), in paragraph 3(1), omit "of oil".

25 In consequence of the amendments of HODA 1979, omit—
(a) section 1(2) of FA 1987,
(b) section 5(5) of FA 1996,
(c) in FA 1997—
(i) section 7(7), and
(ii) in Schedule 6, paragraph 6(5),
(d) in FA 2002—
(i) section 5(3), and
(ii) in Schedule 2, paragraph 4, and
(e) in FA 2004—
(i) section 7(3), and
(ii) section 10(2).

26 The amendments made by this Schedule are treated as having come into force—
(a) so far as they confer a power to make regulations, on 19 March 2008, and
(b) for all other purposes, on 1 April 2008.

SCHEDULE 6

Section 16

AIRCRAFT AND BOAT FUEL, HEATING OIL AND FUEL USED FOR CERTAIN ENGINES

PART 1

FUEL USED IN AIRCRAFT AND BOATS

Aviation gasoline

1 HODA 1979 is amended as follows.

2 In section 1 (hydrocarbon oil), after subsection (3C) insert—

"(3D) "Aviation gasoline" means light oil which—

(a) is specially produced as fuel for aircraft,

(b) at 37.8°C, has a Reid Vapour Pressure of not less than 38kPa and not more than 49kPa, and

(c) is delivered for use solely as fuel for aircraft."

3 In section 2A(1) (power to amend definitions), before paragraph (a) insert—

"(za) aviation gasoline;".

4 (1) Section 6 (hydrocarbon oil: rates of duty) is amended as follows.

(2) In subsection (1), for the words from the beginning to "below, there" substitute "There".

(3) Omit subsections (3) and (4).

5 In section 24(1) (control of use of duty-free and rebated oil), omit "section 6(3),".

6 In section 27(1) (interpretation), in the definition of "aviation gasoline", for "section 6(4) above" substitute "section 1(3D)".

7 In Schedule 3 (regulations under section 21), omit paragraph 10A.

8 In consequence of the amendments made by paragraphs 2 to 7, omit—

(a) in FA 1982, section 4(2), (3) and (7),

(b) in FA 1990, section 3(5), and

(c) in FA 1998, section 6(1)(a).

Kerosene used for aviation (avtur)

9 HODA 1979 is amended as follows.

10 In the heading of section 13AB, for "**misuse of kerosene**" substitute "**contravention of section 13AA**".

11 After that section insert—

"13AC Use of rebated kerosene for private pleasure-flying

(1) This section applies in respect of kerosene upon which a rebate under section 11(1)(c) has been allowed.

(2) The kerosene must not be used as fuel for private pleasure-flying.

(3) If, on the supply of a quantity of the kerosene to a person, the person makes a relevant declaration to the supplier—

(a) subsection (2) does not apply in relation to that kerosene, and

(b) the person must pay, in accordance with regulations, the amount specified in subsection (4) to the Commissioners.

(4) The amount is—

$$Q \times R$$

where—

Q is the quantity (in litres) of the kerosene, and

R is the rate of the rebate under section 11(1)(c) at the time of the declaration.

(5) The amount referred to in subsection (3)(b) is to be treated, for the purposes of section 12 of the Finance Act 1994 (assessments to excise duty), as an amount of excise duty.

(6) Regulations may provide, in cases where kerosene to which subsection (2) applies and other kerosene is taken into an aircraft as fuel, for the order in which the different kinds of kerosene are to be treated (for the purposes of this section and section 13AD) as used.

(7) In this section—

"private pleasure-flying" has the same meaning as in Article 14(1)(b) of Council Directive 2003/96/EC (taxation of energy products etc),

"regulations" means regulations under section 24(1) made for the purposes of this section, and

"relevant declaration", in relation to a quantity of kerosene, means a declaration, made in the way and form specified by or under regulations, that the kerosene is to be used for private pleasure-flying.

13AD Penalties for contravention of section 13AC

(1) This section applies if a person—

(a) uses a quantity of kerosene in contravention of section 13AC(2), or

(b) fails to comply with section 13AC(3)(b).

(2) The Commissioners may assess the amount specified in section 13AC(4) as being excise duty due from the person, and may notify the person or the person's representative accordingly.

(3) The use or failure attracts a penalty under section 9 of the Finance Act 1994 (civil penalties).

(4) For the purposes of that section, if this section applies by virtue of subsection (1)(b)—

(a) the amount referred to in section 13AC(3)(b) is to be treated as an amount of excise duty,

(b) the penalty for the failure is to be calculated by reference to that amount, and

(c) the failure also attracts daily penalties.

(5) If this section applies by virtue of subsection (1)(a), for the purpose of subsection (2) the reference in section 13AC(4) to the time of the declaration is to be read as the time of use."

Fuel for private pleasure craft

12 HODA 1979 is amended as follows.

13 (1) Section 14A (rebate on biodiesel used other than as fuel for road vehicles) is amended as follows.

(2) In subsection (1)—

(a) omit the "or" at the end of paragraph (a),

(b) after that paragraph insert—

"(aa) used as fuel for propelling private pleasure craft, or", and

(c) in paragraph (b), for "so used" substitute "used as mentioned in paragraph (a) or (aa)".

(3) After subsection (3) insert—

"(4) In this section "private pleasure craft" has the same meaning as in section 14E."

(4) Accordingly, in the heading, insert at the end "**etc**".

14 (1) Section 14C (restrictions on use of rebated biodiesel and bioblend) is amended as follows.

(2) In subsection (1)—

(a) omit the "or" at the end of paragraph (b), and

(b) after paragraph (c) insert ", or

(d) (in the case of rebated biodiesel) used as fuel for propelling private pleasure craft or as an additive or extender in any substance so used."

(3) After subsection (4) insert—

"(4A) In subsection (1) "private pleasure craft" has the same meaning as in section 14E."

15 After section 14D insert—

"14E Rebated heavy oil and bioblend: private pleasure craft

(1) This section applies in respect of rebated heavy oil or bioblend.

(2) The heavy oil or bioblend must not be used as fuel for propelling private pleasure craft.

(3) If, on the supply by a person ("the supplier") of a quantity of the heavy oil or bioblend to another person, the other person makes a relevant declaration to the supplier—

(a) subsection (2) does not apply in relation to that heavy oil or bioblend, and

(b) the supplier must pay, in accordance with regulations, the amount specified in subsection (4) to the Commissioners.

(4) The amount is—

$$Q \times R$$

where—

Q is the quantity (in litres) of the heavy oil or bioblend, and

R is the rate of the relevant rebate at the time of supply.

(5) The "relevant rebate" is—

(a) in the case of heavy oil upon which rebate was allowed under section 13ZA or 13AA(1), the rebate under that provision,

(b) in the case of heavy oil to which paragraph (a) does not apply, the rebate under section 11 for that kind of heavy oil, and

(c) in the case of bioblend, the rebate under section 11(1)(b).

(6) The amount referred to in subsection (3)(b) is to be treated, for the purposes of section 12 of the Finance Act 1994 (assessments to excise duty), as an amount of excise duty.

(7) Regulations may provide, in cases where heavy oil or bioblend to which subsection (2) applies and other heavy oil or bioblend is taken into a craft as fuel, for the order in which the different substances are to be treated (for the purposes of this section and section 14F) as used.

(8) In this section—

"private pleasure craft" has the same meaning as in Article 14(1)(c) of Council Directive 2003/96/EC (taxation of energy products etc),

"regulations" means regulations under section 24(1) made for the purposes of this section, and

"relevant declaration", in relation to a quantity of heavy oil or bioblend, means a declaration, made in the way and form specified by or under regulations, that the heavy oil or bioblend is to be used as fuel for propelling private pleasure craft.

14F Penalties for contravention of section 14E

(1) This section applies if a person—

(a) uses a quantity of rebated heavy oil or bioblend in contravention of section 14E(2), or

(b) fails to comply with section 14E(3)(b).

(2) The Commissioners may assess the amount specified in section 14E(4) as being excise duty due from the person, and may notify the person or the person's representative accordingly.

(3) The use or failure attracts a penalty under section 9 of the Finance Act 1994 (civil penalties).

(4) For the purposes of that section, if this section applies by virtue of subsection (1)(b)—

(a) the amount referred to in section 14E(3)(b) is to be treated as an amount of excise duty,

(b) the penalty for the failure is to be calculated by reference to that amount, and

(c) the failure also attracts daily penalties.

(5) If this section applies by virtue of subsection (1)(a), for the purpose of subsection (2) the reference in section 14E(4) to the time of supply is to be read as the time of use."

16 In section 24(1) (control of use of duty-free and rebated oil), for "14C" substitute "14E".

Consequential amendments

17 FA 1994 is amended as follows.

18 In section 12A(3)(c) (other assessment relating to excise duty matters)—
(a) after "13AB," insert "13AD,", and
(b) after "14," insert "14F,".

19 In section 12B(2)(f) (section 12A: supplementary provisions)—
(a) after "13AB," insert "13AD,", and
(b) after "14" insert ", 14F".

20 In section 14(1)(ba) (requirement for review of a decision)—
(a) after "13AB," insert "13AD,", and
(b) after "14," insert "14F,".

Commencement etc

21 The amendments made by this Part of this Schedule come into force on 1 November 2008.

22 But section 13AC(2) of HODA 1979 does not apply to kerosene upon which a rebate under section 11(1)(c) of that Act was allowed before that date if it was supplied for use as fuel for an aircraft before that date.

23 And section 14E(2) of that Act does not apply to heavy oil or bioblend upon which a rebate was allowed before that date if it was supplied for use as fuel for a craft before that date.

PART 2

HEAVY OIL USED FOR HEATING OR AS FUEL FOR CERTAIN ENGINES

Amendments of HODA 1979

24 HODA 1979 is amended as follows.

25 In section 11(1) (rebate on heavy oil), for "13, 13AA and 13AB below" substitute "12(1), 13ZA and 13AA(1)".

26 In section 12(2) (rebated heavy oil not to be used as fuel for road vehicles), after "above or" insert "section 13ZA or".

27 In the heading of section 13 (penalties for misuse of rebated heavy oil), for "**misuse of rebated heavy oil**" substitute "**contravention of section 12**".

28 After that section insert—

"13ZA Rebate on certain heavy oil used for heating etc

(1) This section applies if, on the delivery of heavy oil (other than kerosene) upon which rebate at the rate mentioned in section 11(1)(c) would otherwise be allowed, it is intended to use the heavy oil—

(a) for heating, or

(b) as fuel for an engine.

(2) Rebate is to be allowed on the heavy oil at the rate mentioned in section 11(1)(a) (rather than at the rate mentioned in section 11(1)(c)).

(3) Nothing in this section applies in relation to heavy oil to which section 12(1) applies.

13ZB Restrictions on supply of certain heavy oil for heating etc

(1) If a person supplies relevant heavy oil, having reason to believe that it will be put to a particular use that is a prohibited use—

(a) the Commissioners may assess the amount specified in subsection (3) as being excise duty due from the person (and may notify the person or the person's representative accordingly), and

(b) the supply of the heavy oil is conduct that attracts a penalty under section 9 of the Finance Act 1994 (civil penalties).

(2) Subsection (1) does not apply in relation to a quantity of relevant heavy oil if (before the time of supply) the amount specified in subsection (3) has been paid to the Commissioners, in accordance with regulations, in respect of it.

(3) The amount is—

$$Q \times RRFO$$

where—

Q is the quantity (in litres) of the relevant heavy oil, and

RRFO is the rate for rebated fuel oil at the time of payment.

(4) For the purposes of subsection (3) the rate for rebated fuel oil at any time is—

(a) the rate of duty under section 6(1A)(c) at that time, minus

(b) the rate of rebate allowable under section 11(1)(a) at that time.

(5) In this section—

"prohibited use" means—

(a) use for heating, or

(b) use as fuel for an engine (except where such use would amount to use as fuel for a road vehicle),

"regulations" means regulations under section 24(1) made for the purposes of this section, and

"relevant heavy oil" means heavy oil, other than kerosene, upon which rebate at the rate mentioned in section 11(1)(c) has been allowed.

(6) Nothing in this section applies to a person who supplies relevant heavy oil for re-processing."

29 In section 20AAA(6)(b) (mixing of rebated oil), before "13AA" insert "13ZA or".

30 In section 20AA(1) (power to allow reliefs), after "12(2)" (in both places) insert ", 13ZB(2)".

31 In section 24(2) (control of use of duty-free and rebated oil), after "12(2)," insert "13ZB(2),".

32 In section 27(1) (interpretation), in the definition of "rebate", after "11," insert "13ZA,".

Amendments of FA 1994

33 FA 1994 is amended as follows.

34 In section 12A(3)(c) (other assessment relating to excise duty matters), after "13," insert "13ZB,".

35 In section 12B(2)(f) (section 12A: supplementary provisions), after "13," insert "13ZB,".

36 In section 14(1)(ba) (requirement for review of a decision), after "13," insert "13ZB,".

Commencement

37 The amendments made by this Part of this Schedule come into force on 1 November 2008.

SCHEDULE 7

Section 25

REMITTANCE BASIS

PART 1

MAIN PROVISIONS

Remittance basis - general

1 In Part 14 of ITA 2007 (income tax liability: miscellaneous rules), before

Chapter 1 insert—

"CHAPTER A1

REMITTANCE BASIS

Introduction

809A Overview of Chapter

This Chapter provides for an alternative basis of charge in the case of individuals who are not domiciled in the United Kingdom or are not ordinarily UK resident.

Application of remittance basis

809B Claim for remittance basis to apply

(1) This section applies to an individual for a tax year if the individual—
  (a) is UK resident in that year,
  (b) is not domiciled in the United Kingdom in that year or is not ordinarily UK resident in that year, and
  (c) makes a claim under this section for that year.

(2) The claim must contain one or both of the following statements—
  (a) that the individual is not domiciled in the United Kingdom in that year;
  (b) that the individual is not ordinarily UK resident in that year.

(3) Sections 42 and 43 of TMA 1970 (procedure and time limit for making claims), except section 42(1A) of that Act, apply in relation to a claim under this section as they apply in relation to a claim for relief.

809C Claim for remittance basis by long-term UK resident: nomination of foreign income and gains to which section 809H(2) is to apply

(1) This section applies to an individual for a tax year if the individual—
  (a) is aged 18 or over in that year, and
  (b) has been UK resident in at least 7 of the 9 tax years immediately preceding that year.

(2) A claim under section 809B by the individual for that year must contain a nomination of the income or chargeable gains of the individual for that year to which section 809H(2) is to apply.

(3) The income or chargeable gains nominated must be part (or all) of the individual's foreign income and gains for that year.

(4) The income and chargeable gains nominated must be such that the relevant tax increase does not exceed £30,000.

(5) "The relevant tax increase" is—
  (a) the total amount of income tax and capital gains tax payable by the individual for that year, minus
  (b) the total amount of income tax and capital gains tax that would be payable by the individual for that year apart from section 809H(2).

(6) See section 809Z7 for the meaning of an individual's foreign income and gains for a tax year.

809D Application of remittance basis without claim where unremitted foreign income and gains under £2,000

(1) This section applies to an individual for a tax year if—
  (a) the individual is UK resident in that year,
  (b) the individual is not domiciled in the United Kingdom in that year or is not ordinarily UK resident in that year, and
  (c) the amount of the individual's unremitted foreign income and gains for that year is less than £2,000.

(2) The amount of an individual's "unremitted" foreign income and gains for a tax year is—
  (a) the total amount of what would (if this section applied) be the individual's foreign income and gains for that year, minus
  (b) the total amount of those income and gains that are remitted to the United Kingdom in that year.

809E Application of remittance basis without claim: other cases

(1) This section applies to an individual for a tax year if—
  (a) the individual is UK resident in that year,
  (b) the individual is not domiciled in the United Kingdom in that year or is not ordinarily UK resident in that year,
  (c) the individual has no UK income or gains for that year,
  (d) no relevant income or gains are remitted to the United Kingdom in that year, and
  (e) either—
    (i) the individual has been UK resident in not more than 6 of the 9 tax years immediately preceding that year, or
    (ii) the individual is under 18 throughout that year.

(2) For the purposes of subsection (1)(c) the individual's UK income and gains for the tax year are the individual's income and chargeable gains for that year other than what would (if this section applied) be the individual's foreign income and gains for that year.

(3) For the purposes of subsection (1)(d) relevant income and gains are—
  (a) what would (if this section applied) be the individual's foreign income and gains for the tax year mentioned in subsection (1), and
  (b) the individual's foreign income and gains for every other tax year for which section 809B or 809D or this section applies to the individual.

Effect of section 809B, 809D or 809E applying

809F Effect on what is chargeable

(1) This section applies if section 809B, 809D or 809E applies to an individual for a tax year.

(2) The individual's relevant foreign earnings for that year are charged in accordance with section 22 or 26 of ITEPA 2003.

(3) The individual's relevant foreign income for that year is charged in accordance with section 832 of ITTOIA 2005.

(4) If the individual is not domiciled in the United Kingdom in that year, the individual's foreign chargeable gains for that year are charged in accordance with section 12 of TCGA 1992.

(5) For the effect on amounts which count as employment income of the individual under certain provisions of Part 7 of ITEPA 2003 (employment-related securities), see Chapter 5A of Part 2 of that Act.

(6) Nothing in this section applies in relation to nominated income or chargeable gains (see section 809H).

809G Claim for remittance basis: effect on allowances etc

(1) This section applies if section 809B (claim for remittance basis to apply) applies to an individual for a tax year.

(2) For that year, the individual is not entitled to—
  (a) any allowance under Chapter 2 of Part 3 (personal allowance and blind person's allowance),
  (b) any tax reduction under Chapter 3 of that Part (tax reductions for married couples and civil partners), or
  (c) any relief under section 457, 458 or 459 (payments for life insurance etc).

(3) See also section 3(1A) of TCGA 1992 (no annual exempt amount for chargeable gains).

809H Claim for remittance basis by long-term UK resident: charge

(1) This section applies if—
  (a) section 809B (claim for remittance basis to apply) applies to an individual for a tax year ("the relevant tax year"),
  (b) the individual is aged 18 or over in the relevant tax year, and
  (c) the individual has been UK resident in at least 7 of the 9 tax years immediately preceding the relevant tax year.

(2) Income tax is charged on nominated income, and capital gains tax is charged on nominated chargeable gains, as if section 809B did not apply to the individual for the relevant tax year (and neither did section 809D).

(3) "Nominated" income or chargeable gains means income or chargeable gains nominated under section 809C in the individual's claim under section 809B for the relevant tax year.

(4) If the relevant tax increase would otherwise be less than £30,000, subsection (2) has effect as if—
  (a) in addition to the income and gains actually nominated under section 809C in the individual's claim under section 809B for the relevant tax year, an amount of income had been nominated so as to make the relevant tax increase equal to £30,000, and

(b) the individual's income for that year were such that such a nomination could have been made (if that is not the case).

(5) "The relevant tax increase" is—

(a) the total amount of income tax and capital gains tax payable by the individual for the relevant tax year, minus

(b) the total amount of income tax and capital gains tax that would be payable by the individual for the relevant tax year apart from subsection (2).

(6) Nothing in subsection (4) affects what is regarded, for the purposes of section 809I or 809J, as nominated under section 809C.

809I Remittance basis charge: income and gains treated as remitted

(1) This section applies if—

(a) any of an individual's nominated income and gains is remitted to the United Kingdom in a tax year, and

(b) any of the individual's remittance basis income and gains has not been remitted to the United Kingdom in or before that year.

(2) Income tax and capital gains tax are charged, for that year and subsequent tax years, as if the income and chargeable gains treated under section 809J as remitted to the United Kingdom by the individual in that tax year had been so remitted (and income and chargeable gains of the individual that were actually remitted in that year had not been).

(3) An individual's "nominated income and gains" are the total income and chargeable gains nominated by the individual under section 809C for the tax year mentioned in subsection (1)(a) or any earlier tax year.

(4) An individual's "remittance basis income and gains" are the foreign income and gains of the individual for all the tax years (up to and including the tax year mentioned in subsection (1)(a)) for which section 809B, 809D or 809E applies to the individual, apart from the individual's nominated income and gains.

809J Section 809I: order of remittances

(1) If section 809I applies, the following steps are to be taken for the purpose of determining the income or gains treated in a tax year ("the relevant tax year") as remitted to the United Kingdom by the individual.

Step 1

Find the total amount of—

(a) the individual's nominated income and gains, and

(b) the individual's remittance basis income and gains,

that have been remitted to the United Kingdom in the relevant tax year.

This amount is "the relevant amount".

Step 2

Find the amount of foreign income and gains of the individual for the relevant tax year (other than income or chargeable gains nominated

under section 809C) that is within each of the categories of income and gains in paragraphs (a) to (h) of subsection (2).

If none of sections 809B, 809D and 809E apply to the individual for that year, treat those amounts as nil (and accordingly go to step 6).

Step 3

Find the earliest paragraph for which the amount determined under step 2 is not nil.

If that amount does not exceed the relevant amount, treat the individual as having remitted the income or gains within that paragraph (and for that tax year).

Otherwise, treat the individual as having remitted the relevant proportion of each kind of income or gains within that paragraph (and for that tax year).

"The relevant proportion" is the relevant amount divided by the amount determined under step 2 for that paragraph.

Step 4

Reduce the relevant amount by the amount taken into account under step 3.

Step 5

If the relevant amount (as reduced under step 4) is not nil, start again at step 3.

In step 3, read the reference to the earliest paragraph of the kind mentioned there as a reference to the earliest such paragraph which has not previously been taken into account under that step.

Step 6

If the relevant amount (as reduced) is not nil once steps 3 to 5 have been undertaken in relation to all paragraphs of subsection (2) for which the amount determined under step 2 is not nil, start again at step 2.

In step 2, read the reference to the foreign income and gains of the individual for the relevant tax year as a reference to such of the foreign income and gains of the individual for the appropriate tax year as had not been remitted by the beginning of the relevant tax year.

"The appropriate tax year" is the latest tax year which is—

(a) before the last tax year for which step 2 has been undertaken, and

(b) a tax year for which section 809B, 809D or 809E applies to the individual.

(2) The kinds of income and gains are—

(a) relevant foreign earnings (other than those subject to a foreign tax),

(b) foreign specific employment income (other than income subject to a foreign tax),

(c) relevant foreign income (other than income subject to a foreign tax),

(d) foreign chargeable gains (other than gains subject to a foreign tax),

(e) relevant foreign earnings subject to a foreign tax,

(f) foreign specific employment income subject to a foreign tax,

(g) relevant foreign income subject to a foreign tax, and
(h) foreign chargeable gains subject to a foreign tax.

(3) In this section the individual's "nominated income and gains" are the total income and chargeable gains nominated by the individual under section 809C for the relevant tax year or any earlier tax year.

(4) In step 1 of subsection (1) the individual's "remittance basis income and gains" are the foreign income and gains of the individual for all the tax years (up to and including the relevant tax year) for which section 809B, 809D or 809E applies to the individual, apart from the individual's nominated income and gains.

(5) In step 6 of subsection (1) the reference to income or gains being remitted is—
(a) as respects any tax year before section 809I applies, to income or gains being remitted to the United Kingdom, and
(b) as respects any tax year in relation to which that section applies, to income or gains treated under this section as so remitted.

(6) In subsection (2) "foreign tax" means any tax chargeable under the law of a territory outside the United Kingdom.

Remittance of income and gains: introduction

809K Sections 809L to 809Z6: introduction

(1) Sections 809L to 809Z6 apply for the purposes of—
(a) this Chapter,
(b) sections 22 and 26 of ITEPA 2003 (relevant foreign earnings charged on remittance basis),
(c) section 41A of that Act (specific employment income from securities etc charged on remittance basis),
(d) section 832 of ITTOIA 2005 (relevant foreign income charged on remittance basis), and
(e) section 12 of TCGA 1992 (foreign chargeable gains charged on remittance basis).

(2) Those sections—
(a) explain what is meant by income or chargeable gains being "remitted to the United Kingdom" (sections 809L to 809O),
(b) provide for the calculation of the amount remitted (section 809P),
(c) contain rules for attributing transfers from mixed funds to particular kinds of income and capital (sections 809Q to 809S),
(d) contain supplementary provision for certain cases (sections 809T and 809U), and
(e) treat income or chargeable gains as not remitted to the United Kingdom in certain cases (sections 809V to 809Z6).

Remittance of income and gains: meaning of "remitted to the United Kingdom"

809L Meaning of "remitted to the United Kingdom"

(1) An individual's income is, or chargeable gains are, "remitted to the United Kingdom" if—

(a) conditions A and B are met,

(b) condition C is met, or

(c) condition D is met.

(2) Condition A is that—

(a) money or other property is brought to, or received or used in, the United Kingdom by or for the benefit of a relevant person, or

(b) a service is provided in the United Kingdom to or for the benefit of a relevant person.

(3) Condition B is that—

(a) the property, service or consideration for the service is (wholly or in part) the income or chargeable gains,

(b) the property, service or consideration—

(i) derives (wholly or in part, and directly or indirectly) from the income or chargeable gains, and

(ii) in the case of property or consideration, is property of or consideration given by a relevant person,

(c) the income or chargeable gains are used outside the United Kingdom (directly or indirectly) in respect of a relevant debt, or

(d) anything deriving (wholly or in part, and directly or indirectly) from the income or chargeable gains is used as mentioned in paragraph (c).

(4) Condition C is that qualifying property of a gift recipient—

(a) is brought to, or received or used in, the United Kingdom, and is enjoyed by a relevant person,

(b) is consideration for a service that is enjoyed in the United Kingdom by a relevant person, or

(c) is used outside the United Kingdom (directly or indirectly) in respect of a relevant debt.

(5) Condition D is that property of a person other than a relevant person (apart from qualifying property of a gift recipient)—

(a) is brought to, or received or used in, the United Kingdom, and is enjoyed by a relevant person,

(b) is consideration for a service that is enjoyed in the United Kingdom by a relevant person, or

(c) is used outside the United Kingdom (directly or indirectly) in respect of a relevant debt,

in circumstances where there is a connected operation.

(6) In a case where subsection (4)(a) or (b) or (5)(a) or (b) applies to the importation or use of property, the income or chargeable gains are taken to be remitted at the time the property or service is first enjoyed by a relevant person by virtue of that importation or use.

(7) In this section "relevant debt" means a debt that relates (wholly or in part, and directly or indirectly) to—

(a) property falling within subsection (2)(a),

(b) a service falling within subsection (2)(b),

(c) qualifying property dealt with as mentioned in subsection (4)(a),

(d) a service falling within subsection (4)(b),

(e) qualifying property dealt with as mentioned in subsection (5)(a), or

(f) a service falling within subsection (5)(b).

(8) For the purposes of this section, the reference to a debt that relates to property or a service includes a debt for interest on money lent, where the lending relates to the property or service.

(9) The cases in which income or chargeable gains are used in respect of a debt include cases where income or chargeable gains are used to pay interest on the debt.

(10) This section is subject to sections 809V to 809Z6 (property treated as not remitted to the United Kingdom).

809M Meaning of "relevant person"

(1) This section applies for the purposes of sections 809L, 809N and 809O.

(2) A "relevant person" is—

(a) the individual,

(b) the individual's husband or wife,

(c) the individual's civil partner,

(d) a child or grandchild of a person falling within any of paragraphs (a) to (c), if the child or grandchild has not reached the age of 18,

(e) a close company in which a person falling within any other paragraph of this subsection is a participator,

(f) a company in which a person falling within any other paragraph of this subsection is a participator, and which would be a close company if it were resident in the United Kingdom,

(g) the trustees of a settlement of which a person falling within any other paragraph of this subsection is a beneficiary, or

(h) a body connected with such a settlement.

(3) For that purpose—

(a) a man and woman living together as husband and wife are treated as if they were husband and wife,

(b) two people of the same sex living together as if they were civil partners of each other are treated as if they were civil partners of each other,

(c) "close company" has the same meaning as in the Corporation Tax Acts (see sections 414 and 415 of ICTA),

(d) "settlement" and "settlor" have the same meaning as in Chapter 2 of Part 9,

(e) "beneficiary", in relation to a settlement, means any person who receives, or may receive, any benefit under or by virtue of the settlement,

(f) "trustee" has the same meaning as in section 993 (see, in particular, section 994(3)), and

(g) a body is "connected with" a settlement if the body falls within section 993(3)(c), (d), (e) or (f) as regards the settlement.

809N Section 809L: gift recipients, qualifying property and enjoyment

(1) This section applies for the purposes of determining whether or not income or chargeable gains of an individual are remitted to the United Kingdom by virtue of condition C in section 809L.

(2) A "gift recipient" means a person, other than a relevant person, to whom the individual makes a gift of money or other property that—

(a) is income or chargeable gains of the individual, or

(b) derives (wholly or in part, and directly or indirectly) from income or chargeable gains of the individual.

(3) The question of whether or not a person is a relevant person is to be determined by reference to the time when a gift is made.

(4) But, if a person to whom a gift is made subsequently becomes a relevant person, the person ceases to be a gift recipient.

(5) The individual "makes a gift of" property if the individual disposes of the property—

(a) for no consideration, or

(b) for consideration less than the full consideration in money or money's worth that would be given if the disposal were by way of a bargain made at arm's length;

but, in a case falling in paragraph (b), the individual is to be taken to make a gift of only so much of the property as exceeds the consideration actually given.

(6) A reference to the individual making a gift of property includes a case where—

(a) the individual retains an interest in the property, or

(b) an interest, right or arrangement enables or entitles the individual to benefit from the property.

(7) "Qualifying property", in relation to a gift recipient, is—

(a) the property that the individual gave to the gift recipient,

(b) anything that derives (wholly or in part, and directly or indirectly) from that property, or

(c) any other property, but only if it is dealt with as mentioned in section 809L(4)(a), (b) or (c) by virtue of an operation which is effected—

(i) with reference to the gift of the property to the gift recipient, or

(ii) with a view to enabling or facilitating the gift of the property to the gift recipient to be made.

(8) In subsection (7)—

(a) the reference in paragraph (b) to anything deriving from property, and

(b) the reference in paragraph (c) to other property,

includes a thing, or property, that does not belong to the individual but which the individual is enabled or entitled to benefit from by virtue of any interest, right or arrangement.

(9) Enjoyment by a relevant person of property or a service is to be disregarded in any of these cases—

(a) if the property or service is enjoyed virtually to the entire exclusion of all relevant persons,

(b) if full consideration in money or money's worth is given by a relevant person for the enjoyment, or

(c) if the property or service is enjoyed by relevant persons in the same way, and on the same terms, as it may be enjoyed by the general public or by a section of the general public.

809O Section 809L: dealings where there is a connected operation

(1) This section applies for the purposes of determining whether or not income or chargeable gains of an individual are remitted to the United Kingdom by virtue of condition D in section 809L.

(2) For the purposes of section 809L(5), the question of whether or not the person whose property is dealt with as mentioned in paragraph (a), (b) or (c) of section 809L(5) is a relevant person is to be determined by reference to the time when the property is so dealt with.

(3) A "connected operation", in relation to property dealt with as mentioned in section 809L(5)(a), (b) or (c), means an operation which is effected—

(a) with reference to a qualifying disposition, or

(b) with a view to enabling or facilitating a qualifying disposition.

(4) A "qualifying disposition" is a disposition that—

(a) is made by a relevant person,

(b) is made to, or for the benefit of, the person whose property is dealt with as mentioned in section 809L(5)(a), (b) or (c), and

(c) is a disposition of money or other property that is, or derives (wholly or in part, and directly or indirectly) from, income or chargeable gains of the individual.

(5) But a disposition of property is not a qualifying disposition if the disposition is, or is part of, the giving of full consideration in money or money's worth for the dealing that falls within section 809L(5)(a), (b) or (c).

(6) Enjoyment by a relevant person of property or a service is to be disregarded in any of these cases—

(a) if the property or service is enjoyed virtually to the entire exclusion of all relevant persons,

(b) if full consideration in money or money's worth is given by a relevant person for the enjoyment, or

(c) if the property or service is enjoyed by relevant persons in the same way, and on the same terms, as it may be enjoyed by the general public or by a section of the general public.

Remittance of income and gains: amount remitted

809P Section 809L: amount remitted

(1) The amount of income or chargeable gains remitted to the United Kingdom is to be determined as follows.

(2) If the property, service or consideration is the income or chargeable gains, the amount remitted is equal to the amount of the income or chargeable gains.

(3) If the property, service or consideration derives from the income or chargeable gains, the amount remitted is equal to the amount of income or chargeable gains from which the property, service or consideration derives.

(4) If the income or chargeable gains are used as mentioned in section 809L(3)(c), the amount remitted is equal to the amount of income or chargeable gains used; but this is subject to subsection (10).

(5) If anything deriving from the income or chargeable gains is used as mentioned in section 809L(3)(c), the amount remitted is equal to the amount of income or chargeable gains from which what is used derives; but this is subject to subsection (10).

(6) In a case falling within section 809L(4)(a) or (b), the amount remitted is equal to the amount of the relevant income or chargeable gains.

(7) In a case falling within section 809L(4)(c), the amount remitted is equal to the amount of the relevant income or chargeable gains; but this is subject to subsection (10).

(8) In a case falling within section 809L(5)(a) or (b), the amount remitted is equal to the amount of the income or chargeable gains referred to in section 809O(4)(c).

(9) In a case falling within section 809L(5)(c), the amount remitted is equal to the amount of the income or chargeable gains referred to in section 809O(4)(c); but this is subject to subsection (10).

(10) If the debt is only partly in respect of the property or service, the amount remitted is (if it would otherwise be greater) limited to the amount the debt would be if it were wholly in respect of the property or service.

(11) In subsections (6) and (7) "relevant income or chargeable gains" means—

(a) if the qualifying property falls within section 809N(7)(a), the income or gains—

(i) of which the qualifying property consists, or

(ii) from which the qualifying property derives;

(b) if the qualifying property falls within section 809N(7)(b), the income or gains—

(i) of which the property given to the gift recipient consisted, or

(ii) from which that property derived;

(c) if the qualifying property falls within section 809N(7)(c), the income or gains—

(i) of which the property given to the gift recipient consists, or

(ii) from which that property derives.

(12) If the amount remitted (taken together with any amount previously remitted) would otherwise exceed the amount of the income or chargeable gains, the amount remitted is limited to the amount which (when taken together with any amount previously remitted) is equal to the amount of the income or chargeable gains.

Remittance of income and gains: transfers from mixed funds

809Q Sections 809L and 809P: transfers from mixed funds

(1) This section applies for the purposes mentioned in subsection (2) where condition A in section 809L is met and—

(a) the property or consideration for the service is (wholly or in part), or derives (wholly or in part, and directly or indirectly) from, a transfer from a mixed fund, or

(b) a transfer from a mixed fund, or anything deriving (wholly or in part, and directly or indirectly) from such a transfer, is used as mentioned in section 809L(3)(c).

(2) The purposes referred to in subsection (1) are—

(a) determining whether condition B in section 809L is met, and

(b) if it is met, determining (under section 809P) the amount of income or chargeable gains remitted.

(3) The extent to which the transfer is of the individual's income or chargeable gains is to be determined as follows.

Step 1

For each of the categories of income and capital in paragraphs (a) to (i) of subsection (4), find (applying section 809R) the amount of income or capital of the individual for the relevant tax year in the mixed fund immediately before the transfer.

"The relevant tax year" is the tax year in which the transfer occurs.

Step 2

Find the earliest paragraph for which the amount determined under step 1 is not nil.

If that amount does not exceed the amount of the transfer, treat the transfer as containing the income or capital within that paragraph (and for that tax year).

Otherwise, treat the transfer as containing the relevant proportion of each kind of income or capital within that paragraph (and for that tax year).

"The relevant proportion" is the amount of the transfer divided by the amount determined under step 1 for that paragraph.

Step 3

Treat the amount of the transfer as reduced by the amount taken into account under step 2.

Step 4

If the amount of the transfer (as reduced under step 3) is not nil, start again at step 2.

In step 2, read the reference to the earliest paragraph of the kind mentioned there as a reference to the earliest such paragraph which has not previously been taken into account under that step in relation to the transfer.

Step 5

If the amount of the transfer (as reduced under step 3) is not nil once steps 2 and 3 have been undertaken in relation to all paragraphs of subsection (4) for which the amount determined under step 1 is not nil, start again at step 1.

In step 1, read the reference to the relevant tax year as a reference to the tax year immediately before the last tax year for which step 1 has been undertaken in relation to the transfer.

(4) The kinds of income and capital are—

(a) employment income (other than income within paragraph (b), (c) or (f)),

(b) relevant foreign earnings (other than income within paragraph (f)),

(c) foreign specific employment income (other than income within paragraph (f)),

(d) relevant foreign income (other than income within paragraph (g)),

(e) foreign chargeable gains (other than chargeable gains within paragraph (h)),

(f) employment income subject to a foreign tax,

(g) relevant foreign income subject to a foreign tax,

(h) foreign chargeable gains subject to a foreign tax, and

(i) income or capital not within another paragraph of this subsection.

(5) In subsection (4) "foreign tax" means any tax chargeable under the law of a territory outside the United Kingdom.

(6) In this section "mixed fund" means money or other property which, immediately before the transfer, contains or derives from—

(a) more than one of the kinds of income and capital mentioned in subsection (4), or

(b) income or capital for more than one tax year.

(7) References in this section to the amount of the transfer include the market value of it.

(8) References in this section and section 809R to anything deriving from income or capital within paragraph (i) of subsection (4) do not include—

(a) income or gains within any of paragraphs (a) to (h) of that subsection, or

(b) anything deriving from such income or gains.

809R Section 809Q: composition of mixed fund

(1) This section applies for the purposes of step 1 of section 809Q(3) (composition of mixed fund).

(2) Treat property which derives wholly or in part (and directly or indirectly) from an individual's income or capital for a tax year as consisting of or containing that income or capital.

(3) If a debt relating (wholly or in part, and directly or indirectly) to property is at any time satisfied (wholly or in part) by—

(a) an individual's income or capital for a tax year, or

(b) anything deriving (directly or indirectly) from such income or capital,

from that time treat the property as consisting of or containing the income or capital if and to the extent that it is just and reasonable to do so.

(4) Treat an offshore transfer from a mixed fund as containing the appropriate proportion of each kind of income or capital in the fund immediately before the transfer.

"The appropriate proportion" means the amount (or market value) of the transfer divided by the market value of the mixed fund immediately before the transfer.

(5) A transfer from a mixed fund is an "offshore transfer" for the purposes of subsection (4) if and to the extent that section 809Q does not apply in relation to it.

(6) Treat a transfer from a mixed fund as an "offshore transfer" (and section 809Q as not applying in relation to it, if it otherwise would do) if and to the extent that, at the end of a tax year in which it is made—

(a) section 809Q does not apply in relation to it, and

(b) on the basis of the best estimate that can reasonably be made at that time, section 809Q will not apply in relation to it.

(7) In this section 'mixed fund' means money or other property containing or deriving from—

(a) more than one of the kinds of income and capital mentioned in section 809Q(4), or

(b) income or capital for more than one tax year.

(8) If section 809Q applies in relation to part of a transfer, apply that section in relation to that part before applying subsection (4) in relation to the rest of the transfer.

(9) If section 809Q applies in relation to more than one transfer from a mixed fund, when undertaking step 1 in relation to the second or any subsequent transfer take into account the effect of step 2 of section 809Q(3) (composition of transfer) as it applied in relation to each earlier transfer.

809S Section 809Q: anti-avoidance

(1) This section applies if, by reason of an arrangement the main purpose (or one of the main purposes) of which is to secure an

income tax advantage or capital gains tax advantage, a mixed fund would otherwise be regarded as containing income or capital within any of paragraphs (f) to (i) of section 809Q(4).

(2) Treat the mixed fund as containing so much (if any) of the income or capital as is just and reasonable.

(3) "Arrangement" includes any scheme, understanding, transaction or series or transactions (whether or not enforceable).

(4) "Income tax advantage" has the meaning given by section 683.

(5) "Capital gains tax advantage" means—

(a) a relief from capital gains tax or increased relief from capital gains tax,

(b) a repayment of capital gains tax or increased repayment of capital gains tax,

(c) the avoidance or reduction of a charge to capital gains tax or an assessment to capital gains tax, or

(d) the avoidance of a possible assessment to capital gains tax.

Remittance of income and gains: supplementary

809T Foreign chargeable gains accruing on disposal made other than for full consideration

(1) This section applies if—

(a) foreign chargeable gains accrue to an individual on the disposal of an asset, and

(b) the individual does not receive consideration for the disposal of an amount equal to the market value of the asset.

(2) For the purposes of this Chapter treat the asset as deriving from the chargeable gains.

809U Deemed income or gains not to be regarded as remitted before time when they are treated as arising or accruing

Where—

(a) income or foreign chargeable gains are treated as arising or accruing, and

(b) by virtue of anything done in relation to anything regarded as deriving from the income or chargeable gains, the income or chargeable gains would otherwise be regarded as remitted to the United Kingdom before the time when they are treated as arising or accruing,

treat the income or chargeable gains as remitted to the United Kingdom at that time.

Remittance of income and gains: property treated as not remitted

809V Money paid to the Commissioners

(1) Money that is brought to the United Kingdom by way of one or more direct payments to the Commissioners is to be treated as not remitted to the United Kingdom—

(a) if the payments are made in relation to a tax year to which section 809H applies, and

(b) if, or to the extent that, the payments do not exceed £30,000.

(2) Subsection (1) does not apply to a payment if, or to the extent that, it is repaid by the Commissioners.

809W Consideration for certain services

(1) This section applies to income or chargeable gains if—

(a) the income or gains would (but for subsection (2)) be regarded as remitted to the United Kingdom because conditions A and B in section 809L are met,

(b) condition A in section 809L is met because a service is provided in the United Kingdom ("the relevant UK service"), and

(c) condition B in section 809L is met because section 809L(3)(a) or (b) applies to the consideration for the relevant UK service ("the relevant consideration").

(2) The income or chargeable gains are to be treated as not remitted to the United Kingdom if the following conditions are met; but this is subject to subsection (5).

(3) Condition A is that the relevant UK service relates wholly or mainly to property situated outside the United Kingdom.

(4) Condition B is that the whole of the relevant consideration is given by way of one or more payments to one or more bank accounts held outside the United Kingdom by or on behalf of the person who provides the relevant UK service.

(5) Subsection (2) does not apply if the relevant UK service relates (to any extent) to the provision in the United Kingdom of—

(a) a benefit that is treated as deriving from the income by virtue of section 735, or

(b) a relevant benefit within the meaning of section 87B of TCGA 1992 that is treated as deriving from the chargeable gains by virtue of that section.

(6) Sections 275 to 275C of TCGA 1992 (location of assets) apply for the purposes of subsection (3) as they apply for the purposes of TCGA 1992.

809X Exempt property

(1) Exempt property which is brought to, or received or used in, the United Kingdom in circumstances in which section 809L(2)(a) applies is to be treated as not remitted to the United Kingdom.

(2) Subsections (3) to (5) set out the cases in which property is exempt property.

(3) Property is exempt property if it meets the public access rule (see sections 809Z and 809Z1).

(4) Clothing, footwear, jewellery and watches that derive from relevant foreign income are exempt property if they meet the personal use rule (see section 809Z2).

(5) Property of any description that derives from relevant foreign income is exempt property if—

(a) the property meets the repair rule (see section 809Z3),

(b) the property meets the temporary importation rule (see section 809Z4), or

(c) the notional remitted amount (see section 809Z5) is less than £1,000.

809Y Property that ceases to be exempt property treated as remitted

(1) Property that ceases to be exempt property is to be treated as having been remitted to the United Kingdom at the time it ceases to be exempt property.

(2) Property ceases to be exempt property in either of the following cases.

(3) The first case is where the whole or part of the exempt property is sold, or otherwise converted into money, whilst it is in the United Kingdom.

(4) The second case is where the property—

(a) is exempt property only because it meets one or more of the relevant rules,

(b) ceases to meet that rule, or all of those rules, whilst it is in the United Kingdom, and

(c) does not meet any other relevant rule.

(5) In this section—

"money" includes—

(a) a traveller's cheque,

(b) a promissory note,

(c) a bill of exchange, and

(d) any other—

(i) instrument that is evidence of a debt, or

(ii) voucher, stamp or similar token or document which is capable of being exchanged for money, goods or services, and

"relevant rule" means—

(a) the public access rule,

(b) the personal use rule,

(c) the repair rule, and

(d) the temporary importation rule.

809Z Public access rule: general

(1) Property meets the public access rule if conditions A to D are met.

(2) Condition A is that the property is—

(a) a work of art,

(b) a collectors' item, or

(c) an antique,

within the meaning of Council Directive 2006/112/EC (see, in particular, Annex IX to that Directive).

(3) Condition B is that—

(a) the property is available for public access at an approved establishment,

(b) the property is to be available for public access at an approved establishment and, in connection with its being so available, is in transit to, or in storage at, public access rule premises, or

(c) the property has been available for public access at an approved establishment and, in connection with its having been so available, is in transit from, or in storage at, public access rule premises.

(4) Property is "available for public access" at an approved establishment if the property is—

(a) on public display at the establishment,

(b) held by the establishment and made available to the public on request for viewing or for educational use, or

(c) held by the establishment for public exhibition in connection with the sale of the property.

(5) An "approved establishment" is—

(a) an approved museum, gallery or other institution within the meaning of Group 9 of Schedule 2 to the Value Added Tax (Imported Goods) Relief Order 1984, or

(b) any other person, premises or institution designated (or of a description designated) by the Commissioners.

(6) "Public access rule premises" are—

(a) premises in the United Kingdom at which the property is to be, or has been, available for public access, or

(b) other commercial premises in the United Kingdom used by the approved establishment for the storage of property in advance of its being, or after its having been, available for public access at the approved establishment.

(7) Condition C is that, during the relevant period, the property meets condition B for no more than—

(a) two years, or

(b) such longer period as the Commissioners may specify.

(8) "The relevant period" means the period—

(a) beginning with the importation of the property, and

(b) ending when it ceases to be in the United Kingdom after that importation.

(9) "Importation" means the property being brought to, or received or used in, the United Kingdom in circumstances in which section 809L(2)(a) applies.

(10) Condition D is that the property attracts a relevant VAT relief (see section 809Z1).

809Z1 Public access rule: relevant VAT relief

(1) Property "attracts a relevant VAT relief" if any of conditions 1 to 4 is met.

(2) Condition 1 is that article 5(1) of the Value Added Tax (Imported Goods) Relief Order 1984 applies in relation to the importation of the property by virtue of Group 9 of Schedule 2 to that Order (importation of works of art or collectors' pieces by museums etc).

(3) Condition 2 is that article 5(1) would so apply if the following requirements were disregarded—

(a) the requirement that the importation be from a third country, and

(b) the requirement that the purpose of the importation be a purpose other than sale.

(4) Condition 3 is that article 576(3)(a) of Commission Regulation (EEC) No 2454/93 (relief from import duties for works of art etc imported for the purposes of exhibition, with a view to possible sale) applies in relation to the importation of the property.

(5) Condition 4 is that article 576(3)(a) would so apply if the requirement that the importation be from a third country were disregarded.

(6) Where the property does not meet condition B in section 809Z at the time of its importation it is to be assumed for the purposes of this section that the property was imported on the day during the relevant period when the property first meets that condition.

(7) "The relevant period" and "importation" have the same meaning as in section 809Z and "imported" is to be read accordingly.

809Z2 Personal use rule

(1) Clothing, footwear, jewellery or watches meet the personal use rule if they—

(a) are property of a relevant person, and

(b) are for the personal use of a relevant individual.

(2) In this section—

(a) "relevant person" has the meaning given by section 809M, and

(b) "relevant individual" means an individual who is a relevant person by virtue of section 809M(2)(a), (b), (c) or (d) (the individual with income or gains, or a husband, wife, civil partner, child or grandchild).

809Z3 Repair rule

(1) Property meets the repair rule for the whole of the relevant period if, during the whole of that period, the property meets the repair conditions.

(2) Property meets the repair rule for a part of the relevant period if—

(a) during the whole of that part of that period, the property meets the repair conditions, and

(b) during the whole of the other part of that period, or the whole of each other part of that period, the property meets the repair conditions or the public access rule.

(3) Property meets the repair conditions if the property—

(a) is under repair or restoration,

(b) is in transit from a place outside the United Kingdom to repair rule premises, in transit between such premises, or in storage at such premises, in advance of repair or restoration, or

(c) is in storage at such premises, in transit between such premises, or in transit from such premises to a place outside the United Kingdom, following repair or restoration.

(4) "Repair rule premises" means—

(a) premises in the United Kingdom that are to be used, or have been used, for the repair or restoration referred to in subsection (3)(b) or (c), or

(b) other commercial premises in the United Kingdom used by the restorer for the storage of property in advance of, or following, repair or restoration of property by the restorer.

(5) "Restorer" means the person who is to carry out, or has carried out, the repair or restoration referred to in subsection (3)(b) or (c).

(6) Property meets the repair conditions, or the public access rule, during the whole of a period, or the whole of part of a period, if the property meets those conditions or that rule—

(a) on the whole of, or on part of, the first day of that period or part period,

(b) on the whole of, or on part of, the last day of that period or part period, and

(c) on the whole of each other day of that period or part period.

(7) "The relevant period" has the same meaning as in section 809Z.

809Z4 Temporary importation rule

(1) Property meets the temporary importation rule if the total number of countable days is 275 or fewer.

(2) A "countable day" is a day on which, or on part of which, the property is in the United Kingdom by virtue of being brought to, or received or used in, the United Kingdom in circumstances in which section 809L(2)(a) applies (whether the current case, or a past case, when the property was so brought, received or used).

(3) A day is not a countable day if, on that day or any part of that day—

(a) the property meets the personal use rule,

(b) the property meets the repair rule, or

(c) the notional remitted amount in relation to the property is less than £1,000.

(4) A day on which, or on part of which, the property meets the public access rule (the "relevant day") is not a countable day if any of conditions A to C is met.

(5) Condition A is that the property meets the public access rule during the whole of the period of importation in which the relevant day falls.

(6) Condition B is that—

(a) the property does not meet the public access rule during the whole of the period of importation in which the relevant day falls, and

(b) that period of importation—

(i) begins with a period of no public access, and

(ii) ends with a period of public access which immediately follows that period of no public access.

(7) Condition C is that—

(a) the property does not meet the public access rule during the whole of the period of importation in which the relevant day falls, and

(b) during the parts, or each of the parts of the period of importation during which the property does not meet the public access rule it meets the repair conditions.

(8) Section 809Z3(6) applies for the purposes of this section.

(9) "Period of importation" means a period that—

(a) begins when property is brought to, or received or used in, the United Kingdom in circumstances in which section 809L(2)(a) applies, and

(b) ends when the property ceases to be in the United Kingdom after having been so brought, received or used.

(10) "Period of no public access" means a period which is not a period of public access and "period of public access" means a period during the whole of which property meets the public access rule.

809Z5 Notional remitted amount

(1) The "notional remitted amount", in relation to property, is the amount of income that would be taken to be remitted to the United Kingdom in relation to the property (if section 809X did not apply in relation to the property).

(2) If—

(a) property forms part of a set, and

(b) only part of the set is in the United Kingdom,

the notional remitted amount is such part of the amount specified in subsection (3) as is just and reasonable having regard to the part of the set that actually is in the United Kingdom.

(3) That amount is the amount that would be taken to be remitted to the United Kingdom if the complete set had been brought to, or received or used in, the United Kingdom, at the same time as the part in question.

809Z6 Exempt property: other interpretation

(1) This section applies for the purposes of sections 809X to 809Z5.

(2) "Property" does not include money.

(3) In subsection (2) "money" includes—

(a) a traveller's cheque,

(b) a promissory note,

(c) a bill of exchange, and

(d) any other—

(i) instrument that is evidence of a debt, or

(ii) voucher, stamp or similar token or document which is capable of being exchanged for money, goods or services.

(4) References to property being in the United Kingdom are references to the property—

(a) being in the United Kingdom after being brought to, or received in, the United Kingdom in circumstances in which section 809L(2)(a) applies, or

(b) being used in the United Kingdom in circumstances in which section 809L(2)(a) applies.

Interpretation of Chapter

809Z7 Interpretation of Chapter

(1) This section applies for the purposes of this Chapter.

(2) An individual's "foreign income and gains" for a tax year are—

(a) the individual's relevant foreign earnings for that year,

(b) the individual's foreign specific employment income for that year,

(c) the individual's relevant foreign income for that year, and

(d) if the individual is not domiciled in the United Kingdom in that year, the individual's foreign chargeable gains for that year.

(3) An individual's "relevant foreign earnings" for a tax year are—

(a) if the individual is ordinarily UK resident in that year, the individual's chargeable overseas earnings for that year, and

(b) otherwise, the individual's general earnings within section 26(1) of ITEPA 2003 for that year (non-UK earnings).

(4) An individual's "foreign specific employment income" for a tax year is such of the individual's specific employment income for that year as is foreign securities income for the purposes of section 41A of ITEPA 2003.

(5) An individual's "foreign chargeable gains" for a tax year are the foreign chargeable gains (within the meaning of section 12(4) of TCGA 1992) accruing to the individual in that year.

(6) In subsection (3)(a) "chargeable overseas earnings" has the same meaning as in section 22 of ITEPA 2003 (see section 23 of that Act).

(7) "The Commissioners" means the Commissioners for Her Majesty's Revenue and Customs."

Employment income

2 ITEPA 2003 is amended as follows.

3 (1) Section 6 (nature of charge to tax on employment income) is amended as follows.

(2) In subsection (3), omit the "and" at the end of paragraph (a), and after that paragraph insert—

"(aa) whether section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to an employee for a tax year, and".

(3) After that subsection insert—

"(3A) The rules in Chapter 5A, which are concerned with the matters mentioned in subsection (3)(a) to (b), apply for the purposes of the charge to tax on certain specific employment income arising under Part 7 (securities etc)."

4 (1) Section 10 (meaning of "taxable earnings" etc) is amended as follows.

(2) In subsection (2), for the words after "with" substitute "Chapters 4 and 5 of this Part".

(3) After subsection (3) insert—

"(4) Subsection (3) is subject to Chapter 5A of this Part (certain specific employment income under Part 7: individuals to whom to remittance basis applies)."

5 (1) Section 13 (person liable to tax) is amended as follows.

(2) After subsection (4) insert—

"(4A) If the tax is on specific employment income received, or remitted to the United Kingdom, after the death of the person in relation to whom the income is, by virtue of Part 7, to count as employment income, the person's personal representatives are liable for the tax."

(3) In subsection (5), for "In that event" substitute "If subsection (4) or (4A) applies,".

6 For the heading of Chapter 4 of Part 2 substitute "TAXABLE EARNINGS: UK RESIDENT EMPLOYEES".

7 In section 14(1) (taxable earnings under Chapter 4: introduction), for "resident, ordinarily resident and domiciled in UK" substitute "UK resident".

8 For the heading before section 15 substitute "*UK resident employees*".

9 (1) Section 15 (earnings for year when employee resident, ordinarily resident and domiciled in UK) is amended as follows.

(2) In subsection (1), for the words from "resident", in the first place, to the end substitute "UK resident."

(3) For subsection (3) substitute—

"(3) Subsection (2) applies whether or not the employment is held when the earnings are received."

(4) Accordingly, in the heading, for "**resident, ordinarily resident and domiciled in UK**" substitute "**UK resident**".

10 For the title to Chapter 5 of Part 2 substitute "TAXABLE EARNINGS: REMITTANCE BASIS RULES AND RULES FOR NON-UK RESIDENT EMPLOYEES".

11 (1) Section 20 (taxable earnings under Chapter 5: introduction) is amended as follows.

(2) For subsection (1) substitute—

"(1) This Chapter—

(a) contains provision for calculating what are taxable earnings from certain kinds of employment in a tax year for which section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the employee, and

(b) sets out what are taxable earnings from an employment in a tax year in which the employee is non-UK resident."

(3) In subsection (2), omit paragraphs (b) and (c).

(4) In subsection (3), for "the sections listed in subsection (1)" substitute "sections 22, 26 and 27".

12 For the heading before section 21 substitute "*Remittance basis rules for UK ordinarily resident employees*".

13 Omit section 21 (earnings for year when employee resident and ordinarily resident, but not domiciled, in UK, except chargeable overseas earnings).

14 (1) Section 22 (chargeable overseas earnings for year when employee resident and ordinarily resident, but not domiciled, in UK) is amended as follows.

(2) In subsection (1), for the words from "in which" to the end substitute ", to the extent that they are chargeable overseas earnings for that year, if—

(a) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the employee for that year, and

(b) the employee is ordinarily UK resident in that year."

(3) For subsection (3) substitute—

"(3) Subsection (2) applies whether or not the employment is held when the earnings are remitted."

(4) In subsection (4), omit the words after "year".

(5) In subsection (5)(b), for "section 21" substitute "section 15".

(6) After subsection (5) insert—

"(6) See Chapter A1 of Part 14 of ITA 2007 for the meaning of "remitted to the United Kingdom" etc.

(7) General earnings for the employee for the tax year fall within section 15(1) to the extent that they do not fall within subsection (1)."

(7) Accordingly, in the heading, for the words from "**employee**" to the end substitute "**remittance basis applies and employee ordinarily UK resident**".

15 (1) Section 23 (calculation of chargeable overseas earnings) is amended as follows.

(2) In subsection (1), for "sections 21 and" substitute "section".

(3) In subsection (2), for paragraph (a) substitute—

"(a) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the employee for that year,

(aa) the employee is ordinarily UK resident in that year,".

16 In section 24(7) (limit on chargeable overseas earnings where duties of associated employment performed in UK), for "section 21(1)" substitute "section 15(1)".

17 For the heading before section 25 substitute "*Remittance basis rules: employees not UK ordinarily resident"*.

18 Omit section 25 (UK-based earnings for year when employee resident, but not ordinarily resident, in UK).

19 (1) Section 26 (foreign earnings for year when employee resident, but not ordinarily resident, in UK) is amended as follows.

(2) In subsection (1), for the words from "in which" to "they" substitute "where section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the employee for that year and the employee is not ordinarily UK resident in that year, if the general earnings".

(3) For subsection (3) substitute—

"(3) Subsection (2) applies whether or not the employment is held when the earnings are remitted."

(4) After subsection (4) insert—

"(5) See Chapter A1 of Part 14 of ITA 2007 for the meaning of "remitted to the United Kingdom" etc.

(6) General earnings for the employee for the tax year fall within section 15(1) if they do not fall within subsection (1)."

(5) Accordingly, in the heading, for the words from "**employee**" to the end substitute "**remittance basis applies and employee not ordinarily UK resident**".

20 (1) Section 27 (UK-based earnings for year when employee non-UK resident) is amended as follows.

(2) For subsection (3) substitute—

"(3) Subsection (2) applies whether or not the employment is held when the earnings are received."

(3) After subsection (4) insert—

"(5) Sections 18 and 19 (time when earnings are received) apply for the purposes of this section."

21 Omit sections 31 to 37 (and the heading before section 31).

22 After section 41 insert—

"CHAPTER 5A

TAXABLE SPECIFIC INCOME: EFFECT OF REMITTANCE BASIS

41A Taxable specific income from employment-related securities: effect of remittance basis

(1) This section applies if—

(a) an amount within subsection (2) counts as employment income of an individual for a tax year in respect of an employment ("the securities income"), and

(b) any part of the relevant period (see section 41B) is within a tax year for which section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual.

(2) An amount is within this subsection if it counts as employment income under any provision of any of Chapters 2, 3 and 3C to 5 of Part 7 (employment-related securities etc) except section 446UA.

(3) The reference in subsection (2) to an amount that counts as employment income under any of the provisions mentioned there does not include an amount which counts as employment income by virtue of any provision of Chapter 3A or 3B of Part 7.

(4) An amount equal to—

$$SI - FSI$$

is an amount of "taxable specific income" from the employment for the tax year mentioned in subsection (1)(a).

(5) In subsection (4)—

(a) SI is the amount of the securities income, and

(b) FSI is the amount of the securities income that is "foreign" (see sections 41C to 41E).

(6) The full amount of any of the foreign securities income which is remitted to the United Kingdom in a tax year is an amount of "taxable specific income" from the employment for that year.

(7) Subsection (6) applies whether or not the employment is held when the foreign securities income is remitted.

(8) For the purposes of Chapter A1 of Part 14 of ITA 2007 (remittance basis), treat the relevant securities or securities option as deriving from the foreign securities income.

(9) But where—

(a) the chargeable event is the disposal of the relevant securities or the assignment or release of the relevant securities option, and

(b) the individual receives consideration for the disposal, assignment or release of an amount equal to or exceeding the market value of the relevant securities or securities option,

for the purposes of that Chapter treat the consideration (and not the relevant securities or securities option) as deriving from the foreign securities income.

(10) In this section and section 41B—

"the chargeable event" means the event giving rise to the securities income, and

"the relevant securities" or "the relevant securities option" means the employment-related securities or employment-related securities option by virtue of which the amount mentioned in subsection (1)(a) counts as employment income.

(11) See Chapter A1 of Part 14 of ITA 2007 for the meaning of "remitted to the United Kingdom" etc.

41B Section 41A: the relevant period

(1) "The relevant period" is to be determined as follows.

(2) In the case of an amount that counts as employment income by virtue of Chapter 2 (restricted securities) or Chapter 3 (convertible securities), the relevant period—

(a) begins with the day of the acquisition, and

(b) ends with the day of the chargeable event.

(3) In the case of an amount that counts as employment income by virtue of section 446U (securities acquired for less than market value: discharge of notional loan)—

(a) if the relevant securities were acquired by virtue of the exercise of a securities option ("the option"), the relevant period—

(i) begins with the day of the acquisition of the option, and

(ii) ends with the day the option vests, and

(b) otherwise, the relevant period is—

(i) the tax year in which the notional loan (within the meaning of Chapter 3C) is treated as made, or

(ii) if the chargeable event occurs in that year, the period beginning at the beginning of that year and ending with the day of that event.

(4) In the case of an amount that counts as employment income by virtue of—

(a) Chapter 3D (securities disposed of for more than market value), or

(b) Chapter 4 (post-acquisition benefits from securities),

the relevant period is the tax year in which the chargeable event occurs.

(5) In the case of an amount that counts as employment income by virtue of Chapter 5 (employment-related securities options), the relevant period—

(a) begins with the day of the acquisition, and

(b) ends with the day of the chargeable event or, if earlier, the day the relevant securities option vests.

(6) In this section "the acquisition" has the same meaning as in Chapters 2 to 4 or Chapter 5 (see section 421B or 471).

(7) For the purposes of this section an option "vests" when it is first capable of being exercised.

(8) References in this section to a Chapter are to a Chapter of Part 7.

41C Section 41A: foreign securities income

(1) The extent to which the securities income is "foreign" is to be determined as follows.

(2) Treat an equal amount of the securities income as accruing on each day of the relevant period.

(3) If any part of the relevant period is within a tax year to which subsection (4) applies, the securities income treated as accruing in that part of the relevant period is "foreign".

This is subject to section 41D (limit where duties of associated employment performed in UK).

(4) This subsection applies to a tax year if—

(a) section 809B, 809D or 809E of ITA 2007 applies to the individual for the year,

(b) the individual is ordinarily UK resident in the year,

(c) the employment is with a foreign employer, and

(d) the duties of the employment are performed wholly outside the United Kingdom.

(5) If any part of the relevant period is within a tax year to which subsection (6) applies—

(a) if the duties of the employment are performed wholly outside the United Kingdom, the securities income treated as accruing in that part of the relevant period is "foreign", and

(b) if some but not all of those duties are performed outside the United Kingdom—

(i) the securities income mentioned in paragraph (a) is to be apportioned (on a just and reasonable basis) between duties performed in the United Kingdom and duties performed outside the United Kingdom, and

(ii) the income apportioned in respect of duties performed outside the United Kingdom is "foreign".

(6) This subsection applies to a tax year if—

(a) section 809B, 809D or 809E of ITA 2007 applies to the individual for the year,

(b) the individual is not ordinarily UK resident in the year, and

(c) some or all of the duties of the employment are performed outside the United Kingdom.

(7) If the individual is not resident in the United Kingdom in a tax year, for the purposes of this section treat section 809B of ITA 2007 as applying to the individual for that year.

(8) This section is subject to section 41E (foreign securities income: just and reasonable apportionment).

41D Limit on foreign securities income where duties of associated employment performed in UK

(1) This section imposes a limit on the extent to which section 41C(3) applies in relation to a period when—

(a) the individual holds associated employments as well as the employment in relation to which section 41C(4) applies, and

(b) the duties of the associated employments are not performed wholly outside the United Kingdom.

(2) The amount of the securities income for the period that is to be regarded as "foreign" is limited to such amount as is just and reasonable, having regard to—

(a) the employment income for the period from all the employments mentioned in subsection (1)(a),

(b) the proportion of that income that is general earnings to which section 22 applies (chargeable overseas earnings),

(c) the nature of and time devoted to the duties performed outside the United Kingdom, and those performed in the United Kingdom, in the period, and

(d) all other relevant circumstances.

(3) In this section "associated employments" means employments with the same employer or with associated employers.

(4) Section 24(5) and (6) (meaning of "associated employer") apply for the purposes of this section.

41E Foreign securities income: just and reasonable apportionment

(1) This section applies if the proportion of the securities income that would otherwise be regarded as "foreign" is not, having regard to all the circumstances, one that is just and reasonable.

(2) The amount of the securities income that is "foreign" is such amount as is just and reasonable (rather than the amount calculated in accordance with section 41C)."

23 Omit Chapter 6 of Part 2 (disputes as to domicile or ordinary residence).

24 In section 225 (payments for restrictive undertakings), for subsections (6) and (7) substitute—

"(6) This section applies only if—

(a) section 15 applies to any general earnings from the employment, and would apply even if the individual made a claim under section 809B of ITA 2007 (claim for remittance basis) for the tax year mentioned in subsection (3), or

(b) section 27 (UK-based earnings of non-UK resident employee) applies to any general earnings from the employment."

25 In section 271(2) (limited exemption of removal benefits and expenses: general)—

(a) in paragraph (a), for the words from "employee" to "UK" substitute "remittance basis applies and employee ordinarily UK resident", and

(b) in paragraph (b), for the words from "employee" to "UK" substitute "remittance basis applies and employee not ordinarily UK resident".

26 In section 335(4) (application of deductions provisions), omit ", 21, 25".

27 (1) Section 370 (travel costs and expenses where duties performed abroad) is amended as follows.

(2) In subsection (1), for the words from "taxable" to "UK)" substitute "relevant taxable earnings".

(3) After subsection (5) insert—

"(6) In this section "relevant taxable earnings" means general earnings for a tax year in which the employee is ordinarily UK resident that—

(a) are taxable earnings under section 15, and

(b) would be taxable earnings under section 15 even if the employee made a claim under section 809B of ITA 2007 (claim for remittance basis) for that year."

28 (1) Section 371 (travel costs and expenses where duties performed abroad: spouse's travel etc) is amended as follows.

(2) In subsection (1), for the words from "taxable" to "UK)" substitute "relevant taxable earnings".

(3) After subsection (7) insert—

"(8) In this section "relevant taxable earnings" has the meaning given by section 370(6)."

29 (1) Section 378 (deduction from seafarer's earnings: eligibility) is amended as follows.

(2) In subsection (1)(a), for the words from "taxable" to the end substitute "relevant taxable earnings,".

(3) After subsection (4) insert—

"(5) In this section "relevant taxable earnings" means general earnings for a tax year in which the employee is ordinarily UK resident that—

(a) are taxable earnings under section 15, and

(b) would be taxable earnings under section 15 even if the employee made a claim under section 809B of ITA 2007 (claim for remittance basis) for that year."

30 (1) Section 413 (exception in certain cases of foreign service) is amended as follows.

(2) In subsection (3), for paragraph (a) substitute—

"(a) any earnings from the employment would not be relevant earnings, or"

(3) After that subsection insert—

"(3A) In subsection (3)(a) "relevant earnings" means—

(a) for service in or after the tax year 2008-09, earnings—

(i) which are for a tax year in which the employee is ordinarily UK resident,

(ii) to which section 15 applies, and

(iii) to which that section would apply, even if the employee made a claim under section 809B of ITA 2007 (claim for remittance basis) for that year, and

(b) for service before the tax year 2008-09, general earnings to which section 15 or 21 as originally enacted applies."

31 In section 421E(1) (income relating to securities: exclusions), for the words from "or 21" to the end substitute ", 22 or 26 applies (earnings for year when employee UK resident)."

32 In section 446N (securities subject to restriction during relevant period), after subsection (6) insert—

"(7) If any of the employment income arising under section 426 by virtue of the chargeable event is foreign securities income within the meaning of section 41C, reduce the taxable amount mentioned in subsection (5) by the amount of the foreign securities income.

(8) If any of the employment income that would have arisen (if the non-commercial interests mentioned in subsection (6) had been disregarded) under section 426 by virtue of the chargeable event would have been foreign securities income (within that meaning), reduce the taxable amount mentioned in subsection (6) by the amount of the foreign securities income."

33 In section 474(1) (securities options: exclusions), for the words from "or 21" to the end substitute ", 22 or 26 applies (earnings for year when employee UK resident)."

34 In section 540(2) (EMI: taxable benefits), for the words from "or 21" to the end substitute "applies (earnings for year when employee UK resident)."

35 In section 690 (PAYE: employee non-UK resident etc), after subsection (2) insert—

"(2A) For the purposes of subsection (2) as it applies in relation to an employee who is UK resident but not ordinarily UK resident in a tax year, the officer may treat section 809B of ITA 2007 (remittance basis) as applying to the employee for that year, even if no claim under that section has been made."

36 In section 698 (PAYE: special charges on employment-related securities), after subsection (7) insert—

"(8) This section is subject to section 700A (employment-related securities etc: remittance basis)."

37 In section 700 (PAYE: gains from securities options), after subsection (6) insert—

"(7) This section is subject to section 700A (employment-related securities etc: remittance basis)."

38 After that section insert—

"700A Employment-related securities etc: remittance basis

(1) This section applies if—
(a) section 698 or 700 applies, and
(b) part or all of the amount that counts as employment income is foreign securities income or is likely to be foreign securities income.

(2) The amount of the payment treated under section 696 as made is limited to—
(a) the amount that, on the basis of the best estimate that can reasonably be made, is likely to count as employment income, minus
(b) the amount that, on the basis of such an estimate, is likely to be foreign securities income.

(3) References in this section to "foreign securities income" are to income that is foreign securities income for the purposes of section 41A."

39 In section 721(1) (other definitions), for the definition of "foreign employer" substitute—

""foreign employer" means an individual, partnership or body of persons resident outside, and not resident in, the United Kingdom,".

40 In Schedule 1 (index of defined expressions), omit the entries relating to—
(a) receipt of money earnings (in Chapter 5 of Part 2), and
(b) receipt of non-money earnings (in Chapter 5 of Part 2).

41 In paragraph 8 of Schedule 2 (approved share incentive plans: all-employee nature of plan), for sub-paragraph (2) substitute—

"(2) An employee is a UK resident taxpayer if—
(a) the employee's earnings from the employment by reference to which the employee meets the employment requirement are (or would be if there were any) general earnings to which section 15 applies (earnings for year when employee UK resident), and
(b) those general earnings are (or would be if there were any) earnings for a tax year in which the employee is ordinarily resident in the United Kingdom."

42 In paragraph 6(2) of Schedule 3 (approved SAYE option schemes: all-employee nature of scheme), for paragraph (c) substitute—

"(c) E's earnings from the office or employment within paragraph (a) are (or would be if there were any) general earnings to which section 15 applies (earnings for year when employee UK resident),
(ca) those general earnings are (or would be if there were any) earnings for a tax year in which E is ordinarily resident in the United Kingdom, and".

43 In paragraph 27(2) of Schedule 5 (enterprise management incentives: meaning of "working time")—

(a) in paragraph (a), for the words from "or 21" to "Kingdom)" substitute "applies (earnings for year when employee UK resident)", and

(b) in paragraph (b), for the words from "resident and" to the end substitute "UK resident (and none of sections 809B, 809D and 809E of ITA 2007 (remittance basis) applied to the employee)."

44 In Schedule 7 (transitionals and savings), omit paragraphs 9 to 12.

Relevant foreign income

45 In section 575 of ITEPA 2003 (foreign pensions: taxable pension income), omit subsection (4).

46 ITTOIA 2005 is amended as follows.

47 In section 260(1) (overview of Part 3)—

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

(b) omit paragraph (f) (and the "and" before it).

48 In section 269 (territorial scope of charge to tax), omit subsections (3) and (4).

49 Omit Chapter 11 of Part 3 (overseas property income).

50 In section 829 (overview of Part 8), for paragraph (a) substitute—

"(a) the charging of relevant foreign income of a person to whom section 809B, 809D or 809E of ITA 2007 applies (remittance basis),".

51 (1) Section 830 (meaning of "relevant foreign income") is amended as follows.

(2) In subsection (1), for the words from "which" to the end substitute "which—

(a) arises from a source outside the United Kingdom, and

(b) is chargeable under any of the provisions specified in subsection (2) (or would be so chargeable if section 832 did not apply to it)."

(3) In subsection (2), omit paragraph (d).

52 Omit section 831 (claims for relevant foreign income to be charged on remittance basis).

53 For section 832 substitute—

"832 Relevant foreign income charged on remittance basis

(1) This section applies to an individual's relevant foreign income for a tax year ("the relevant foreign income") if section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for that year.

(2) For any tax year in which—

(a) the individual is UK resident, and

(b) any of the relevant foreign income is remitted to the United Kingdom,

income tax is charged on the full amount of the relevant foreign income so remitted in that year.

(3) Subsection (2) applies whether or not the source of the income exists when the income is remitted.

(4) See Chapter A1 of Part 14 of ITA 2007 for the meaning of "remitted to the United Kingdom" etc.

832A Section 832: temporary non-residents

(1) This section applies if—

(a) an individual satisfies the residence requirements for any tax year ("the year of return"),

(b) the individual did not satisfy those requirements for one or more tax years immediately before the year of return but did satisfy those requirements for an earlier tax year,

(c) there are fewer than 5 tax years between—

(i) the last tax year before the year of return for which the individual satisfied those requirements ("the year of departure"), and

(ii) the year of return, and

(d) the individual satisfied those requirements for at least 4 out of the 7 tax years immediately before the year of departure.

(2) Treat any of the individual's relevant foreign income within subsection (3) which is remitted to the United Kingdom after the year of departure and before the year of return as remitted to the United Kingdom in the year of return.

(3) Relevant foreign income is within this subsection if—

(a) it is for the year of departure or any earlier tax year, and

(b) section 832 applies to it.

(4) For the purposes of subsection (1) an individual "satisfies the residence requirements" for a tax year if—

(a) at any time in that year, the individual is UK resident and not Treaty non-resident, or

(b) the individual is ordinarily UK resident, and is not Treaty non-resident, for that year.

(5) For the purposes of subsection (4) an individual is "Treaty non-resident" at any time if, at that time, he is regarded as resident in a territory outside the United Kingdom for the purposes of double taxation relief arrangements having effect at that time.

(6) In subsection (5) "double taxation relief arrangements" means arrangements specified in an Order in Council making any such provisions as are referred to in section 788 of ICTA.

832B Section 832: deductions from remitted income

(1) The only case in which deductions are allowed from the income mentioned in section 832(2) is where the income is from a trade, profession or vocation carried on outside the United Kingdom.

(2) In that case the same deductions are allowed as are allowed under the Income Tax Acts where the trade, profession or vocation is carried on in the United Kingdom."

54 Omit sections 833 to 837.

Chargeable gains

55 TCGA 1992 is amended as follows.

56 (1) Section 3 (annual exempt amount) is amended as follows.

(2) After subsection (1) insert—

"(1A) Subsection (1) does not apply to an individual for a tax year if section 809B of ITA 2007 (claim for remittance basis to apply) applies to the individual for that year."

(3) In subsection (5C)—

(a) after paragraph (a) insert—

"(aa) if section 16ZB (certain chargeable gains charged on remittance basis) applies for that year, deducting the amount of the relevant gains (within the meaning of that section)," and

(b) in paragraph (b), after "deducting" insert "(from the amount mentioned in paragraph (a), as reduced under paragraph (aa))".

57 In section 3A (reporting limits), after subsection (5) insert—

"(5A) Subsection (1) does not apply to an individual for a tax year if—

(a) section 809B of ITA 2007 (claim for remittance basis to apply), or

(b) section 16ZB below (certain chargeable gains charged on remittance basis),

applies to the individual for that year."

58 In section 9 (residence etc), omit subsection (2).

59 In section 10A (temporary non-residents), after subsection (9) insert—

"(9ZA) If—

(a) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the taxpayer for the year of return, and

(b) the taxpayer is not domiciled in the United Kingdom in that year,

any foreign chargeable gains falling within subsection (2)(a) which were remitted in an intervening year are treated as remitted in the year of return.

For this purpose "foreign chargeable gains" has the meaning given by section 12(4)."

60 For section 12 substitute—

"12 Non-UK domiciled individuals to whom remittance basis applies

(1) This section applies to foreign chargeable gains accruing to an individual in a tax year ("the foreign chargeable gains") if—

(a) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for that year, and

(b) the individual is not domiciled in the United Kingdom in that year.

(2) Chargeable gains are treated as accruing to the individual in any tax year in which any of the foreign chargeable gains are remitted to the United Kingdom.

(3) The amount of chargeable gains treated as accruing is equal to the full amount of the foreign chargeable gains so remitted in that year.

(4) In this section "foreign chargeable gains" means chargeable gains accruing from the disposal of an asset which is situated outside the United Kingdom.

(5) See Chapter A1 of Part 14 of ITA 2007 for the meaning of "remitted to the United Kingdom" etc."

61 In section 16 (computation of losses), omit subsection (4).

62 After that section insert—

"16ZA Losses: non-UK domiciled individuals

(1) In this section "the relevant tax year", in relation to an individual, means the first tax year for which—

(a) section 809B of ITA 2007 (claim for remittance basis) applies to the individual, and

(b) the individual is not domiciled in the United Kingdom.

(2) An individual may make an election under this section for the relevant tax year (in which case sections 16ZB and 16ZC have effect in relation to the individual for the relevant tax year and all subsequent tax years).

(3) If an individual does not make such an election, foreign losses accruing to the individual in—

(a) the relevant tax year, or

(b) any subsequent tax year except one in which the individual is domiciled in the United Kingdom,

are not allowable losses.

(4) Sections 42 and 43 of the Management Act (procedure and time limit for making claims), except section 42(1A) of that Act, apply in relation to an election under this section as they apply in relation to a claim for relief.

(5) An election under this section is irrevocable.

(6) In this section "foreign loss" means a loss accruing from the disposal of an asset situated outside the United Kingdom.

16ZB Individual who has made election under section 16ZA: foreign chargeable gains remitted in tax year after tax year in which accrue

(1) This section applies to an individual for a tax year ("the applicable tax year") if—

(a) the individual has made an election under section 16ZA,

(b) foreign chargeable gains accrued to the individual in or after the relevant tax year (within the meaning of section 16ZA) but before the applicable tax year, and

(c) by reason of the remission of any of the foreign chargeable gains to the United Kingdom, chargeable gains are treated under section 12 as accruing to the individual in the applicable tax year ("the relevant gains").

(2) Section 2(2) or (4) has effect for the applicable tax year as if the relevant gains had not accrued.

(3) The amount on which the individual is charged to capital gains tax for the applicable tax year is (instead of the amount given by section 2(2) or (4)(b), as reduced under section 3) the sum of—

(a) the adjusted taxable amount, and

(b) the amount of the relevant gains.

(4) "The adjusted taxable amount" is—

(a) if section 3(1) (annual exempt amount) does not apply to the individual for the applicable tax year, the amount given by section 2(2) or (4)(b) as it has effect by virtue of subsection (2), and

(b) otherwise, so much of that amount as exceeds the exempt amount for the applicable tax year (within the meaning of section 3).

(5) In subsection (1) "foreign chargeable gains" has the meaning given by section 12(4).

(6) For the purposes of subsection (1)(c) foreign chargeable gains are remitted to the United Kingdom if they are regarded as so remitted for the purposes of section 12.

16ZC Individual who has made election under section 16ZA and to whom remittance basis applies

(1) This section applies to an individual for a tax year if—

(a) the individual has made an election under section 16ZA for the tax year or any earlier tax year,

(b) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for the tax year, and

(c) the individual is not domiciled in the United Kingdom in the tax year.

(2) The following steps apply for the purpose of calculating the amount on which the individual is to be charged to capital gains tax for the tax year.

Step 1

Deduct any relevant allowable losses from the chargeable gains referred to in subsection (3) in the order in which they appear there (starting with paragraph (a) of that subsection).

If allowable losses are deductible from the chargeable gains referred to in subsection (3)(b) but are not enough to exhaust them all—

(a) those chargeable gains are to be ordered according to the day on which they accrued,

(b) the losses are to be deducted from those gains in reverse chronological order (starting with the last chargeable gain to accrue), and

(c) if allowable losses are deductible from chargeable gains that accrued on a particular day but are not enough to exhaust all of the chargeable gains that accrued on that day, the amount deducted from each of those chargeable gains is the appropriate proportion of the losses.

In paragraph (c) "the appropriate proportion", in relation to a chargeable gain, is the amount of that gain divided by the total amount of the chargeable gains that accrued on the day in question.

Step 2

Treat the amount referred to in section 2(2) or (4)(a) or 16ZB(3)(a) as being equal to—

(a) the amount it would be if there were no relevant allowable losses, minus

(b) the total amount deducted under Step 1 from chargeable gains within subsection (3)(a) or (c).

(3) The chargeable gains are—

(a) foreign chargeable gains accruing to the individual in the tax year, to the extent that they are remitted to the United Kingdom in that year,

(b) foreign chargeable gains accruing to the individual in that year, to the extent that they are not so remitted in that year, and

(c) chargeable gains accruing to the individual in that year (other than foreign chargeable gains).

(4) Chargeable gains treated as accruing under section 87 or 89(2) (read, where appropriate, with section 10A) are not within any paragraph of subsection (3).

(5) Chargeable gains treated as accruing under section 12 are not within subsection (3)(c).

(6) For the purposes of subsection (3) foreign chargeable gains are remitted to the United Kingdom if they are regarded as so remitted for the purposes of section 12.

(7) In this section—

"relevant allowable losses" means the allowable losses that section 2(2) provides may be deducted from chargeable gains accruing to the individual in the tax year, and

"foreign chargeable gains" has the meaning given by section 12(4).

16ZD Section 16ZC: supplementary

(1) This section applies if section 16ZC applies to an individual for a tax year.

(2) Any allowable loss deducted under step 1 of section 16ZC(2) is to be regarded (for the purposes of section 2(2)(b)) as allowed as a deduction from chargeable gains accruing to the individual in the tax year.

(3) If a deduction is made under step 1 of section 16ZC(2) from a foreign chargeable gain within section 16ZC(3)(b), the amount of the foreign chargeable gain is reduced by the amount deducted."

63 In section 119A (increase in expenditure by reference to tax charged in relation to employment-related securities), after subsection (5) insert—

"(5A) See also section 119B (unremitted foreign securities income)."

64 After that section insert—

"119B Section 119A: unremitted foreign securities income

(1) For the purposes of section 119A reduce the amount that counts as employment income by so much of that amount (if any) as is unremitted foreign securities income.

(2) In this section "unremitted foreign securities income" means income that—

(a) is foreign securities income for the purposes of section 41A of ITEPA 2003 (employment income from ERS charged on remittance basis), and

(b) has not been remitted to the United Kingdom by the end of the tax year in which the disposal mentioned in section 119A(1) occurs.

(3) The following provisions apply if any of the unremitted foreign securities income is remitted to the United Kingdom after the end of the tax year referred to in subsection (2)(b).

(4) The person liable for the capital gains tax on any chargeable gains arising on the disposal may make a claim for section 119A(2) to have effect as if the remitted income had been remitted before the end of that tax year.

(5) All adjustments (by way of repayment of tax, assessment or otherwise) are to be made which are necessary to give effect to a claim under subsection (4).

(6) Those adjustments may be made at any time, despite anything to the contrary in any enactment relating to capital gains tax."

Minor and consequential amendments

65 In section 33(2A) of TMA 1970 (error or mistake)—

(a) omit the "or" at the end of paragraph (a), and

(b) at the end of paragraph (b) insert ", or

(c) an error or mistake consisting of the making of a claim under section 809B of ITA 2007 (claim for remittance basis)."

66 ITTOIA 2005 is amended as follows.

67 In section 839 (annual payments payable out of relevant foreign income), omit subsection (6).

68 In section 840 (relief for backdated pensions charged on arising basis), omit subsection (4) (application of section 837).

69 After that section insert—

"840A Claims under section 840

(1) A claim under section 840 must be made on or before the fifth anniversary of the normal self-assessment filing date for the tax year for which the relief is claimed.

(2) All adjustments (by way of repayment of tax, assessment or otherwise) are to be made which are necessary to give effect to section 840.

(3) Those adjustments may be made at any time, despite anything to the contrary in the Income Tax Acts.

(4) A person's personal representatives may make any claim under section 840 which the person might have made.

(5) If a person dies—

(a) any tax paid by the person and repayable because of a claim under section 840 is to be repaid to the personal representatives, and

(b) the person's personal representatives are liable for any additional tax which arises because of a claim under that section.

(6) If subsection (5)(b) applies, the additional tax—

(a) is to be assessed on the personal representatives, and

(b) is a debt due and payable out of the estate."

70 (1) Section 857 (partners to whom the remittance basis may apply) is amended as follows.

(2) In subsection (1), for paragraph (c) substitute—

"(c) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to a partner for a tax year."

(3) In subsection (3), omit "for the purposes of this Act (see Part 8)".

(4) Accordingly, in the heading, for "**may apply**" substitute "**applies**".

71 In section 878 (definitions), omit subsection (2).

72 In Schedule 2 (transitional provision etc), omit paragraphs 150 and 151.

73 In Part 2 of Schedule 4 (index of defined expressions), omit the entry for "person to whom the remittance basis applies".

74 ITA 2007 is amended as follows.

75 In section 2(14) (overview of Act), before paragraph (a) insert—

"(za) an alternative basis for charge (the remittance basis) for certain income and gains of certain individuals (Chapter A1),".

76 In section 34 (personal allowances etc: introduction), after subsection (2)

insert—

"(3) For the effect of section 809B (claim for remittance basis to apply) applying to an individual for a tax year, see section 809G (no entitlement to personal allowance or blind person's allowance)."

77 In section 42 (tax reductions for married couples etc: introduction), after subsection (4) insert—

"(5) For the effect of section 809B (claim for remittance basis to apply) applying to an individual for a tax year, see section 809G (no entitlement to tax reduction)."

78 In section 460 (residence etc of claimants for relief for life insurance payments etc), after subsection (3) insert—

"(4) For the effect of section 809B (claim for remittance basis to apply) applying to an individual for a tax year, see section 809G (no entitlement under section 457, 458 or 459)."

79 In consequence of the amendments made by this Part of this Schedule, omit—

(a) in ITEPA 2003, paragraph 208 of Schedule 6,
(b) in ITTOIA 2005, paragraph 429 of Schedule 1, and
(c) in CRCA 2005, paragraphs 102(3)(b) to (d) and 104 of Schedule 4.

Commencement

80 The amendments made by paragraphs 3(3), 4(3), 5(2), 22, 31 to 33, 38 and 64 have effect in relation to employment-related securities and employment-related securities options where the date of the acquisition is on or after 6 April 2008 (except employment-related securities acquired pursuant to a securities option acquired before 6 April 2008).

81 The other amendments made by this Part of this Schedule have effect for the tax year 2008-09 and subsequent tax years.

Transitional provision

82 (1) This paragraph applies in relation to an individual's general earnings for the tax year 2007-08 or any earlier tax year ("the relevant tax year") if the individual—

(a) was UK resident in that year, but
(b) was not domiciled in the United Kingdom, or was not ordinarily UK resident, in that year.

(2) Section 22 or 26 of ITEPA 2003 (as amended by this Part of this Schedule) applies in relation to the general earnings as if—

(a) section 809B of ITA 2007 (claim for remittance basis to apply) applied to the individual for the relevant tax year, and
(b) section 22(7) or 26(6) of ITEPA 2003 were omitted.

(3) In relation to the general earnings, the definition of "foreign employer" in section 721(1) of ITEPA 2003 has effect as if at the end there were inserted "and not resident in the Republic of Ireland".

83 (1) This paragraph applies to an individual's relevant foreign income for the tax year 2007-08 or any earlier tax year ("the relevant tax year") if—

(a) the individual made a claim under section 831 of ITTOIA 2005 for the relevant tax year, or

(b) section 65(5) of ICTA (or any earlier superseded enactment corresponding to that provision) applied in relation to the individual for the relevant tax year.

(2) Section 832 of ITTOIA 2005 (as amended by this Part of this Schedule) applies in relation to the relevant foreign income as if section 809B of ITA 2007 (claim for remittance basis to apply) applied to the individual for the relevant tax year.

(3) But nothing in section 832 of ITTOIA 2005 applies in relation to any of the relevant foreign income that arose in the Republic of Ireland.

(4) Nothing in section 832A of that Act applies in relation to anything remitted to the United Kingdom in the tax year 2007-08 or any earlier tax year.

84 (1) This paragraph applies if section 12 of TCGA 1992 (or any corresponding superseded enactment) applied in relation to a gain accruing to an individual in the tax year 2007-08 or any earlier tax year ("the relevant tax year").

(2) Section 12 of TCGA 1992 (as amended by this Part of this Schedule) applies in relation to that gain as if section 809B of ITA 2007 (claim for remittance basis to apply) applied to the individual for the relevant tax year.

(3) Nothing in section 10A of TCGA 1992 applies in relation to any part of the gain remitted to the United Kingdom in the tax year 2007-08 or any earlier tax year.

85 (1) In section 809E(3)(b) of ITA 2007, the reference to a tax year for which section 809B, 809D or 809E of that Act applies to an individual includes a tax year (not later than the tax year 2007-08) in which the individual—

(a) was UK resident, but

(b) was not domiciled in the United Kingdom or was not ordinarily UK resident.

(2) In relation to such a tax year, the reference there to the individual's foreign income and gains includes the individual's relevant foreign income if (and only if)—

(a) the individual made a claim under section 831 of ITTOIA 2005 for the year, or

(b) section 65(5) of ICTA (or any earlier superseded enactment corresponding to that provision) applied in relation to the individual for the year.

86 (1) Section 809L of ITA 2007 (meaning of "remitted to the United Kingdom") has effect subject to this paragraph.

(2) If, before 6 April 2008, property (including money) consisting of or deriving from an individual's relevant foreign income was brought to or received or used in the United Kingdom by or for the benefit of a relevant person, treat the relevant foreign income as not remitted to the United Kingdom on or after that date (if it otherwise would be regarded as so remitted).

(3) If, before 12 March 2008, property (other than money) consisting of or deriving from an individual's relevant foreign income was acquired by a relevant person, treat the relevant foreign income as not remitted to the United Kingdom on or after 6 April 2008 (if it otherwise would be regarded as so remitted).

(4) Subject to sub-paragraphs (2) and (3), in relation to an individual's income and chargeable gains for the tax year 2007-08 or any earlier tax year, section 809L has effect as if the references to a relevant person were to the individual.

(5) "Money" has the same meaning as in section 809Y of ITA 2007.

87 Section 809N of ITA 2007 (section 809L: gift recipients, qualifying property and enjoyment) has effect in relation to an individual's income and chargeable gains for the tax year 2007-08 or any earlier tax year as if—

(a) the reference in subsection (2) to a relevant person were to the individual,

(b) subsections (3) and (4) were omitted, and

(c) the references in subsection (9) to a relevant person, all relevant persons, or relevant persons were to the individual.

88 Section 809O of ITA 2007 (section 809L: dealings where there is a connected operation) has effect in relation to an individual's income and chargeable gains for the tax year 2007-08 or any earlier tax year as if—

(a) subsection (2) were omitted, and

(b) the references in subsections (4) and (6) to a relevant person, all relevant persons, or relevant persons were to the individual.

89 Sections 809Q to 809S of ITA 2007 (transfers from mixed funds) do not apply for the purposes of determining whether income or chargeable gains for the tax year 2007-08 or any earlier tax year are remitted to the United Kingdom (or the amount of any such income or chargeable gains so remitted).

90 (1) This paragraph applies if—

(a) before 12 March 2008, money was lent to an individual outside the United Kingdom,

(b) the loan was made for the purpose of enabling the individual to acquire an interest in residential property in the United Kingdom (and for no other purpose), and

(c) before 6 April 2008—

(i) the money was received in the United Kingdom,

(ii) the individual used the money to acquire an interest in residential property in the United Kingdom ("the interest"), and

(iii) repayment of the debt for the money ("the debt"), or of payments made under a guarantee of that repayment ("the guarantee"), was secured on the interest.

(2) Relevant foreign income of the individual used outside the United Kingdom before 6 April 2028 to pay interest on the debt is treated as not remitted to the United Kingdom.

(3) If, at any time on or after 12 March 2008—

(a) any term upon which the loan was made, or any term of the guarantee, is varied or waived,

(b) repayment of the debt, or of payments made under the guarantee, ceases to be secured on the interest,

(c) repayment of any other debt is secured on the interest or is guaranteed by the guarantee, or

(d) the interest ceases to be owned by the individual,

sub-paragraph (2) does not apply in relation to relevant foreign income used as mentioned there after that time.

(4) If—

(a) before 12 March 2008, money was lent to the individual outside the United Kingdom ("the subsequent loan"),

(b) the subsequent loan was made for the purpose of enabling the individual to repay—

(i) the loan mentioned in sub-paragraph (1), or

(ii) another loan in relation to which sub-paragraphs (2) and (3) apply (by virtue of this sub-paragraph),

and for no other purpose, and

(c) before 6 April 2008—

(i) the individual used the money to repay the loan referred to in paragraph (b)(i) or (ii), and

(ii) repayment of the subsequent loan, or of payments made under a guarantee of that repayment, was secured on the interest,

sub-paragraphs (2) and (3) apply in relation to the subsequent loan (and for this purpose references there to the debt or the loan are to be read as references to the subsequent loan).

(5) In this paragraph "residential property" has the same meaning as in Part 4 of FA 2003 (see section 116 of that Act).

(6) In this paragraph "guarantee" includes an indemnity, and "guaranteed" is to be read accordingly.

91 (1) This paragraph applies in relation to employment-related securities if—

(a) the date of the acquisition is on or after 6 April 2008 and on or before 31 July 2008, and

(b) Chapter 2 of Part 7 of ITEPA 2003 (restricted securities) applies in relation to the securities by virtue only of amendments made by this Schedule.

(2) Section 431 of ITEPA 2003 (election for full or partial disapplication of Chapter) has effect in relation to the employment-related securities as if in subsection (5)(b) for "more than 14 days after the acquisition" there were substituted "after 14 August 2008".

PART 2

NON-RESIDENT COMPANIES AND TRUSTS ETC

Offshore income gains

92 (1) Section 761 of ICTA (charge to income tax or corporation tax of offshore income gain) is amended as follows.

(2) For subsection (5) substitute—

"(5) Subsections (1)(b) and (1A) are subject to section 762ZB (income treated as arising: non-UK domiciled individuals to whom remittance basis applies)."

(3) After subsection (7) insert—

"(8) Nothing in subsection (7) affects the application of this section in relation to an offshore income gain treated as arising by virtue of section 762(3)."

93 (1) Section 762 of that Act (offshore income gains accruing to persons resident or domiciled abroad) is amended as follows.

(2) In subsection (1), after paragraph (a) insert—

"(aa) any reference to anything accruing is to be read as a reference to it arising (and similar references are to be read accordingly);".

(3) For subsections (2) to (5) substitute—

"(2) If—

(a) offshore income gains arise to the trustees of a settlement in a tax year, and

(b) section 87 of the 1992 Act (gains of non-resident settlements) applies to the settlement for that year,

the OIG amount for the settlement for that year is the amount of the offshore income gains.

(3) Sections 87, 87A, 87C to 90 and 96 to 98 of, and Schedule 4C to, the 1992 Act apply in relation to OIG amounts as if—

(a) references to section 2(2) amounts (except those in paragraph 7B(2)(b) and (4) of Schedule 4C) were to OIG amounts,

(b) references to chargeable gains (except the one in paragraph 1(5) of Schedule 4C) were to offshore income gains,

(c) references to anything accruing were to it arising (and similar references, except the one in paragraph 1(5) of Schedule 4C, were read accordingly), and

(d) sections 87(4), 88(2) to (5), 89(4) and 97(6) and paragraphs 1(3A), 3 to 7, 8AA, 12 and 13 of Schedule 4C were omitted.

(4) Section 87A of the 1992 Act applies for a tax year by virtue of subsection (3) before it applies for that year otherwise than by virtue of that subsection.

(5) If, by virtue of subsection (1) or (3), offshore income gains are treated as arising to a person, for the purposes of section 761 as it applies in relation to the offshore income gains treat the person as having made the disposal in question."

(4) In subsection (6)—

(a) for "subsection (2) above" substitute "(3)",

(b) for "accrued" substitute "arisen", and

(c) omit "Chapter 2 of Part 13 of ITA 2007 or".

94 After that section insert—

"762ZA Offshore income gains: application of transfer of assets abroad provisions

(1) Chapter 2 of Part 13 of ITA 2007 (transfer of assets abroad) applies in relation to an offshore income gain arising to a person resident or domiciled outside the United Kingdom as if the offshore income gain were income becoming payable to the person.

(2) Income treated as arising under that Chapter by virtue of subsection (1) is regarded as "foreign" for the purposes of section 726, 730 or 735 of that Act.

(3) Subsection (1) does not apply in relation to an offshore income gain if (and to the extent that) it is treated, by virtue of section 762(1), as arising to a person resident or ordinarily resident in the United Kingdom.

(4) The following provisions apply if section 762(2) applies in relation to an offshore income gain ("the relevant offshore income gain").

(5) If—

(a) by virtue of section 762(3) an offshore income gain is treated as arising in a tax year to a person resident or ordinarily resident in the United Kingdom, and

(b) it is so treated by reason of the relevant offshore income gain (or part of it),

for that and subsequent tax years subsection (1) does not apply in relation to the relevant offshore income gain (or that part).

(6) If, by virtue of subsection (1) as it applies in relation to the relevant offshore income gain, income is treated under Chapter 2 of Part 13 of ITA 2007 as arising in a tax year, reduce (with effect from the following tax year) the OIG amount in question by the amount of the income.

762ZB Income treated as arising under section 761(1): remittance basis

(1) This section applies to income treated as arising under section 761(1) to an individual in a tax year if—

(a) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for that year, and

(b) the individual is not domiciled in the United Kingdom in that year.

(2) Treat the income as relevant foreign income of the individual.

(3) For the purposes of Chapter A1 of Part 14 of ITA 2007 (remittance basis)—

(a) treat any consideration obtained on the disposal of the asset as deriving from the income, and

(b) unless the consideration so obtained is of an amount equal to the market value of the asset, treat the asset as deriving from the income.

(4) In subsection (3)—

(a) "the asset" means the asset the disposal of which causes the income to be treated as arising, and

(b) "the disposal" means the disposal mentioned in paragraph (a)."

95 In Schedule 10 to TCGA 1992 (consequential amendments), omit paragraph 14(47)(c) and (48)(b) to (d).

96 In section 830(4) of ITTOIA 2005 (meaning of "relevant foreign income"), after paragraph (a) insert—

"(aa) section 762ZB(2) of ICTA (offshore income gains),".

97 In section 734 of ITA 2007 (reduction in amount charged: previous capital gains tax charge), after subsection (4) insert—

"(5) References in this section to chargeable gains treated as accruing to an individual include offshore income gains treated as arising to the individual (see section 762 of ICTA)."

Offshore income gains: commencement etc

98 The amendments made by paragraphs 92 to 97 have effect for the tax year 2008-09 and subsequent tax years.

99 Paragraphs 120 and 121 apply in relation to offshore income gains as if—

(a) references to section 2(2) amounts were to OIG amounts,

(b) references to chargeable gains were to offshore income gains, and

(c) Step 1 of paragraph 120(2) provided that OIG amounts are to be calculated in accordance with—

(i) section 762(2) of ICTA (the reference in the second sentence of that Step to section 87(4) of TCGA 1992 being read as a reference to section 762(2) of ICTA), or

(ii) section 87(5) of TCGA 1992 as applied by section 762(3) of ICTA.

100 (1) This paragraph applies if—

(a) by virtue of section 87 or 89(2) of, or Schedule 4C to, TCGA 1992 as applied by section 762 of ICTA, income is treated under section 761 of ICTA as arising to an individual in the tax year 2008-09 or any subsequent tax year, and

(b) the individual is not domiciled in the United Kingdom in that year.

(2) The individual is not charged to income tax on the income if and to the extent that it is treated as arising by reason of—

(a) a capital payment received (or treated as received) by the individual before 6 April 2008, or

(b) the matching of any capital payment with the OIG amount for the tax year 2007-08 or any earlier tax year.

101 (1) This paragraph applies if—

(a) the trustees of a settlement have made an election under paragraph 126(1) (re-basing election),

(b) income is treated under section 761 of ICTA as arising to an individual in the tax year 2008-09 or any subsequent tax year ("the relevant tax year") by reason of the matching, under section 87A of TCGA 1992 as applied by section 762 of ICTA, of an OIG amount

with a capital payment received by the individual from the trustees, and

(c) the individual is resident or ordinarily resident, but not domiciled, in the United Kingdom in the relevant tax year.

(2) The individual is not charged to income tax on so much of the income as exceeds the relevant proportion of that income.

(3) Sub-paragraphs (9) to (18) of paragraph 126 (meaning of "the relevant proportion") apply for the purposes of sub-paragraph (2) above as if—

(a) references to section 2(2) amounts were to OIG amounts,

(b) references to chargeable gains were to offshore income gains,

(c) references to allowable losses were omitted, and

(d) references to anything accruing were to it arising (and similar references were read accordingly).

102 (1) This paragraph applies if—

(a) in the tax year 2008-09 or any subsequent tax year, the trustees of a settlement ("the transferor settlement") transfer all or part of the settled property to the trustees of another settlement ("the transferee settlement"),

(b) section 90 of TCGA 1992 applies in relation to the transfer,

(c) the trustees of the transferor settlement have made an election under paragraph 126(1),

(d) by virtue of the matching (under section 87A of TCGA 1992 as applied by section 762 of ICTA) of a capital payment with an OIG amount of the transferee settlement, income is treated under section 761 of ICTA as arising to an individual in a tax year ("the relevant tax year"), and

(e) the individual is resident or ordinarily resident, but not domiciled, in the United Kingdom in the relevant tax year.

(2) If paragraph 101 applies in relation to the transferee settlement, paragraph 126(9) as applied by paragraph 101(3) has effect as if the reference there to relevant assets included relevant assets within the meaning of paragraph 127(4) (as modified by sub-paragraph (4)(b) below).

(3) If paragraph 101 does not apply in relation to the transferee settlement, the individual is not charged to income tax on so much of the income mentioned in sub-paragraph (1)(d) above as exceeds the relevant proportion of that income.

(4) Sub-paragraphs (4) to (7) of paragraph 127 (meaning of "the relevant proportion") apply for the purposes of sub-paragraph (3) above as if—

(a) references section 2(2) amounts were to OIG amounts,

(b) references to chargeable gains were to offshore income gains, and

(c) references to anything accruing were to it arising.

Attribution of gains to members of non-resident companies

103 In section 13(2) of TCGA 1992 (attribution of gains to members of non-resident companies), for the words from ", who, if" to "and who" substitute "and".

104 After section 14 of that Act insert—

"14A Section 13: non-UK domiciled individuals

(1) This section applies if—

(a) by virtue of section 13, part of a chargeable gain that accrues to a company on the disposal of an asset is treated as accruing to an individual in a tax year, and

(b) the individual is not domiciled in the United Kingdom in that year.

(2) The part of the chargeable gain treated as accruing to the individual ("the deemed chargeable gain") is a foreign chargeable gain within the meaning of section 12 if (and only if) the asset is situated outside the United Kingdom.

(3) For the purposes of Chapter A1 of Part 14 of ITA 2007 (remittance basis)—

(a) treat any consideration obtained by the company on the disposal of the asset as deriving from the deemed chargeable gain, and

(b) unless the consideration so obtained is of an amount equal to the market value of the asset, treat the asset as deriving from the deemed chargeable gain.

(4) If—

(a) the deemed chargeable gain is a foreign chargeable gain (within the meaning of section 12),

(b) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for the year mentioned in subsection (1), and

(c) any of the deemed chargeable gain is remitted to the United Kingdom in a tax year after that year,

the chargeable gain treated under section 12(2) as accruing may not be reduced or extinguished under section 13(8)."

105 The amendments made by paragraphs 103 and 104 have effect in relation to chargeable gains accruing on or after 6 April 2008.

Attribution of gains to beneficiaries

106 TCGA 1992 is amended as follows.

107 In section 85(11) (disposal of interests in non-resident settlements), for the words from "there would" to the end substitute "chargeable gains would be treated under section 89(2) or paragraph 8 of Schedule 4C as accruing in the following year of assessment to a beneficiary who received a capital payment from the trustees of the settlement in that year."

108 For section 87 substitute—

"87 Non-UK resident settlements: attribution of gains to beneficiaries

(1) This section applies to a settlement for a tax year ("the relevant tax year") if the trustees are neither resident nor ordinarily resident in the United Kingdom in that year.

(2) Chargeable gains are treated as accruing in the relevant tax year to a beneficiary of the settlement who has received a capital payment from the trustees in the relevant tax year or any earlier tax year if all or part of the capital payment is matched (under section 87A as it applies for the relevant tax year) with the section 2(2) amount for the relevant tax year or any earlier tax year.

(3) The amount of chargeable gains treated as accruing is equal to—

(a) the amount of the capital payment, or

(b) if only part of the capital payment is matched, the amount of that part.

(4) The section 2(2) amount for a settlement for a tax year for which this section applies to the settlement is—

(a) the amount upon which the trustees of the settlement would be chargeable to tax under section 2(2) for that year if they were resident and ordinarily resident in the United Kingdom in that year, or

(b) if section 86 applies to the settlement for that year, the amount mentioned in paragraph (a) minus the total amount of chargeable gains treated under that section as accruing in that year.

(5) The section 2(2) amount for a settlement for a tax year for which this section does not apply to the settlement is nil.

(6) For the purposes of this section a settlement arising under a will or intestacy is treated as made by the testator or intestate at the time of death.

87A Section 87: matching

(1) This section supplements section 87.

(2) The following steps are to be taken for the purposes of matching capital payments with section 2(2) amounts.

Step 1

Find the section 2(2) amount for the relevant tax year.

Step 2

Find the total amount of capital payments received by the beneficiaries from the trustees in the relevant tax year.

Step 3

The section 2(2) amount for the relevant tax year is matched with—

(a) if the total amount of capital payments received in the relevant tax year does not exceed the section 2(2) amount for the relevant tax year, each capital payment so received, and

(b) otherwise, the relevant proportion of each of those capital payments.

"The relevant proportion" is the section 2(2) amount for the relevant tax year divided by the total amount of capital payments received in the relevant tax year.

Step 4

If paragraph (a) of Step 3 applies—

(a) reduce the section 2(2) amount for the relevant tax year by the total amount of capital payments referred to there, and

(b) reduce the amount of those capital payments to nil.

If paragraph (b) of that Step applies—

(a) reduce the section 2(2) amount for the relevant tax year to nil, and

(b) reduce the amount of each of the capital payments referred to there by the relevant proportion of that capital payment.

Step 5

Start again at Step 1 (unless subsection (3) applies).

If the section 2(2) amount for the relevant tax year (as reduced under Step 4) is not nil, read references to capital payments received in the relevant tax year as references to capital payments received in the latest tax year which—

(a) is before the last tax year for which Steps 1 to 4 have been undertaken, and

(b) is a tax year in which capital payments (the amounts of which have not been reduced to nil) were received by beneficiaries.

If the section 2(2) amount for the relevant tax year (as so reduced) is nil, read references to the section 2(2) amount for the relevant tax year as the section 2(2) amount for the latest tax year—

(a) which is before the last tax year for which Steps 1 to 4 have been undertaken, and

(b) for which the section 2(2) amount is not nil.

(3) This subsection applies if—

(a) all of the capital payments received by beneficiaries from the trustees in the relevant tax year or any earlier tax year have been reduced to nil, or

(b) the section 2(2) amounts for the relevant tax year and all earlier tax years have been reduced to nil.

(4) The effect of any reduction under Step 4 of subsection (2) is to be taken into account in any subsequent application of this section.

87B Section 87: remittance basis

(1) This section applies if—

(a) chargeable gains are treated under section 87 as accruing to an individual in a tax year,

(b) section 809B, 809D or 809E (remittance basis) applies to the individual for that year, and

(c) the individual is not domiciled in the United Kingdom in that year.

(2) The chargeable gains are foreign chargeable gains within the meaning of section 12 (non-UK domiciled beneficiaries to whom remittance basis applies).

(3) For the purposes of Chapter A1 of Part 14 of ITA 2007 (remittance basis) treat relevant property or benefits as deriving from the chargeable gains.

(4) For the purposes of subsection (3) property or a benefit is "relevant" if the capital payment by reason of which the chargeable gains are treated as accruing consists of—

(a) the payment or transfer of the property or its becoming property to which section 60 applies, or
(b) the conferring of the benefit.

87C Sections 87 and 87A: disregard of certain capital payments

(1) For the purposes of sections 87 and 87A as they apply in relation to a settlement, no account is to be taken of a capital payment (or a part of a capital payment) within subsection (2).

(2) A capital payment is within this subsection if (and to the extent that) it is received (or treated as received) in a tax year from the trustees of the settlement by a company that—
(a) is not resident in the United Kingdom in that year, and
(b) would be a close company if it were resident in the United Kingdom,
(and is not treated under any of subsections (3) to (5) of section 96 as received by another person)."

109 (1) Section 88 (gains of dual resident settlements) is amended as follows.

(2) For subsection (2) substitute—

"(2) The section 2(2) amount for a tax year for which section 87 applies by virtue of this section is what it would be if the amount mentioned in section 87(4)(a) were the assumed chargeable amount."

(3) Omit subsection (7).

110 (1) Section 89 (migrant settlements) is amended as follows.

(2) In subsection (1), for "section 87 if" substitute "sections 87 and 87A if".

(3) For subsections (2) and (3) substitute—

"(1A) Subsection (2) applies to a settlement if—
(a) a non-resident period is succeeded by a resident period, and
(b) in relation to the last tax year in the non-resident period ("the last non-resident tax year"), section 87A(3) applied by virtue of paragraph (a) of that provision (exhaustion of capital payments).

(2) Chargeable gains are treated as accruing in a tax year (in the resident period) to a beneficiary of the settlement who receives a capital payment from the trustees in that year if all or part of the capital payment is matched (under section 87A as it applies for that year) with the section 2(2) amount for the last non-resident tax year or any earlier tax year.

(3) Section 87(3) and (4) and sections 87A to 87C apply for the purposes of subsection (2) as if the relevant tax year were the tax year mentioned in subsection (2).

(4) Section 87B (remittance basis) applies in relation to chargeable gains treated under subsection (2) as accruing as it applies in relation to chargeable gains treated under section 87 as accruing."

111 For section 90 substitute—

"90 Sections 87 and 89(2): transfers between settlements

(1) This section applies if the trustees of a settlement ("the transferor settlement") transfer all or part of the settled property to the trustees of another settlement ("the transferee settlement").

(2) In this section "the year of transfer" means the tax year in which the transfer occurs.

(3) Treat the section 2(2) amount for the transferee settlement for any tax year (not later than the year of transfer) as increased by—

(a) the section 2(2) amount for the transferor settlement for that year (as reduced under section 87A as it applies in relation to that settlement for the year of transfer and all earlier tax years), or

(b) if part only of the settled property is transferred, the relevant proportion of the amount mentioned in paragraph (a).

(4) "The relevant proportion" is—

(a) the market value of the property transferred, divided by

(b) the market value of the property comprised in the transferor settlement immediately before the transfer.

(5) Treat the section 2(2) amount for the transferor settlement for any tax year as reduced by the amount by which the section 2(2) amount for the transferee settlement for that year is increased under subsection (3).

(6) If neither section 87 nor section 89(2) would otherwise apply to the transferee settlement for the year of transfer—

(a) section 89(2) to (4) apply to the settlement for that year (and subsequent tax years), and

(b) for this purpose, references there to the last non-resident tax year are to be read as the year of transfer.

(7) The increase under subsection (3) has effect for the year of transfer and subsequent tax years.

(8) The reduction under subsection (5) has effect for tax years after the year of transfer.

(9) When calculating the market value of property for the purposes of this section or section 90A in a case where the property is subject to a debt, reduce the market value by the amount of the debt.

(10) This section does not apply to—

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

(b) any section 2(2) amount that is in a Schedule 4C pool (see paragraph 1 of Schedule 4C).

90A Section 90: transfers made for consideration in money or money's worth

(1) Section 90 does not apply to a transfer of settled property made for consideration in money or money's worth if the amount (or value) of

that consideration is equal to or exceeds the market value of the property transferred.

(2) The following provisions apply if—

(a) section 90 applies to a transfer of settled property made for consideration in money or money's worth, and

(b) the amount (or value) of that consideration is less than the market value of the property transferred.

(3) If the transfer is of all of the settled property, for the purposes of section 90 treat the transfer as being of part only of the settled property.

(4) Deduct the amount (or value) of the consideration from the amount of the market value referred to in section 90(4)(a)."

112 (1) Section 91 (increase in tax payable under section 87 or 89(2)) is amended as follows.

(2) For subsection (1) substitute—

"(1) This section applies if—

(a) chargeable gains are treated under section 87 or 89(2) as accruing to a beneficiary by virtue of the matching (under section 87A) of all or part of a capital payment with the section 2(2) amount for a tax year ("the relevant tax year"),

(b) the beneficiary is charged to tax by virtue of that matching, and

(c) the capital payment was made more than one year after the end of the relevant tax year.

(1A) Where part of a capital payment is matched, references in subsections (2) and (3) to the capital payment are to the part matched."

(3) In subsection (5)(a), for the words from "year" to the end (excluding the "and") substitute "tax year immediately after the relevant tax year,".

(4) Omit subsection (8).

113 Omit sections 92 to 95 (matching).

114 Omit—

(a) in FA 1998, section 130(1) and (4), and paragraph 6(3) and (4) of Schedule 21,

(b) in FA 2002, paragraph 6 of Schedule 11,

(c) in FA 2003, section 163(3), and

(d) in FA 2006, paragraphs 34(2)(d) and 36(2)(a) of Schedule 12.

Attribution of gains to beneficiaries: commencement etc

115 The amendments made by paragraphs 106 to 114 have effect for the tax year 2008-09 and subsequent tax years.

116 For the purposes of sections 87 and 87A of TCGA 1992, no account is to be taken of—

(a) any capital payment received before 10 March 1981, or

(b) any capital payment received on or after that date but before 6 April 1984, so far as it represents a chargeable gain which accrued to the trustees before 6 April 1981.

117 In the application of section 87 of TCGA 1992 for a tax year by virtue of section 88, no account is to be taken of any capital payment received before 6 April 1991.

118 (1) This paragraph applies if—

(a) section 87 of TCGA 1992 applies to a settlement for the tax year 2008-09 or any subsequent tax year ("the tax year"),

(b) the settlement was made before 17 March 1998,

(c) none of the settlors fulfilled the residence requirements when the settlement was made, and

(d) none of the settlors fulfils the residence requirements in the tax year.

(2) For the purposes of that section as it applies to the settlement for the tax year, no account is to be taken of—

(a) any gains or losses accruing to the trustees of the settlement before 17 March 1998, or

(b) any capital payments received before that date.

(3) A settlor "fulfils the residence requirements" when the settlor is—

(a) resident or ordinarily resident in the United Kingdom, and

(b) domiciled in any part of the United Kingdom.

119 Section 87C of TCGA 1992 does not apply in relation to any capital payment received before 6 April 2008.

120 (1) This paragraph applies to a settlement if section 87 or 89(2) of TCGA 1992 applied to it for the tax year 2007-08 or any earlier tax year.

(2) The following steps are to be taken for the purposes of calculating the section 2(2) amount for the settlement for the tax year 2007-08 and earlier tax years.

Step 1

Calculate (in accordance with section 87 and, where appropriate, section 88) the section 2(2) amount for the settlement for the tax year 2007-08 and earlier tax years.

For this purpose, references in section 87(4) and (5) of TCGA 1992 (as substituted) to section 87 of that Act applying to a settlement for a tax year are to be read as references to section 87 of that Act (as it had effect before that substitution) applying to a settlement for a tax year.

Step 2

Find the total amount of chargeable gains treated under section 87 or 89(2) as accruing to beneficiaries of the settlement in the tax year 2007-08 or any earlier tax year ("the total deemed gains").

Step 3

Find the earliest tax year for which the section 2(2) amount is not nil.

If the section 2(2) amount for that year is less than or equal to the total deemed gains, reduce that section 2(2) amount to nil.

Otherwise, reduce that section 2(2) amount by the amount of the total deemed gains.

Step 4

Reduce the total deemed gains by the amount by which the section 2(2) amount was reduced under Step 3.

Step 5

If the total deemed gains is not nil, start again at Step 3.

For this purpose, read references to the earliest tax year for which the section 2(2) amount is not nil as references to the earliest tax year—

(a) which is after the last tax year for which Steps 3 and 4 have been undertaken, and

(b) for which the section 2(2) amount is not nil.

(3) If, before 6 April 2008, the trustees of the settlement made a transfer of value to which Schedule 4B to TCGA 1992 applied, sub-paragraph (2) has effect subject to such modifications as are just and reasonable on account of Schedule 4C to that Act having applied in relation to the settlement.

(4) This paragraph does not apply if section 90 of TCGA 1992 applied to a transfer of settled property by or to the trustees of the settlement that was made before 6 April 2008 (see paragraph 121).

121 (1) If section 90 of TCGA 1992 (as originally enacted) applied to a transfer of settled property made before 6 April 2008, this paragraph applies in relation to the transferor settlement and the transferee settlement.

(2) In this paragraph "the year of transfer" means the tax year in which the transfer occurred.

(3) The following steps are to be taken for the purpose of calculating the section 2(2) amount for the transferor and transferee settlements for the tax year 2007-08 and earlier tax years.

Step 1

Take the steps in paragraph 120(2) for the purpose of calculating the section 2(2) amount (at the end of the year of transfer) for the transferor settlement for the year of transfer and earlier tax years.

For this purpose, read references there to the tax year 2007-08 as references to the year of transfer.

Step 2

Take the steps in paragraph 120(2) for the purpose of calculating the section 2(2) amount (before the year of transfer) for the transferee settlement for the tax year before the year of transfer and earlier tax years.

For this purpose, read references there to the tax year 2007-08 as references to the tax year before the year of transfer.

Step 3

Calculate the section 2(2) amount for the transferee settlement for the year of transfer.

Step 4

Treat the section 2(2) amount for the transferee settlement for the year of transfer or any earlier tax year (as calculated under Step 2 or 3) as increased by—

(a) the section 2(2) amount for the transferor settlement for that year (as calculated under Step 1), or

(b) if part only of the settled property was transferred, the relevant proportion of the amount mentioned in paragraph (a).

"The relevant proportion" here has the same meaning as in section 90(4) of TCGA 1992 (as substituted by this Schedule).

Step 5

Treat the section 2(2) amount for the transferor settlement for any tax year as reduced by the amount by which the section 2(2) amount for the transferee settlement for that year is increased under Step 4.

Step 6

Take the steps in paragraph 120(2) for the purpose of calculating the section 2(2) amount for the transferor settlement for the tax year 2007-08 and earlier tax years.

For this purpose—

(a) treat the section 2(2) amount for the year of transfer or any earlier tax year as the amount calculated by taking Steps 1 and 5 above, and

(b) reduce the total deemed gains by the amount of the total deemed gains calculated by taking Step 1 above.

Step 7

Take the steps in paragraph 120(2) for the purpose of calculating the section 2(2) amount for the transferee settlement for the tax year 2007-08 and earlier tax years.

For this purpose—

(a) treat the section 2(2) amount for the year of transfer or any earlier tax year as the amount calculated by taking Steps 2 to 4 above, and

(b) reduce the total deemed gains by the amount of the total deemed gains calculated by taking Step 2 above.

(4) This paragraph applies with any necessary modifications in relation to a settlement as respects which more than one relevant transfer was made.

(5) In sub-paragraph (4) "relevant transfer" means a transfer—

(a) made before 6 April 2008, and

(b) to which section 90 of TCGA 1992 applied.

(6) If, before 6 April 2008, the trustees of the transferor or transferee settlement made a transfer of value to which Schedule 4B to TCGA 1992 applied, this paragraph has effect subject to such modifications as are just and reasonable on account of Schedule 4C to that Act having applied in relation to the settlement.

122 (1) If all of a capital payment would (in the tax year 2008-09) have been left out of account by virtue of section 87(6) of TCGA 1992 as originally enacted, the amount of that capital payment is reduced to nil.

(2) If part of a capital payment would (in the tax year 2008-09) have been left out of account by virtue of section 87(6) of TCGA 1992 as originally enacted, the amount of that capital payment is reduced by the amount of that part.

(3) If—

(a) chargeable gains were treated under section 87 or 89(2) of, or paragraph 8 of Schedule 4C to, TCGA 1992 as accruing in the tax year 2007-08 or any earlier tax year to a beneficiary,

(b) more than one capital payment that the beneficiary had received was taken into account for the purposes of determining the amount of chargeable gains treated as accruing to the beneficiary, and

(c) the amount of those chargeable gains was less than the total amount of capital payments taken into account,

for the purposes of this paragraph treat section 87(6) of TCGA 1992 as originally enacted as having effect in relation to earlier capital payments before later ones.

(4) References in this paragraph to section 87(6) of TCGA 1992 include that provision as it would (but for the amendments made by this Schedule) have applied by virtue of section 762(3) of ICTA (offshore income gains).

(5) References in this paragraph to chargeable gains include offshore income gains.

123 Section 89(2) of TCGA 1992 as substituted applies to a settlement for the tax year 2008-09 (and subsequent tax years) if section 89(2) of that Act as originally enacted would (but for the amendments made by this Schedule) have applied to the settlement for the tax year 2008-09.

124 (1) This paragraph applies if—

(a) chargeable gains are treated under section 87 or 89(2) of TCGA 1992 as accruing to an individual in the tax year 2008-09 or any subsequent tax year, and

(b) the individual is not domiciled in the United Kingdom in that year.

(2) The individual is not charged to capital gains tax on the chargeable gains if and to the extent that they are treated as accruing by reason of—

(a) a capital payment received (or treated as received) by the individual before 6 April 2008, or

(b) the matching of any capital payment with the section 2(2) amount for the tax year 2007-08 or any earlier tax year.

125 (1) This paragraph applies in relation to a settlement for the tax year 2008-09 or any subsequent tax year ("the relevant tax year") if—

(a) an individual who was resident or ordinarily resident, but not domiciled, in the United Kingdom in the tax year 2007-08 received a capital payment from the trustees of the settlement on or after 12 March 2008 but before 6 April 2008, and

(b) the individual is resident or ordinarily resident, but not domiciled, in the United Kingdom in the relevant tax year.

(2) For the purposes of sections 87 to 89 of TCGA 1992 as they apply in relation to the settlement for the relevant tax year, no account is to be taken of the capital payment.

126 (1) The following provisions apply to a settlement if—

(a) section 87 applies to the settlement for the tax year 2008-09, and

(b) the trustees of the settlement have made an election under this sub-paragraph.

(2) An election under sub-paragraph (1) may only be made on or before the first 31 January to occur after the end of the first tax year (beginning with the tax year 2008-09) in which an event within either of the following paragraphs occurs—

(a) a capital payment is received (or treated as received) by a beneficiary of the settlement, and the beneficiary is resident in the United Kingdom in the tax year in which it is received, and

(b) the trustees transfer all or part of the settled property to the trustees of another settlement, and section 90 of TCGA 1992 applies in relation to the transfer.

(3) For a tax year as respects which the settlement has a Schedule 4C pool, the reference in sub-paragraph (2)(a) above to a capital payment received (or treated as received) by a beneficiary of the settlement is to be read as a capital payment received (or treated as received) by a beneficiary of a relevant settlement from the trustees of a relevant settlement.

(4) Paragraph 8A of that Schedule (relevant settlements) applies for the purposes of sub-paragraph (3) above.

(5) An election under sub-paragraph (1) is irrevocable.

(6) An election under that sub-paragraph must be made in the way and form specified by the Commissioners for Her Majesty's Revenue and Customs.

(7) Sub-paragraph (8) applies if—

(a) by virtue of the matching of a capital payment with the section 2(2) amount for the settlement for the tax year 2008-09 or any subsequent tax year ("the relevant tax year"), chargeable gains are treated under section 87 or 89(2) of, or paragraph 8 of Schedule 4C to, TCGA 1992 as accruing to an individual in a tax year, and

(b) the individual is resident, but not domiciled, in the United Kingdom in that year.

(8) The individual is not charged to capital gains tax on so much of the chargeable gains as exceeds the relevant proportion of those gains.

(9) The relevant proportion is—

$$\frac{A}{B}$$

where—

A is what would be the section 2(2) amount for the settlement for the relevant tax year, if immediately before 6 April 2008 every relevant asset had been sold by the trustees (or the company concerned) and immediately re-acquired by them (or it) at the market value at that time, and

B is the section 2(2) amount for the settlement for the relevant tax year.

(10) For the purposes of sub-paragraph (9) an asset is a "relevant asset" if—

(a) by reason of the asset, a chargeable gain or allowable loss accrues to the trustees in the relevant tax year, and

(b) the asset has been comprised in the settlement from the beginning of 6 April 2008 until the time of the event giving rise to the chargeable gain or allowable loss.

(11) For those purposes, an asset is also a "relevant asset" if—

(a) by reason of the asset, chargeable gains are treated under section 13 of TCGA 1992 as accruing to the trustees in the relevant tax year,

(b) the company to which the chargeable gains actually accrue has owned the asset from the beginning of 6 April 2008 until the time of the event giving rise to those chargeable gains, and

(c) had the company disposed of the asset at any time in the relevant period, part of the chargeable gains (if any) accruing on the disposal would have been treated under section 13 of TCGA 1992 as accruing to the trustees.

(12) In sub-paragraph (11)(c) "the relevant period" means the period beginning at the beginning of 6 April 2008 and ending immediately before the event giving rise to the chargeable gains.

(13) If—

(a) by reason of an asset which would not otherwise be a relevant asset ("the new asset"), chargeable gains or allowable losses accrue, or are treated under section 13 as accruing, to the trustees in the relevant tax year,

(b) the value of the new asset derives wholly or in part from another asset ("the original asset"), and

(c) section 43 of TCGA 1992 applies in relation to the calculation of the chargeable gains or allowable losses,

the new asset (or part of that asset) is a "relevant asset" if the condition in sub-paragraph (10)(b) or the conditions in sub-paragraph (11)(b) and (c) would be met were the references there to the asset to be read as references to the new asset or the original asset.

(14) If—

(a) on or after 6 April 2008, a company ("company A") disposes of an asset to another company ("company B"), and

(b) section 171 of TCGA (transfers within groups) (as applied by section 14(2) of that Act) applies in relation to the disposal,

for the purposes of sub-paragraph (11) (and this sub-paragraph) treat company B as having owned the asset throughout the period when company A owned it.

(15) If an asset is a relevant asset by virtue of sub-paragraph (14), for the purposes of sub-paragraph (9)—

(a) treat the chargeable gains as having accrued to the company which owned the asset at the beginning of 6 April 2008, and

(b) treat the proportion of those chargeable gains attributable under section 13 of TCGA 1992 to the trustees as being the proportion of the chargeable gains actually accruing that are so attributable.

(16) If—

(a) an asset would otherwise be a "relevant asset" within sub-paragraph (11), and

(b) the proportion of chargeable gains treated under section 13 of TCGA 1992 as accruing to the trustees by reason of the asset ("the relevant proportion") is greater than the minimum proportion,

for the purposes of sub-paragraph (9) treat the appropriate proportion of the asset as a relevant asset and the rest of the asset as if it were not a relevant asset.

(17) "The minimum proportion" is the smallest proportion of chargeable gains (if any) that would have been attributable to the trustees on a disposal of the asset at any time in the relevant period (as defined by sub-paragraph (12)).

(18) "The appropriate proportion" is the minimum proportion divided by the relevant proportion.

127 (1) This paragraph applies if—

(a) in the tax year 2008-09 or any subsequent tax year, the trustees of a settlement ("the transferor settlement") transfer all or part of the settled property to the trustees of another settlement ("the transferee settlement"),

(b) section 90 of TCGA 1992 applies in relation to the transfer,

(c) the trustees of the transferor settlement have made an election under paragraph 126(1),

(d) by virtue of the matching of a capital payment with the section 2(2) amount for the transferee settlement for the tax year 2008-09 or any subsequent tax year ("the relevant tax year"), chargeable gains are treated under section 87 or 89(2) of, or paragraph 8 of Schedule 4C to, TCGA 1992 as accruing to an individual in a tax year, and

(e) the individual is resident, but not domiciled, in the United Kingdom in that year.

(2) If the trustees of the transferee settlement have made an election under paragraph 126(1), paragraph 126(7) to (9) have effect in relation to the transferee settlement for that year as if the reference in paragraph 126(9) to relevant assets included relevant assets within the meaning of this paragraph.

(3) If the trustees of the transferee settlement have not made an election under paragraph 126(1), the individual is not charged to capital gains tax on so much of the chargeable gains mentioned in sub-paragraph (1)(d) above as exceeds the relevant proportion of those gains.

(4) The relevant proportion is—

$$\frac{A}{B}$$

where—

A is what would be the section 2(2) amount for the transferee settlement for the relevant tax year, if immediately before 6 April 2008 every relevant asset had been sold by the company concerned and immediately re-acquired by it at the market value at that time, and

B is the section 2(2) amount for the transferee settlement for the relevant tax year.

(5) For the purposes of this paragraph an asset is a "relevant asset" if—

(a) by reason of the asset, chargeable gains are treated under section 13 of TCGA 1992 as accruing to the trustees of the transferee settlement in the relevant tax year,

(b) the company to which the chargeable gains actually accrue has owned the asset from the beginning of 6 April 2008 until the time of the event giving rise to those chargeable gains,

(c) had the company disposed of the asset at any time in the relevant period, part of the chargeable gains (if any) accruing on the disposal would have been treated under section 13 of TCGA 1992 as accruing to—

(i) the trustees of the transferor settlement (if the disposal had been made before the transfer), or

(ii) the trustees of the transferee settlement (if it had not).

(6) In sub-paragraph (5)(c) "the relevant period" means the period beginning at the beginning of 6 April 2008 and ending immediately before the event giving rise to the chargeable gains.

(7) Sub-paragraphs (13) to (18) of paragraph 126 apply for the purposes of this paragraph (with such modifications as are necessary) as they apply for the purposes of that paragraph.

Attribution of gains to beneficiaries: cases involving transfers of value

128 TCGA 1992 is amended as follows.

129 (1) Section 85A (transfers of value: attribution of gains to beneficiaries and treatment of losses) is amended as follows.

(2) After subsection (2) insert—

"(2A) For the purposes of sections 87 to 89, no account is to be taken of any section 2(2) amount in a Schedule 4C pool (see paragraph 1 of Schedule 4C)."

(3) For subsection (3) substitute—

"(3) When calculating the section 2(2) amount for a settlement for a tax year (within the meaning of section 87), no account is to be taken of any chargeable gains or allowable losses accruing by virtue of Schedule 4B.

Nothing in this subsection affects any increase in a section 2(2) amount by virtue of paragraph 1(3A) or 7B(2)(b) of Schedule 4C."

130 In paragraph 3 of Schedule 4B (transfers of value by trustees linked with trustee borrowing: settlements), for sub-paragraph (4) substitute—

"(4) A settlement is "within section 87" for a tax year if—

(a) section 87 applies to the settlement for that year, or

(b) chargeable gains would be treated under section 89(2) as accruing in that year to a beneficiary who received a capital payment from the trustees of the settlement in that year.

(5) The reference in subsection (4)(b) to chargeable gains treated as accruing includes offshore income gains treated as arising."

131 Schedule 4C (transfers of value: attribution of gains to beneficiaries) is amended as follows.

132 In paragraph 1, for sub-paragraphs (2) and (3) substitute—

"(2) The transferor settlement is regarded for the purposes of this Schedule as having a "Schedule 4C pool".

(3) The Schedule 4C pool contains the section 2(2) amounts for the settlement that are outstanding at the end of the tax year in which the original transfer is made (see paragraph 1A).

(3A) The section 2(2) amount for that tax year is increased by—

(a) the amount of Schedule 4B trust gains accruing by virtue of the original transfer (see paragraphs 3 to 7), and

(b) the total amount of any further Schedule 4B trust gains accruing by virtue of any further transfers of value to which that Schedule applies that are made by the trustees in that tax year."

133 After that paragraph insert—

"Outstanding section 2(2) amounts

1A (1) The following steps are to be taken for the purpose of calculating the section 2(2) amounts for a settlement that are outstanding at the end of a tax year ("the relevant tax year").

Step 1

Find the section 2(2) amount for the settlement for the relevant tax year and earlier tax years, as reduced under section 87A as it applies for the relevant tax year and earlier tax years.

Step 2

This Step applies if, by virtue of the matching of the section 2(2) amount for the settlement for a tax year ("the applicable year") with a capital payment, chargeable gains are treated under section 87 or 89(2) as accruing in the relevant tax year to a beneficiary who is not chargeable to tax for that year.

Increase the section 2(2) amount for the applicable year (found under Step 1) by the amount of the chargeable gains.

(2) For the purposes of Step 1 of sub-paragraph (1) take into account the effect of section 90 in relation to any transfer of settled property from or to the trustees of the settlement made in or before the relevant tax year.

(3) For the purposes of this Schedule a beneficiary is "chargeable to tax" for a tax year if the beneficiary is resident or ordinarily resident in the United Kingdom in that year."

134 In paragraph 4(2) (chargeable amount: non-resident settlement), at the end insert "(and had made the disposals which Schedule 4B treats them as having made)".

135 In paragraph 5(2)(a) (chargeable amount: dual resident settlement), after "apply" insert "(and the disposals which Schedule 4B treats them as having made were made)".

136 Omit paragraph 7A (and the heading before it).

137 For paragraph 7B substitute—

"7B (1) This paragraph applies if the trustees of the transferor settlement make a further transfer of value to which Schedule 4B applies in a tax year ("the year of the transfer") after the tax year mentioned in paragraph 1(3).

(2) If the settlement has a Schedule 4C pool at the beginning of the year of the transfer—

(a) the section 2(2) amounts in the Schedule 4C pool are increased by the section 2(2) amounts for the settlement

that are outstanding at the end of the year of the transfer, and

(b) the section 2(2) amount in the pool for the year of transfer is increased (or further increased) by the amount of Schedule 4B trust gains accruing by virtue of the further transfer.

(3) If the settlement does not have a Schedule 4C pool at the beginning of the year of the transfer, this Schedule applies in relation to the further transfer as it applied in relation to the original transfer.

(4) For the purposes of this paragraph a settlement has a Schedule 4C pool until the end of the tax year in which all section 2(2) amounts in the pool have been reduced to nil."

138 For paragraph 8 substitute—

"8 (1) Chargeable gains are treated as accruing in a tax year ("the relevant tax year") to a beneficiary who has received a capital payment from the trustees of a relevant settlement in the relevant tax year or any earlier tax year if all or part of the capital payment is matched (under section 87A as it applies for the relevant tax year) with the section 2(2) amount in the Schedule 4C pool for the relevant tax year or any earlier tax year.

(2) The amount of chargeable gains treated as accruing is equal to—

(a) the amount of the capital payment, or

(b) if only part of the capital payment is matched, the amount of that part.

(3) Section 87A applies for a tax year for the purposes of matching capital payments received from the trustees of a relevant settlement with section 2(2) amounts in the Schedule 4C pool as if—

(a) references to section 2(2) amounts were to section 2(2) amounts in the Schedule 4C pool,

(b) references to a capital payment received from the trustees by a beneficiary were to a capital payment received from the trustees of a relevant settlement by a beneficiary who is chargeable to tax for that year, and

(c) for section 87A(3)(b) there were substituted—

"(b) all section 2(2) amounts in the Schedule 4C pool have been reduced to nil."

(4) Section 87A applies for a tax year by virtue of this paragraph before it applies for that year otherwise than by virtue of this paragraph; but this is subject to sub-paragraph (5).

(5) If section 87A applies for a tax year by virtue of section 762(3) of the Taxes Act (offshore income gains), it applies for that year by virtue of that provision before it applies for that year by virtue of this paragraph."

139 After paragraph 8A insert—

"Attribution of gains: remittance basis

8AA Section 87B (remittance basis) applies in relation to chargeable gains treated under paragraph 8 as accruing as it applies in relation to chargeable gains treated under section 87 as accruing."

140 Omit paragraphs 8B and 8C (including the heading before paragraph 8B).

141 For paragraph 9 (and the heading before it) substitute—

"Attribution of gains: disregard of certain capital payments

9 (1) For the purposes of paragraph 8 (and section 87A as it applies for the purposes of that paragraph), no account is to be taken of a capital payment to which any of sub-paragraphs (2) to (4) applies (or a part of a capital payment to which sub-paragraph (4) applies).

(2) This sub-paragraph applies to a capital payment received before the tax year preceding the tax year in which the original transfer is made.

(3) This sub-paragraph applies to a capital payment that—

(a) is received by a beneficiary of a settlement from the trustees in a tax year during the whole of which the trustees—

(i) are resident and ordinarily resident in the United Kingdom, and

(ii) are not Treaty non-resident,

(b) was made before any transfer of value to which Schedule 4B applies was made, and

(c) was not made in anticipation of the making of any such transfer of value or of chargeable gains accruing under that Schedule.

(4) This sub-paragraph applies to a capital payment if (and to the extent that) it is received (or treated as received) in a tax year from the trustees by a company that—

(a) is not resident in the United Kingdom in that year, and

(b) would be a close company if it were resident in the United Kingdom,

(and is not treated under any of subsections (3) to (5) of section 96 as received by another person)."

142 In paragraph 10 (residence of trustees from whom capital payment received)—

(a) in sub-paragraph (1), for "sub-paragraph (2) below" substitute "paragraph 9(3)", and

(b) omit sub-paragraphs (2) and (3).

143 (1) Paragraph 12 (attribution of gains to settlor in section 10A cases) is amended as follows.

(2) For sub-paragraphs (1) to (3) substitute—

"(1) This paragraph applies if—

(a) by virtue of section 10A, an amount of chargeable gains within section 86(1)(e) that accrued in an intervening year to the trustees of a settlement would be treated as accruing to a person ("the settlor") in the year of return, and

(b) after paragraph 8 has applied for the year of return, the section 2(2) amount for the intervening year that is in the Schedule 4C pool for the settlement is less than the amount mentioned in paragraph (a).

(2) The amount of chargeable gains treated as mentioned in sub-paragraph (1)(a) as accruing to the settlor in the year of return is limited to the section 2(2) amount referred to in sub-paragraph (1)(b)."

144 In paragraph 12A(3), for "87(4)" substitute "87(2)".

145 (1) Paragraph 13 (increase in tax payable under this Schedule) is amended as follows.

(2) For sub-paragraph (1) substitute—

"(1) This paragraph applies if—

(a) chargeable gains are treated under paragraph 8 as accruing to a beneficiary by virtue of the matching (under section 87A) of all or part of a capital payment with the section 2(2) amount for a tax year ("the relevant tax year"), and

(b) the beneficiary is charged to tax by virtue of the matching.

(1A) Where part of a capital payment is matched, references in sub-paragraphs (2) and (3) to the capital payment are to the part matched."

(3) In sub-paragraph (5)(a), for the words from "year of assessment" to the end (excluding the "and") substitute "tax year immediately after the relevant tax year,".

146 Omit paragraph 3 and 6(2) and (3) of Schedule 29 to FA 2003.

Attribution of gains to beneficiaries in cases involving transfers of value: commencement etc

147 The amendments made by paragraphs 128 to 146 have effect in relation to transfers of value to which Schedule 4B to TCGA 1992 applies that are made on or after 6 April 2008.

148 For the purposes of paragraph 8 of Schedule 4C to TCGA 1992 (and section 87A of that Act as it applies for the purposes of that paragraph), no account is to be taken of any capital payment received before 21 March 2000.

149 A capital payment received before 6 April 2008 is not within paragraph 9(4) of Schedule 4C to TCGA 1992 (if it otherwise would be).

150 Paragraph 124 applies in relation to chargeable gains treated under paragraph 8 of Schedule 4C to TCGA 1992 as accruing as it applies in relation to chargeable gains treated under section 87 as accruing.

151 (1) This paragraph applies for the tax year 2008-09 or any subsequent tax year ("the relevant tax year") if—

(a) an individual who was resident or ordinarily resident, but not domiciled, in the United Kingdom in the tax year 2007-08 received a capital payment from the trustees of a settlement on or after 12 March 2008 but before 6 April 2008, and

(b) the individual is resident or ordinarily resident, but not domiciled, in the United Kingdom in the relevant tax year.

(2) For the purposes of paragraph 8 of Schedule 4C to TCGA 1992 as it applies for the relevant tax year (and section 87A of that Act as it applies for those purposes), no account is to be taken of the capital payment.

Attribution of gains to beneficiaries: existing Schedule 4C pools

152 Schedule 4C to TCGA 1992 (as it has effect without the amendments made by paragraphs 128 to 146) applies for the tax year 2008-09 and subsequent tax years in relation to Schedule 4C pools created before 6 April 2008 ("existing Schedule 4C pools") as if paragraphs 7B and 9(2) were omitted.

153 Any reduction in the amount of a capital payment has effect for the purposes of Schedule 4C to TCGA 1992 as it applies in relation to existing Schedule 4C pools (as well as for other purposes).

154 (1) If all of a capital payment ceases (in the tax year 2008-09 or any subsequent tax year) to be available, the amount of the capital payment is reduced to nil.

(2) If part of a capital payment ceases (in the tax year 2008-09 or any subsequent tax year) to be available, the amount of the capital payment is reduced by the amount of that part.

(3) A capital payment "ceases to be available" in a tax year if and to the extent that, by reason of the capital payment, chargeable gains are treated under paragraph 8 of Schedule 4C to TCGA 1992 (as it has effect in relation to existing Schedule 4C pools) as accruing in that year to the recipient.

(4) If—

(a) chargeable gains are treated under paragraph 8 of Schedule 4C to TCGA 1992 (as it has effect in relation to existing Schedule 4C pools) as accruing in a tax year,

(b) more than one capital payment that the beneficiary has received is taken into account for the purposes of determining the amount of chargeable gains treated as accruing to the beneficiary, and

(c) the amount of the chargeable gains is less than the total amount of capital payments taken into account,

sub-paragraph (3) applies in relation to earlier capital payments before later ones.

155 In any tax year—

(a) Schedule 4C to TCGA 1992 (as amended by paragraphs 128 to 146) applies in relation to a settlement before that Schedule (as it has effect without those amendments) applies in relation to the settlement, and

(b) that Schedule (as it has effect without those amendments) applies in relation to the settlement before section 87 or 89(2) of that Act applies in relation to the settlement.

Transfers of securities: accrued income profits

156 In section 830(4) of ITTOIA 2005 (meaning of "relevant foreign income")—

(a) omit the "and" at the end of paragraph (f), and

(b) at the end of paragraph (g) insert—

"(h) section 670A of ITA 2007 (accrued income profits),".

157 In section 617 of ITA 2007 (accrued income profits: income charged), after subsection (6) insert—

"(7) Subsection (1) is subject to section 832 of ITTOIA 2005 (relevant foreign income charged on remittance basis)."

158 Omit section 644 of that Act (accrued income profits: individuals to whom remittance basis applies).

159 After section 670 of that Act insert—

"*Individuals to whom remittance basis applies*

670A Individuals to whom remittance basis applies

(1) This section applies if—

(a) accrued income profits are made by an individual as a result of a transfer of foreign securities, and

(b) section 809B, 809D or 809E (remittance basis) applies to the individual for the tax year in which the profits are made.

(2) Treat the accrued income profits as relevant foreign income of the individual.

(3) For the purposes of Chapter A1 of Part 14 (remittance basis)—

(a) if the individual is the transferor—

(i) treat any consideration for the transfer as deriving from the accrued income profits, and

(ii) if on the transfer the individual does not receive consideration of an amount equal to (or exceeding) the market value of the securities, treat the securities as deriving from the accrued income profits, and

(b) if the individual is the transferee, treat the securities as deriving from the accrued income profits.

(4) For the purposes of this section securities are "foreign" if income from them would be relevant foreign income."

160 The amendments made by paragraphs 156 to 159 have effect in relation to transfers of securities where the settlement day is on or after 6 April 2008.

Transfers of assets abroad

161 In section 46B(4)(c) of TMA 1970 (questions to be determined by Special Commissioners), for "sections 720, 727 and 731" substitute "any provision of Chapter 2 of Part 13".

162 In section 830(4) of ITTOIA 2005 (meaning of "relevant foreign income"),

after paragraph (h) insert "and

(i) sections 726, 730 and 735 of that Act (transfer of assets abroad: foreign deemed income)."

163 ITA 2007 is amended as follows.

164 In section 720(4) (transfer of assets abroad: charge where power to enjoy income), after "abroad)" insert "and section 726 (non-UK domiciled individuals to whom remittance basis applies)".

165 For section 726 substitute—

"726 Non-UK domiciled individuals to whom remittance basis applies

(1) This section applies in relation to income treated under section 721 as arising to an individual in a tax year ("the deemed income") if—

(a) section 809B, 809D or 809E (remittance basis) applies to the individual for the year, and

(b) the individual is not domiciled in the United Kingdom in the year.

(2) For the purposes of this section the deemed income is "foreign" if (and to the extent that) the income mentioned in section 721(2) would be relevant foreign income if it were the individual's.

(3) Treat the foreign deemed income as relevant foreign income of the individual.

(4) For the purposes of Chapter A1 of Part 14 (remittance basis) treat so much of the income within section 721(2) as would be relevant foreign income if it were the individual's as deriving from the foreign deemed income."

166 In section 727 (transfer of assets abroad: charge where capital sums received), after subsection (3) insert—

"(3A) But see section 730 (non-UK domiciled individuals to whom remittance basis applies)."

167 For section 730 substitute—

"730 Non-UK domiciled individuals to whom remittance basis applies

(1) This section applies in relation to income treated under section 728 as arising to an individual in a tax year ("the deemed income") if—

(a) section 809B, 809D or 809E (remittance basis) applies to the individual for the year, and

(b) the individual is not domiciled in the United Kingdom in the year.

(2) For the purposes of this section the deemed income is "foreign" if (and to the extent that) the income mentioned in section 728(1)(a) would be relevant foreign income if it were the individual's.

(3) Treat the foreign deemed income as relevant foreign income of the individual.

(4) For the purposes of Chapter A1 of Part 14 (remittance basis) treat so much of the income within section 728(1)(a) as would be relevant

foreign income if it were the individual's as deriving from the foreign deemed income."

168 In section 731 (transfer of assets abroad: charge where benefit received), after subsection (2) insert—

"(2A) But see section 735 (non-UK domiciled individuals to whom remittance basis applies)."

169 For section 735 substitute—

"735 Non-UK domiciled individuals to whom remittance basis applies

(1) This section applies if—

(a) income is treated under section 732 as arising to an individual in a tax year ("the deemed income"),

(b) section 809B, 809D or 809E (remittance basis) applies to the individual for the year, and

(c) the individual is not domiciled in the United Kingdom in the year.

(2) For the purposes of this section the deemed income is "foreign" if (and to the extent that) the relevant income to which it relates would be relevant foreign income if it were the individual's.

(3) Treat the foreign deemed income as relevant foreign income of the individual.

(4) For the purposes of Chapter A1 of Part 14 (remittance basis) treat relevant income, or a benefit, that relates to any part of the foreign deemed income as deriving from that part of the foreign deemed income.

735A Section 735: relevant income and benefits relating to foreign deemed income

(1) For the purposes of section 735—

(a) place the benefits mentioned in Step 1 in the order in which they were received by the individual (starting with the earliest benefit received),

(b) deduct from those benefits so much of any benefit within section 734(1)(b) as gives rise as mentioned in section 734(1)(d) to chargeable gains or offshore income gains,

(c) place the income mentioned in Step 3 for the tax years mentioned in Step 4 ("the relevant income") in the order determined under subsection (3),

(d) deduct from that income any income that may not be taken into account because of section 743(1) or (2) (no duplication of charges),

(e) place the income treated under section 732(2) as arising to the individual in respect of the benefits in the order in which it is treated as arising (starting with the earliest income treated as having arisen), and

(f) treat the income mentioned in paragraph (e) as related to—

(i) the benefits, and

(ii) the relevant income,

by matching that income with the benefits and the relevant income (in the orders mentioned in paragraphs (a), (c) and (e)).

(2) In subsection (1) references to a step are to a step in section 733(1).

(3) The order referred to in subsection (1)(c) is arrived at by taking the following steps.

Step 1

Find the relevant income for the earliest tax year (of the tax years referred to in subsection (1)(c)).

Step 2

Place so much of that income as is not foreign in the order in which it arose (starting with the earliest income to arise).

Step 3

After that, place so much of that income as is foreign in the order in which it arose (starting with the earliest income to arise).

Step 4

Repeat Steps 1 to 3.

For this purpose, read references to the relevant income for the earliest tax year as references to the relevant income for the first tax year after the last tax year in relation to which those Steps have been undertaken.

(4) For the purposes of subsection (3) relevant income is "foreign" where it would be relevant foreign income if it were the individual's.

(5) For those purposes treat income for a period as arising immediately before the end of the period.

(6) Subsection (1)(d) does not apply if the income may not be taken into account because the individual has been charged to income tax under section 731 by reason of the income."

170 The amendments made by paragraphs 161 to 169 have effect for the tax year 2008-09 and subsequent tax years.

General

171 For the purposes of this Part of this Schedule, the market value of any asset is its market value for the purposes of TCGA 1992.

SCHEDULE 8

Section 26

RATES OF RESEARCH AND DEVELOPMENT RELIEF AND VACCINE RESEARCH RELIEF

Rates of research and development relief: SMEs

1 (1) Part 2 of Schedule 20 to FA 2000 (giving effect to R&D tax relief) is amended as follows.

(2) In each of the following provisions, for "150%" substitute "175%"—

(a) paragraph 13 (deduction in computing profits of trade),

(b) paragraph 14(2) (alternative treatment of pre-trading expenditure), and

(c) paragraph 15(3)(b) (entitlement to R&D tax credit).

(3) In paragraph 16(1)(a) (amount of R&D tax credit), for "16%" substitute "14%".

(4) The amendments made by this paragraph have effect in relation to expenditure incurred on or after such day as the Treasury may by order appoint.

(5) The Treasury may appoint a day before the day on which this Act is passed, but not one before 1 April 2008.

Rates of research and development tax relief: large companies

2 (1) In Schedule 12 to FA 2002 (tax relief for expenditure on research and development), in both of the following provisions, for "25%" substitute "30%"—

(a) paragraph 11(2) (deduction in computing profits of trade), and

(b) paragraph 15(4) (refunds of contributions to independent research and development etc).

(2) The amendments made by sub-paragraph (1) have effect in relation to expenditure incurred on or after 1 April 2008.

Rates of vaccine research relief

3 (1) Schedule 13 to FA 2002 (vaccine research relief) is amended as follows.

(2) In each of the following provisions, for "50%" substitute "40%"—

(a) paragraph 14(2) (deduction in computing profits of trade: small and medium-sized companies),

(b) paragraph 15(2)(a) (alternative treatment of pre-trading expenditure: deemed trading loss),

(c) paragraph 15A(2) (modifications for larger SMEs claiming R&D tax credits),

(d) paragraph 21(2) (deduction in computing profits of trade: large companies), and

(e) paragraph 25(4)(a)(i) and (b)(i) (refunds of contributions to independent research and development).

(3) In each of the following provisions, for "150%" substitute "140%"—

(a) paragraph 15(2)(b) (alternative treatment of pre-trading expenditure: deemed trading loss),

(b) paragraph 16A(1) (entitlement to tax credit: modifications for larger SMEs),

(c) paragraph 21(3) (deduction in computing profits of trade: large companies), and

(d) paragraph 25(4)(a)(ii) and (b)(ii) (refunds of contributions to independent research and development).

(4) The amendments made by this paragraph have effect in relation to expenditure incurred on or after such day as the Treasury may by order appoint.

(5) The Treasury may appoint a day before the day on which this Act is passed, but not one before 1 April 2008.

SCHEDULE 9

Section 28

COMPANIES IN DIFFICULTY: SME R&D RELIEF AND VACCINE RESEARCH RELIEF

Research and development relief

1 (1) Schedule 20 to FA 2000 (tax relief for expenditure on research and development) is amended as follows.

(2) In paragraph 13 (deduction in computing profits of trade), insert at the end "(subject to paragraph 18A)".

(3) In paragraph 14(2) (alternative treatment of pre-trading expenditure), insert at the end "(subject to paragraph 18A)".

(4) In paragraph 15(1) (entitlement to R&D tax credit), insert at the end "(subject to paragraph 18A)".

(5) In paragraph 18 (payment in respect of R&D tax credit), insert at the end—

"(5) This paragraph has effect subject to paragraph 18A."

(6) After that paragraph insert—

"R&D tax relief or tax credit only available where company is a going concern

18A (1) A company may only make—

(a) a claim under paragraph 13,

(b) an election under paragraph 14, or

(c) a claim under paragraph 15,

at a time when it is a going concern.

(2) If a company ceases to be a going concern after making a claim for an R&D tax credit under paragraph 15, it shall be treated as if it had not made the claim (and, accordingly, as if there had been no payment of R&D tax credit to carry interest under section 826 of the Taxes Act 1988).

(3) Sub-paragraph (2) does not apply to the extent that the claim relates to an amount that was paid or applied before the company ceased to be a going concern.

(4) For the purposes of this paragraph, a company is a going concern if—

(a) its latest published accounts were prepared on a going concern basis, and

(b) nothing in those accounts indicates that they were only prepared on that basis because of an expectation that the company would receive relief or tax credits under this Schedule or Schedule 13 to the Finance Act 2002.

(5) Section 436(2) of the Companies Act 2006 (meaning of "publication" of documents) has effect for the purposes of this paragraph."

Vaccine research relief

2 (1) Schedule 13 to FA 2002 (tax relief for expenditure on vaccine research etc) is amended as follows.

(2) In paragraph 14(1) (deduction in computing profits of trade), insert at the end "(subject to paragraph 18A)".

(3) In paragraph 15(1) (alternative treatment of pre-trading expenditure: deemed trading loss), insert at the end "(subject to paragraph 18A)".

(4) In paragraph 16(1) (entitlement to tax credit), insert at the end "(subject to paragraph 18A)".

(5) In paragraph 18 (payment in respect of tax credit), insert at the end—

"(5) This paragraph has effect subject to paragraph 18A."

(6) After that paragraph insert—

"Relief or tax credit only available where company is a going concern

18A (1) A company may only make—

(a) a claim under paragraph 14,

(b) an election under paragraph 15, or

(c) a claim under paragraph 16,

at a time when it is a going concern.

(2) If a company ceases to be a going concern after making a claim for a tax credit under paragraph 16, it shall be treated as if it had not made the claim (and, accordingly, as if there had been no payment of tax credit to carry interest under section 826 of the Taxes Act 1988).

(3) Sub-paragraph (2) does not apply to the extent that the claim relates to an amount that was paid or applied before the company ceased to be a going concern.

(4) For the purposes of this paragraph, a company is a going concern if—

(a) its latest published accounts were prepared on a going concern basis, and

(b) nothing in those accounts indicates that they were only prepared on that basis because of an expectation that the company would receive relief or tax credits under this Schedule or Schedule 20 to the Finance Act 2000.

(5) Section 436(2) of the Companies Act 2006 (meaning of "publication" of documents) has effect for the purposes of this paragraph."

Commencement

3 The amendments made by this Schedule have effect in relation to claims and elections made, and amounts paid or applied, on or after such day as the Treasury may by order appoint.

SCHEDULE 10

Section 29

CAP ON R&D AID

PART 1

CALCULATION OF TOTAL R&D AID

Calculation of total R&D aid

1 For the purposes of section 29, "total R&D aid", in respect of expenditure by a company (the "claimant") attributable to a research and development project, is calculated as follows—

$$A = (TC + R + (P \times CT)) - (N \times CT)$$

where—

A is total R&D aid,

TC is the tax credits (see paragraph 2),

R is the actual reduction in tax liability (see paragraph 3),

P is the potential relief (see paragraph 4),

CT is the main rate of corporation tax at the time when the total R&D aid is calculated, and

N is the notional relief (see paragraph 5).

2 (1) In paragraph 1 "the tax credits" means the aggregate of the tax credits that have been paid to the claimant under paragraph 18 of Schedule 20 to FA 2000 or paragraph 18 of Schedule 13 to FA 2002 in respect of expenditure attributable to the project.

(2) A tax credit that has been claimed but not paid or applied shall be treated for the purposes of sub-paragraph (1) as if it had been paid, unless the claimant has been informed by Her Majesty's Revenue and Customs that the tax credit will not be paid or applied.

3 In paragraph 1 "the actual reduction in tax liability" means the aggregate of—

(a) the amounts by which the liability of the claimant to pay corporation tax has been reduced in any accounting period in consequence of R&D relief in respect of expenditure attributable to the project, and

(b) the amounts by which the liability of any other company to pay corporation tax has been reduced in any accounting period in consequence of a surrender to the company by the claimant under section 402 of ICTA (surrender of relief between members of groups and consortia) of a loss arising in consequence of R&D relief in respect of expenditure attributable to the project.

4 (1) In paragraph 1 "the potential relief" means the aggregate amount of any R&D relief (other than a tax credit)—

(a) in respect of which the claimant has made a claim or election, but
(b) which, as at the day on which the total R&D aid is calculated, has not been brought into account by the claimant or by any other company.

(2) R&D relief shall not be counted for the purposes of sub-paragraph (1) if the claimant has been informed by Her Majesty's Revenue and Customs that it is not entitled to the relief.

5 (1) In paragraph 1 "the notional relief" is the aggregate amount of relief that the claimant could have claimed under Schedule 12 to FA 2002 (tax relief for expenditure on R&D: large companies etc) in any accounting period in respect of qualifying R&D expenditure attributable to the project if it had been a large company throughout the accounting period.

(2) In this paragraph—
"large company" has the meaning given in paragraph 2 of Schedule 12 to FA 2002, and
"qualifying R&D expenditure" means expenditure that, in the accounting period in question, was—
(a) qualifying R&D expenditure within the meaning of Schedule 20 to FA 2000, or
(b) qualifying expenditure within the meaning of Schedule 13 to FA 2002.

Interpretation

6 In this Schedule "R&D relief" means any relief or tax credit under—
(a) Schedule 20 to FA 2000 (tax relief for expenditure by SMEs on research and development), or
(b) Schedule 13 to FA 2002 (tax relief for expenditure on vaccine research etc).

Transitional provision

7 For the purpose of any calculation in accordance with paragraph 1, no account shall be taken of any R&D relief in respect of expenditure incurred before the day on which this Schedule comes into force.

PART 2

CONSEQUENTIAL AMENDMENTS

8 In Schedule 20 to FA 2000 (tax relief for expenditure by SMEs on research and development), in paragraph 1 (entitlement), insert at the end—

"(5) This paragraph has effect subject to section 29 of the Finance Act 2008 (cap on R&D aid)."

9 In Schedule 12 to FA 2002 (tax relief for expenditure on research and development)—
(a) after paragraph 10B insert—

"Capped SME expenditure

10C For the purposes of this Schedule, the SME's "capped SME expenditure" is any expenditure—

(a) in respect of which the company is not entitled to relief under Schedule 20 to the Finance Act 2000 by reason only of section 29 of the Finance Act 2008 (cap on R&D aid), and

(b) which satisfies paragraph 10B(a) and (c).",

(b) in paragraph 11(3)(c), insert at the end "and capped SME expenditure (see paragraph 10C)", and

(c) in paragraph 15(1)(d), insert at the end "or capped SME expenditure".

10 In Schedule 13 to FA 2002 (tax relief for expenditure on vaccine research etc), in paragraph 1 (entitlement), insert at the end—

"(3) This paragraph has effect subject to section 29 of the Finance Act 2008 (cap on R&D aid)."

SCHEDULE 11

Section 32

VENTURE CAPITAL SCHEMES

Corporate Venturing Scheme

1 Part 3 of Schedule 15 to FA 2000 (CVS: the issuing company) is amended as follows.

2 In paragraph 26 (excluded activities)—

(a) in sub-paragraph (1), after paragraph (h) insert—

"(ha) shipbuilding;

(hb) producing coal;

(hc) producing steel;", and

(b) in sub-paragraph (2), after the entry relating to paragraph 30 insert—

"paragraph 30A (shipbuilding);
paragraph 30B (producing coal);
paragraph 30C (producing steel);".

3 After paragraph 30 insert—

"Excluded activities: shipbuilding

30A In paragraph 26(1)(ha) "shipbuilding" has the same meaning as in the Framework on state aid to shipbuilding (2003/C 317/06), published in the Official Journal on 30 December 2003.

Excluded activities: producing coal

30B (1) This paragraph supplements paragraph 26(1)(hb).

(2) "Coal" has the meaning given by Article 2 of Council Regulation (EC) No. 1407/2002 (state aid to coal industry).

(3) The production of coal includes the extraction of it.

Excluded activities: producing steel

30C In paragraph 26(1)(hc) "steel" means any of the steel products listed in Annex 1 to the Guidelines on national regional aid (2006/C 54/08), published in the Official Journal on 4 March 2006."

Enterprise Investment Scheme

4 Chapter 4 of Part 5 of ITA 2007 (EIS: the issuing company) is amended as follows.

5 In section 192 (meaning of "excluded activities")—

(a) in subsection (1), after paragraph (i) insert—

"(ia) shipbuilding,
(ib) producing coal,
(ic) producing steel,", and

(b) in subsection (2), after paragraph (d) insert—

"(da) section 196A (shipbuilding),
(db) section 196B (producing coal),
(dc) section 196C (producing steel),".

6 After section 196 insert—

"196A Excluded activities: shipbuilding

In section 192(1)(ia) "shipbuilding" has the same meaning as in the Framework on state aid to shipbuilding (2003/C 317/06), published in the Official Journal on 30 December 2003.

196B Excluded activities: producing coal

(1) This section supplements section 192(1)(ib).

(2) "Coal" has the meaning given by Article 2 of Council Regulation (EC) No. 1407/2002 (state aid to coal industry).

(3) The production of coal includes the extraction of it.

196C Excluded activities: producing steel

In section 192(1)(ic) "steel" means any of the steel products listed in Annex 1 to the Guidelines on national regional aid (2006/C 54/08), published in the Official Journal on 4 March 2006."

Venture capital trusts

7 Chapter 4 of Part 6 of ITA 2007 (VCTs: qualifying holdings) is amended as follows.

8 In section 303 (meaning of "excluded activities")—

(a) in subsection (1), after paragraph (i) insert—

"(ia) shipbuilding,
(ib) producing coal,
(ic) producing steel,", and

(b) in subsection (2), after paragraph (d) insert—

"(da) section 307A (shipbuilding),

(db) section 307B (producing coal),
(dc) section 307C (producing steel),".

9 After section 307 insert—

"307A Excluded activities: shipbuilding

In section 303(1)(ia) "shipbuilding" has the same meaning as in the Framework on state aid to shipbuilding (2003/C 317/06), published in the Official Journal on 30 December 2003.

307B Excluded activities: producing coal

(1) This section supplements section 303(1)(ib).

(2) "Coal" has the meaning given by Article 2 of Council Regulation (EC) No. 1407/2002 (state aid to coal industry).

(3) The production of coal includes the extraction of it.

307C Excluded activities: producing steel

In section 303(1)(ic) "steel" means any of the steel products listed in Annex 1 to the Guidelines on national regional aid (2006/C 54/08), published in the Official Journal on 4 March 2006."

Commencement

10 The amendments made by this Schedule are treated as having come into force on 6 April 2008.

11 But the amendments made by paragraphs 2, 3, 5 and 6 do not have effect in relation to shares issued before that date.

12 And the amendments made by paragraphs 8 and 9 do not have effect in relation to—
(a) a relevant holding issued before that date, or
(b) a relevant holding acquired by a company ("the investing company") by means of the investment of protected money.

13 For the purposes of paragraph 12(b) "protected money" is—
(a) money raised by the issue before that date of shares in or securities of the investing company, or
(b) money derived from the investment of such money.

SCHEDULE 12

Section 34

TAX CREDIT FOR CERTAIN FOREIGN DISTRIBUTIONS

PART 1

THE TAX CREDIT

1 Chapter 3 of Part 4 of ITTOIA 2005 (dividends etc from UK resident companies etc) is amended as follows.

2 In the heading of the Chapter, for "ETC.", in the second place, substitute "AND TAX CREDITS ETC. IN RESPECT OF CERTAIN DISTRIBUTIONS".

3 In the heading of section 397, after "**distributions**" insert "**of UK resident companies**".

4 After section 397 insert—

"397A Tax credits for distributions of non-UK resident companies: UK residents and eligible non-UK residents

(1) This section applies where a UK resident or eligible non-UK resident receives a relevant distribution made by a non-UK resident company, provided that—

(a) the company is not an offshore fund (within the meaning of section 756A of ICTA), and

(b) the person is a minority shareholder in the company at the time the distribution is received.

(2) The person is entitled to a tax credit equal to one-ninth of the amount or value of the grossed up distribution (but see subsections (3) and (6)).

(3) Subsection (2) only applies so far as the distribution is brought into charge to tax, and accordingly if the person's total income is reduced by any deductions which fall to be made from the distribution, the tax credit for the distribution is reduced in the same proportion as the distribution.

(4) The person may claim to deduct the tax credit from the income tax charged on the person's total income for the tax year in which the distribution (or the part of the distribution to which the tax credit relates) is brought into charge to tax.

(5) If a distribution is, or is treated under any provision of the Tax Acts as, the income of a person ("P") other than the recipient ("R"), P (not R) is treated as receiving it for the purposes of this section (and so P (not R) is entitled to a tax credit if P falls within subsection (1)).

(6) This section is subject to the following provisions—

section 171(2B) of FA 1993 (no tax credit for distributions in respect of assets in Lloyd's member's premium trust fund),

section 504(4) of ITA 2007 (disapplication of certain provisions for income of unauthorised unit trusts),

section 592 of ITA 2007 (no tax credits for borrower under stock lending arrangement),

section 593 of ITA 2007 (no tax credits for interim holder under repo), and

section 594 of ITA 2007 (no tax credits for original owner under repo).

(7) In this section—

"eligible non-UK resident", in relation to a distribution, means an individual who, at any time in the tax year in which the distribution (or the part of the distribution to which the tax credit relates) is brought into charge to tax, is a non-UK

resident who meets the condition in section 56(3) of ITA 2007 (residence etc of claimants),

"grossed up distribution" means the distribution increased by the amount of any tax chargeable in respect of the distribution directly or by deduction under the laws of the territory in which the company is resident, including special withholding tax,

"minority shareholder", in relation to a company, has the meaning given in section 397C,

"relevant distribution", in relation to a person, means—

(a) a qualifying distribution arising in a relevant tax year,

(b) a cash dividend paid over to the person under paragraph 68(4) of Schedule 2 of ITEPA 2003 (cash dividend paid over if not reinvested etc) in a relevant tax year, and

(c) a dividend treated under section 407 as paid to the person in a relevant tax year,

"relevant tax year" means the tax year 2008-09 or a subsequent tax year, and

"special withholding tax" has the meaning given in section 107(3) of FA 2004.

(8) Section 397B makes provision about the application of this section in the case of overseas dividends arising from manufactured overseas dividends (within the meaning of Chapter 2 of Part 11 of ITA 2007).

397B Tax credits under section 397A: manufactured overseas dividends

(1) This section applies where, under section 581 of ITA 2007, a person is treated as receiving an overseas dividend by virtue of having received a manufactured overseas dividend which is representative of an overseas dividend.

(2) For the purposes of section 397A, the person is treated as receiving a relevant distribution made by a non-UK resident company that is not an offshore fund if, and only if, the manufactured overseas dividend is representative of such a distribution.

(3) References in section 397A to the grossed up distribution have effect as if they were references to the gross amount of the overseas dividend of which the manufactured overseas dividend is representative, disregarding the amount of any overseas tax credit.

(4) In this section—

"gross amount", in relation to a manufactured overseas dividend, has the same meaning as in Chapter 2 of Part 11 of ITA 2007 (manufactured payments) (see section 589 of that Act),

"manufactured overseas dividend" and "overseas tax credit" have the same meaning as in Chapter 2 of that Part (see sections 581 and 591 of that Act), and

"overseas dividend" has the same meaning as in that Part (see section 567 of that Act).

397C Meaning of "minority shareholder"

(1) In section 397A "minority shareholder", in relation to a non-UK resident company, means a person whose shareholding in the company is less than 10% of the company's issued share capital.

(2) Subsections (3) to (6) make provision about the circumstances in which shares form part of a person's shareholding in a company for the purposes of this section.

(3) Shares form part of a person's shareholding in a company to the extent that the person is beneficially entitled to the shares or to a distribution arising in respect of the shares (or both).

(4) Shares form part of a person's shareholding in the company where—
(a) a person is a settlor in relation to a settlement, and
(b) income arising from shares comprised in the settlement is treated for income tax purposes as the income of that person and of that person alone.

(5) Shares form part of the shareholding in a company of a person ("P") if—
(a) they form part of the shareholding in the company of a person connected with P,
(b) P transferred the shares to the connected person or arranged for the connected person to acquire the shares, and
(c) the purpose of the transfer or arrangement was wholly or mainly to enable P to avoid tax.

(6) Shares form part of a person's shareholding in a company if that person has transferred the shares to another person under a repo or stock lending arrangement.

(7) In this section—
"repo" has the same meaning as in Part 11 of ITA 2007 (see section 569 of that Act),
"settlement" and "settlor" have the same meaning as in Chapter 5 of Part 5 of this Act, and
"stock lending arrangement" has the same meaning as in Part 11 of ITA 2007 (see section 568 of that Act)."

5 In section 398(1) (increase in amount or value of dividends where tax credit available)—
(a) after "a tax credit" insert "under section 397 or 397A", and
(b) for "section 397(1)" substitute "sections 397(1) and 397A(2)".

6 In section 399(1) (qualifying distributions received by persons not entitled to tax credits), after "a tax credit" insert "under section 397 or 397A".

PART 2

CONSEQUENTIAL PROVISION

TMA 1970

7 TMA 1970 is amended as follows.

8 In section 8(1AA)(b) (personal return: amount payable by way of income tax), after "397(1)" insert "or 397A(2)".

9 In section 8A(1AA)(b) (trustee's return: amount payable by way of income tax), after "397(1)" insert "or 397A(2)".

10 In section 9(1)(b) (self-assessment of amount payable by way of income tax), after "397(1)" insert "or 397A(2)".

11 In section 12AA(1A)(b) (partnership return: amount payable by way of income tax), after "397(1)" insert "or 397A(2)".

12 In section 12AB(5) (partnership statement), in the definition of "tax credit", after "397(1)" insert "or 397A(2)".

13 In section 59A(8)(b) (payments on account of income tax), after "397(1)" insert "or 397A(2)".

14 In section 59B(2)(b) (payment of income tax), after "397(1)" insert "or 397A(2)".

ICTA

15 In section 824(4A)(b) of ICTA (repayment supplements: individuals and others), after "397(1)" insert "or 397A(2)".

FA 1993

16 In section 171(2B) of FA 1993 (Lloyd's underwriters etc: taxation of profits and allowance of losses), for "Section 397(1)" substitute "Sections 397(1) and 397A(2)".

ITTOIA 2005

17 ITTOIA 2005 is amended as follows.

18 In section 403(1) (dividends from non-UK resident companies: income charged), omit "full".

19 In section 406 (dividends of non-UK resident companies: later charge where cash dividends retained in SIPs are paid over), after subsection (4) insert—

"(4A) For the purposes of determining—

(a) whether the participant is entitled to a tax credit under section 397A in respect of a cash dividend so charged, and

(b) the amount of that tax credit,

that section applies as it has effect for the tax year in which the cash dividend is paid over."

20 In section 407 (dividends of non-UK resident companies: dividend payment when dividend shares cease to be subject to SIP), after subsection (4) insert—

"(4A) For the purposes of determining—

(a) whether the participant is entitled to a tax credit under section 397A in respect of a dividend so charged, and

(b) the amount of that tax credit,

that section applies as it has effect for the tax year in which the shares cease to be subject to the plan."

21 In section 408 (reduction in tax due in cases within section 407), after subsection (2) insert—

"(2A) In subsection (2) "the tax due" means the amount of tax due as a result of section 407 after deduction of the tax credit determined in accordance with section 407(4A)."

22 In section 688(1) (income not otherwise charged), omit "full".

ITA 2007

23 ITA 2007 is amended as follows.

24 In section 425(5) (gift aid: deductions when calculating total amount of income tax to which individual charged for a tax year)—

(a) in paragraph (a), omit "and" at the end of sub-paragraph (v), and

(b) insert at the end ", and

(c) the amount of any tax credit under section 397A of ITTOIA 2005 (tax credits for distributions of non-UK resident companies: UK residents and eligible non-UK residents)."

25 In section 504(4)(b) (provisions that do not apply to income of unauthorised unit trusts), for "section 397(1)" substitute "sections 397(1) and 397A(2)".

26 (1) Section 567 (meaning of "overseas securities" etc) is amended as follows.

(2) After subsection (1) insert—

"(1A) "Overseas shares" means shares in a non-UK resident company."

(3) After subsection (2) insert—

"(2A) "Overseas securities" includes overseas shares."

(4) Accordingly, in the heading, after "**of**" insert "**"overseas shares",**".

27 (1) Section 592 (no tax credits for borrower under stock lending arrangement) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), insert at the end "or overseas shares,",

(b) in paragraph (c), omit "UK", and

(c) in paragraph (d)—

(i) after "manufactured dividend" insert "or manufactured overseas dividend", and

(ii) after "UK shares" insert "or overseas shares".

(3) In subsection (2), after "397(1)" insert "or 397A(2)".

28 (1) Section 593 (no tax credits for interim holder under repo) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), after "UK shares" insert "or overseas shares",

(b) in paragraphs (b) and (d), omit "UK", and

(c) in paragraph (e)—

(i) after "manufactured dividend" insert "or manufactured overseas dividend", and

(ii) after "UK shares" insert "or overseas shares".

(3) In subsection (2), after "397(1)" insert "or 397A(2)".

29 (1) Section 594 (no tax credits for original owner under repo) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), after "UK shares" insert "or overseas shares",

(b) in paragraph (b), omit "UK",

(c) in paragraph (d)—

(i) after "manufactured dividend" insert "or manufactured overseas dividend", and

(ii) omit "UK", and

(d) in paragraph (e), after "manufactured dividend" insert "or manufactured overseas dividend".

(3) In subsection (2), after "397(1)" insert "or 397A(2)".

30 (1) Section 595 (meaning of "manufactured dividend") is amended as follows.

(2) For "has" substitute "and "manufactured overseas dividend" have".

(3) For "section 573(1)(a)" substitute "sections 573(1)(a) and 581(1)(a)".

31 In section 989 (definitions), in the definition of "tax credit", after "397(1)" insert "or 397A(2)".

SCHEDULE 13

Section 36

COMPANY GAINS FROM INVESTMENT LIFE INSURANCE CONTRACTS

Definitions

1 (1) In this Schedule—

"investment life insurance contract" means—

(a) a policy of life insurance which has, or is capable of acquiring, a surrender value,

(b) a contract for a purchased life annuity, or

(c) a capital redemption policy,

other than a relevant excluded contract,

"relevant company" means a company which is not a life insurance company, and

"relevant excluded contract" means—

(a) an investment life insurance contract under, or purchased with sums or assets held for the purposes of, a registered pension scheme, or

(b) (subject to sub-paragraph (3)) a policy of life insurance issued in respect of an insurance made before 14 March 1989.

(2) In sub-paragraph (1)—

"capital redemption policy" means a contract made in the course of capital redemption business (as defined in section 431(2ZF) of ICTA),

"life insurance company" means—

(a) an insurance company (as defined in subsection (2) of section 431 of ICTA) which carries on long-term business (as defined in that subsection), or

(b) a friendly society which would be such an insurance company but for the words "(other than a friendly society)" in the definition of "insurance company" in that subsection, and

"purchased life annuity" means an annuity—

(a) granted for consideration in money or money's worth in the ordinary course of a business of granting annuities on human life, and

(b) payable for a term ending at a time ascertainable only by reference to the end of a human life (whether or not it may in some circumstances end before or after the life).

(3) A policy of life insurance issued in respect of an insurance made before 14 March 1989 is to be treated for the purposes of this Schedule as issued in respect of one made on or after that date if it is varied on or after that date so as to—

(a) increase the benefits secured, or

(b) extend the term of the insurance;

and any exercise of rights conferred by the policy is to be regarded for this purpose as a variation.

(4) In this Schedule—

"fair value accounting" has the same meaning as in Chapter 2 of Part 4 of FA 1996 (see section 103(1) of that Act),

"non-trading credit" has the same meaning as in that Chapter (see section 82(3) of that Act),

"registered pension scheme" has the same meaning as in Part 4 of FA 2004, and

"related transaction" has the same meaning as in Chapter 2 of Part 4 of FA 1996 (see section 84(5) and (6) of that Act).

Contract to be loan relationship

2 (1) If a relevant company is a party to an investment life insurance contract, for the purposes of Chapter 2 of Part 4 of FA 1996 the contract is, in relation to the company, a loan relationship of the company (as a creditor relationship).

(2) But if—

(a) the amount or value of a lump sum payable under an investment life insurance contract by reason of death or the onset of critical illness, exceeds

(b) the surrender value of the contract immediately before the time when the lump sum becomes payable,

the excess is not to be brought into account as a credit under that Chapter representing a profit from a related transaction arising by reason of the lump sum becoming payable.

Increased non-trading credits

3 (1) This paragraph applies where—

(a) by virtue of paragraph 2 the relevant company is required to bring into account for an accounting period a non-trading credit representing a profit from a related transaction, and

(b) the investment life insurance contract is a BLAGAB contract, or a contract which is subject to a relevant comparable EEA tax charge.

(2) The non-trading credit ("NTC") is to be treated as increased by the relevant amount and the relevant amount is to be set off against corporation tax assessable on the company for the accounting period.

(3) The relevant amount is—

$$\frac{AR}{100 - AR} \times NTC$$

where AR is the appropriate rate for the accounting period, that is—

(a) if a single rate of tax under section 88(1) of FA 1989 (lower corporation tax rate on certain insurance company profits) is applicable in relation to the accounting period, that rate, and

(b) if more than one such rate of tax is applicable in relation to the accounting period, the average of those rates over the accounting period.

(4) In sub-paragraph (1) "BLAGAB contract" means a contract forming part of basic life assurance and general annuity business of an insurance company but not part of business which is exempt from corporation tax under section 460 of ICTA (friendly society business and former friendly society business).

(5) For the purposes of sub-paragraph (1) the contract is subject to a relevant comparable EEA tax charge if the contract forms part of the business of a company (other than the relevant company) to which a relevant comparable EEA tax charge has applied.

(6) For the purposes of sub-paragraph (5) a relevant comparable EEA tax charge has applied to a company if—

(a) a charge to tax has applied to the company under the laws of a territory outside the United Kingdom that is within the European Economic Area,

(b) the charge has applied to the company—

(i) as a body deriving its status as a company from those laws,

(ii) as a company with its place of management there, or

(iii) as a company falling under those laws to be regarded for any other reason as resident or domiciled there,

(c) the charge applies at a rate of at least 20% in relation to the amounts subject to tax in the company's hands, other than amounts arising or accruing in respect of investments of a description for which a special relief or exemption is generally available, and

(d) the charge is made otherwise than by reference to the company's profits.

4 (1) Where the relevant company brings into account credits and debits in respect of the investment life insurance contract on the basis of fair value accounting, the relevant amount under paragraph 3 is determined as if for

"NTC" in the formula in sub-paragraph (3) of that paragraph there were substituted "PC".

(2) For this purpose "PC" is the profit from the contract, that is any amount by which—

(a) the amount payable as a result of the related transaction, exceeds

(b) the fair value of the contract when the contract was made or, if the contract was made before the beginning of the first accounting period of the company beginning on or after 1 April 2008, at the beginning of that period.

(3) If the related transaction is an assignment (or, in Scotland, assignation) or surrender of only part of the rights conferred by the contract, sub-paragraph (2) has effect as if paragraph (b) of that sub-paragraph referred to the relevant fraction of the fair value of the contract when the contract was made or, if the contract was made before the beginning of the first accounting period of the company beginning on or after 1 April 2008, at the beginning of that period.

(4) For this purpose the relevant fraction is—

$$\frac{C}{FVC}$$

where—

C is the amount payable as a result of the related transaction, and

FVC is the fair value of the contract immediately before the related transaction.

Commencement

5 This Schedule has effect for accounting periods beginning on or after 1 April 2008.

6 (1) Where the relevant company was a party to an investment life insurance contract immediately before the beginning of the first accounting period of the company beginning on or after that date, the company is to be treated for the purposes of Chapter 2 of Part 13 of ICTA (life policies etc) as having surrendered all the rights under the contract immediately before that date for an amount equal to the carrying value of the contract at that time as recognised for accounting purposes.

(2) Any gain arising under Chapter 2 of Part 13 of ICTA by reason of that deemed surrender ("the Chapter 2 gain")—

(a) is not income of the company for the accounting period in which it arises, but

(b) is instead to be brought into account as a non-trading credit for the accounting period in which there is a related transaction.

(3) If, immediately after the related transaction, the company is still a party to the investment life insurance contract, only the relevant fraction of the Chapter 2 gain is brought into account as mentioned in sub-paragraph (2)(b).

(4) "The relevant fraction" is—

$$\frac{P}{SAR}$$

where—

P is the amount payable as a result of the related transaction, and

SAR is the amount that would have been payable on a surrender of all of the rights under the contract immediately before the related transaction.

7 (1) This paragraph applies where—

(a) the relevant company was a party to an investment life insurance contract immediately before the beginning of the first accounting period of the company beginning on or after 1 April 2008,

(b) at all times since the contract was made the rights conferred by the contract have been in the beneficial ownership of the company,

(c) the company brings into account credits and debits in respect of the contract on the basis of fair value accounting, and

(d) the relevant amount exceeds the fair value of the contract immediately before the beginning of that accounting period.

(2) In sub-paragraph (1)(d) "the relevant amount" means—

(a) where section 541 of ICTA applies on the deemed surrender under paragraph 6(1), the amount specified in sub-paragraph (i) of subsection (1)(b) of that section less the amount or value of any relevant capital payments (as defined in subsection (5)(a) of that section), or

(b) where section 543 of that Act applies on that deemed surrender, the amount specified in sub-paragraph (i) of subsection (1)(a) of that section less the amount or value of any relevant capital payments (as defined in subsection (3) of that section).

(3) No amount is to be brought into account as a credit by virtue of paragraph 2 in relation to the contract except to the extent that the aggregate of—

(a) the amount of the credit, and

(b) the total of any other credits which have previously arisen in relation to the contract by virtue of that paragraph,

is greater than the excess mentioned in sub-paragraph (1)(d).

8 (1) This paragraph applies where—

(a) the relevant company was a party to an investment life insurance contract immediately before the beginning of the first accounting period of the company beginning on or after 1 April 2008,

(b) the company brings into account credits and debits in respect of the contract otherwise than on the basis of fair value accounting, and

(c) the carrying value of the contract as recognised for accounting purposes immediately before the beginning of that first accounting period exceeds the fair value of the contract at that time.

(2) No amount is to be brought into account as a debit by virtue of paragraph 2 in relation to the contract except to the extent that the aggregate of—

(a) the amount of the debit, and

(b) the total of any other debits which have previously arisen in relation to the contract by virtue of that paragraph,

is greater than the excess mentioned in sub-paragraph (1)(c).

SCHEDULE 14

Section 36

COMPANY GAINS FROM INVESTMENT LIFE INSURANCE CONTRACTS: CONSEQUENTIAL AMENDMENTS ETC

ICTA

1 ICTA is amended as follows.

2 (1) Subsection (1C) of section 437 (general annuity business: income limit) is amended as follows.

(2) In paragraph (b)(ii), omit "capital elements and".

(3) Omit paragraph (c).

(4) In paragraph (d), for the words after "2005" substitute "are so much of the payments under the new annuities as would be within the exemption in subsection (1) of that section if—

(i) section 718 of that Act were omitted, and

(ii) that exemption were an exemption applying in relation to companies as well as individuals."

3 Omit sections 539 to 551A (corporation tax in respect of gains arising in connection with life policies etc).

4 (1) Section 552 (information: duty of insurers) is amended as follows.

(2) In subsection (3), omit—

(a) the words from "(or" to "year)", and

(b) ", and the corresponding financial year,".

(3) In subsection (5)—

(a) in paragraph (b)—

(i) omit "section 546C(7)(a) of this Act and", and

(ii) for "the year and the insurance year end" substitute "the insurance year ends", and

(b) in paragraph (c), omit—

(i) "this Chapter and",

(ii) in sub-paragraph (i), "the amount or value of any relevant capital payments and",

(iii) in sub-paragraph (iii), the words from the beginning to "656 and", and

(iv) in sub-paragraph (v), the words from the beginning to "year and".

(4) In subsection (6)—

(a) in paragraph (b)—

(i) omit "section 546C(7)(a) of this Act (and",

(ii) omit the closing bracket after "2005", and

(iii) for "the year (and the insurance year)" substitute "the insurance year", and

(b) in paragraph (c), omit "section 546C(7)(a) of this Act (and" and the closing bracket after "2005".

(5) In subsection (7)—

(a) in paragraph (a), omit ", or, where the policy holder is a company, the financial year,", and

(b) in paragraph (b), for the words from "section 546C(7)(a)" to "insurance year)" substitute "section 514(1) of ITTOIA 2005, the period of three months following the end of the insurance year".

(6) In subsection (8)(c), omit the words from "or" to "financial year".

(7) In subsection (9)—

(a) in the words before paragraph (a), omit "or financial year",

(b) in paragraph (a), for the words from "section 546C(7)(b)" to the end substitute "subsection (1) of section 514 of ITTOIA 2005, the year of assessment which includes the end of the insurance year mentioned in subsection (3) and (4) of that section;", and

(c) in paragraph (b) omit "or financial year".

(8) In subsection (10)—

(a) in the definition of "amount", omit "section 553(3) of this Act and",

(b) in the definition of "chargeable event", omit "this Chapter and",

(c) omit the definition of "financial year",

(d) after that definition insert—

""insurance year" has the same meaning as in Chapter 9 of Part 4 of ITTOIA 2005 (see section 499 of that Act);",

(e) in the definition of "the relevant year of assessment", omit paragraph (b) and the "or" before it, and

(f) omit the definitions of "section 546 excess" and "year".

(9) Omit subsection (11).

(10) In subsection (13), omit "section 548A above or".

5 In section 552ZA(3) (information: supplementary provisions), omit "section 546C(7)(a) of this Act and".

6 In section 552A(12) (tax representatives)—

(a) omit "this Chapter and" in each place, and

(b) for "have" substitute "has" in each place.

7 Omit sections 553 to 553C (further provisions about corporation tax in respect of gains arising in connection with life policies etc).

8 Omit sections 656 to 658 (purchased life annuities).

9 In paragraph 20 of Schedule 15 (qualifying policies)—

(a) in sub-paragraph (1)(a), omit "and 540 and 541", and

(b) in sub-paragraph (3)—

(i) in paragraph (a), omit "and 540 and 541", and

(ii) omit paragraph (b) and the "and" before it.

ITTOIA 2005

10 ITTOIA 2005 is amended as follows.

11 In section 467(5) (persons liable: UK resident trustees), for paragraph (c) substitute—

"(c) neither section 465 nor section 466 applies."

12 In section 469(2) (two or more persons interested in policy or contract), omit "above and section 547(1) of ICTA (persons liable for tax etc.)".

13 Omit section 486 (exclusion of maturity of capital redemption policies in certain circumstances).

14 In section 501 (part surrenders: loans)—

(a) in subsection (1), insert "or" at the end of paragraph (a) and omit paragraph (c) and the "or" before it", and

(b) omit subsection (4).

15 In section 541B(7) (section 541A: further definitions), omit paragraph (b) and the "or" before it.

16 In Schedule 1 (consequential amendments), omit paragraphs 210 to 221 and 226 to 228.

Other repeals

17 Omit—

(a) in FA 1989, section 90 and Schedule 9,

(b) in FA 1991, section 76(1),

(c) in F(No.2)A 1992, paragraph 15 of Schedule 9,

(d) in FA 1995, section 55(8),

(e) in FA 1996, section 168(4) to (6) and paragraph 1A of Schedule 9,

(f) in FA 1997, section 79,

(g) in FA 1998, sections 88 and 89 and paragraphs 1 to 4 of Schedule 14,

(h) in FA 1999, section 80 and paragraphs 16 and 18(3) of Schedule 4,

(i) in FA 2000, in section 46(2A), "547(1)(b)",

(j) in FA 2001, section 83(2) and Part 1 of Schedule 28,

(k) in FA 2002, section 87 and paragraph 21 of Schedule 25,

(l) in FA 2003, section 171 and Schedule 34,

(m) in FA 2004, paragraphs 25 and 27 of Schedule 35,

(n) in ITTOIA 2005, paragraph (b) of section 473(2) and the "or" before it, paragraphs 268(1) and (2), 269 and 493 of Schedule 1 and paragraph 86(3) of Schedule 2,

(o) in ITA 2007, paragraphs 111 and 141 of Schedule 1, and

(p) in FA 2007, section 29(1), paragraphs 45 and 46 of Schedule 7 and paragraph 6(3) of Schedule 10.

Commencement

18 (1) The amendments made by this Schedule—

(a) so far as relating to corporation tax, have effect for accounting periods beginning on or after 1 April 2008, and

(b) so far as relating to income tax, have effect for the tax year 2008-09 and subsequent tax years.

(2) The amendments made by paragraphs 4 to 6 also have effect in relation to deemed surrenders under paragraph 6(1) of Schedule 13.

SCHEDULE 15

Section 37

CHANGES IN TRADING STOCK

PART 1

INCOME TAX

1 ITTOIA 2005 is amended as follows.

2 After section 172 insert—

"CHAPTER 11A

TRADE PROFITS: CHANGES IN TRADING STOCK

Introduction

172A Meaning of "trading stock"

(1) In this Chapter "trading stock", in relation to a trade, means anything (whether land or other property)—

(a) which is sold in the ordinary course of trade, or

(b) which would be so sold if it were mature or its manufacture, preparation or construction were complete.

(2) It does not include—

(a) materials used in the manufacture, preparation or construction of any such thing,

(b) any services performed in the ordinary course of the trade, or

(c) any article produced, or any material used, in the performance of any such services.

Transfers of trading stock between trade and trader

172B Trading stock appropriated by trader

(1) This section applies if trading stock of a person's trade is appropriated by the person for any other purpose.

(2) In calculating the profits of the trade—

(a) the amount which the stock appropriated would have realised if sold in the open market at the time of the appropriation is brought into account as a receipt, and

(b) the value of anything in fact received for it is left out of account.

(3) The receipt is treated as arising on the date of the appropriation.

172C Trading stock supplied by trader

(1) This section applies if something that—

(a) belongs to a person carrying on a trade, but

(b) is not trading stock of the trade,

becomes trading stock of the trade.

(2) In calculating the profits of the trade—

(a) the cost of the stock is taken to be the amount which it would have realised if sold in the open market at the time it became trading stock of the trade, and

(b) the value of anything in fact given for it is left out of account.

(3) The cost is treated as being incurred on the date it became trading stock of the trade.

Other disposals not made in the course of trade

172D Disposals not made in the course of trade

(1) This section applies if—

(a) trading stock of a trade is disposed of otherwise than in the course of a trade, and

(b) section 172B does not apply.

(2) In calculating the profits of the trade—

(a) the amount which the stock disposed of would have realised if sold in the open market at the time of the disposal is brought into account as the receipt, and

(b) any consideration obtained for it is left out of account.

(3) The receipt is treated as arising on the date of the disposal.

(4) This section is subject to section 172F.

172E Acquisitions not made in the course of trade

(1) This section applies if—

(a) trading stock of a trade has been acquired otherwise than in the course of trade, and

(b) section 172C does not apply.

(2) In calculating the profits of the trade—

(a) the cost of the stock is taken to be the amount which it would have realised if sold in the open market at the time of the acquisition, and

(b) the value of anything in fact given for it is left out of account.

(3) The cost is treated as being incurred on the date of the acquisition.

(4) This section is subject to section 172F.

Relationship with transfer pricing rules

172F Transfer pricing rules to take precedence

(1) Section 172D or 172E does not apply if the relevant consideration—

(a) falls to be adjusted for tax purposes under Schedule 28AA to ICTA, or

(b) falls within that Schedule without falling to be so adjusted.

(2) For the purposes of subsection (1)(b), the relevant consideration falls within Schedule 28AA to ICTA without falling to be adjusted under that Schedule if—

(a) the conditions in paragraph 1(1) of that Schedule are met, but

(b) either—

(i) the actual provision does not differ from the arm's length provision, or

(ii) the exception in paragraph 8, 10 or 13 of that Schedule applies.

(3) In this section "relevant consideration" means—

(a) in relation to section 172D, the consideration for the disposal of the stock, and

(b) in relation to section 172E, the consideration for the acquisition of the trading stock."

3 In the heading of Chapter 12 of Part 2, insert at the end insert "ON CESSATION OF TRADE".

4 In Schedule 4, in the table in Part 2, after the entry relating to "trade" insert—

"trading stock (in relation to a trade) (in Chapter 11A of Part 2)	section 172A".

PART 2

CORPORATION TAX

Introduction

5 (1) This Part applies for the purposes of corporation tax.

(2) In this Part "trading stock", in relation to a trade, means anything (whether land or other property)—

(a) which is sold in the ordinary course of trade, or

(b) which would be so sold if it were mature or its manufacture, preparation or construction were complete.

(3) It does not include—

(a) materials used in the manufacture, preparation or construction of any such thing,

(b) any services performed in the ordinary course of the trade, or

(c) any article produced, or any material used, in the performance of any such services.

Transfers of trading stock between trade and trader

6 (1) This paragraph applies if trading stock of a person's trade is appropriated by the person for any other purpose.

(2) In calculating the profits of the trade—

(a) the amount which the stock appropriated would have realised if sold in the open market at the time of the appropriation is brought into account as a receipt, and

(b) the value of anything in fact received for it is left out of account.

(3) The receipt is treated as arising on the date of the appropriation.

7 (1) This paragraph applies if something that—

(a) belongs to a person carrying on a trade, but

(b) is not trading stock of the trade,

becomes trading stock of the trade.

(2) In calculating the profits of the trade—

(a) the cost of the stock is taken to be the amount which it would have realised if sold in the open market at the time it became trading stock of the trade, and

(b) the value of anything in fact given for it is left out of account.

(3) The cost is treated as being incurred on the date it became trading stock of the trade.

Other disposals not made in the course of trade

8 (1) This paragraph applies if—

(a) trading stock of a trade is disposed of otherwise than in the course of a trade, and

(b) paragraph 6 does not apply.

(2) In calculating the profits of the trade—

(a) the amount which the stock disposed of would have realised if sold in the open market at the time of the disposal is brought into account as the receipt, and

(b) any consideration obtained for it is left out of account.

(3) The receipt is treated as arising on the date of the disposal.

(4) This paragraph is subject to paragraph 10.

9 (1) This paragraph applies if—

(a) trading stock of a trade has been acquired otherwise than in the course of trade, and

(b) paragraph 7 does not apply.

(2) In calculating the profits of the trade—

(a) the cost of the stock is taken to be the amount which it would have realised if sold in the open market at the time of the acquisition, and

(b) the value of anything in fact given for it is left out of account.

(3) The cost is treated as being incurred on the date of the acquisition.

(4) This paragraph is subject to paragraph 10.

Relationship with transfer pricing rules

10 (1) Paragraph 8 or 9 does not apply if the relevant consideration—

(a) falls to be adjusted for tax purposes under Schedule 28AA to ICTA, or

(b) falls within that Schedule without falling to be so adjusted.

(2) For the purposes of sub-paragraph (1)(b), the relevant consideration falls within Schedule 28AA to ICTA without falling to be adjusted under that Schedule if—

(a) the conditions in paragraph 1(1) of that Schedule are met, but

(b) either—

(i) the actual provision does not differ from the arm's length provision, or

(ii) the exception in paragraph 8, 10 or 13 of that Schedule applies.

(3) In this paragraph "relevant consideration" means—

(a) in relation to paragraph 8, the consideration for the disposal of the stock, and

(b) in relation to paragraph 9, the consideration for the acquisition of the trading stock.

SCHEDULE 16

Section 38

NON-RESIDENTS: INVESTMENT MANAGERS

PART 1

ELIGIBILITY TO BE UK REPRESENTATIVE

1 In section 127 of FA 1995 (persons not treated as UK representatives), in subsection (3)—

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

(b) omit paragraph (f) (and the word "and" preceding it).

2 (1) In section 127 of FA 1995, for subsections (12) and (13) substitute—

"(12) In this section "investment transaction" means any transaction of a description specified for the purposes of this section in regulations made by the Commissioners for Her Majesty's Revenue and Customs.

(13) Provision made in regulations under subsection (12) may, in particular, have effect in relation to the tax year current on the day on which the regulations are made."

(2) In section 1014(2) of ITA 2007 (orders and regulations under the Income Tax Acts: excluded powers), after paragraph (b) insert—

"(ba) section 127(12) of FA 1995,".

PART 2

ELIGIBILITY TO BE AGENT OF INDEPENDENT STATUS

FA 2003

3 (1) In Schedule 26 of FA 2003 (non-resident companies: transactions through broker, investment manager or Lloyd's agent), for paragraph 3(3) and (4)

substitute—

"(3) In sub-paragraph (1) "investment transaction" means any transaction of a description specified for the purposes of this paragraph in regulations made by the Commissioners for Her Majesty's Revenue and Customs.

(4) Provision made in regulations under sub-paragraph (3) may, in particular, have effect in relation to accounting periods current on the day on which the regulations are made."

(2) In section 828(2) of ICTA (orders and regulations), after "Finance Act 1989" insert "or paragraph 3(3) of Schedule 26 to the Finance Act 2003".

ITA 2007

4 ITA 2007 is amended as follows.

5 (1) Section 827 (meaning of "investment transaction") is amended as follows.

(2) For subsections (2) and (3) substitute—

"(2) In this section "investment transaction" means any transaction of a description specified for the purposes of this section in regulations made by the Commissioners for Her Majesty's Revenue and Customs.

(3) Provision made in regulations under subsection (2) may, in particular, have effect in relation to the tax year current on the day on which the regulations are made."

6 (1) Section 1014(2) (orders and regulations under the Income Tax Acts: excluded powers) is amended as follows.

(2) In paragraph (g)(iia), omit "and".

(3) After paragraph (g)(iia) insert—

"(iib) section 827(2) (meaning of "investment transaction"), and".

PART 3

NON-RESIDENTS LIABLE TO TAX: DISREGARDED INVESTMENT INCOME OR PROFITS

FA 2003

7 FA 2003 is amended as follows.

8 (1) Section 152 (non-resident companies: transactions carried out through broker, investment manager or Lloyd's agent) is amended as follows.

(2) The existing provision of section 152 becomes subsection (1) of that section.

(3) After subsection (1) insert—

"(2) Schedule 26 also contains provision about disregarding profits of certain investment transactions carried out on behalf of non-resident companies when attributing profits under section 11AA of the Taxes Act 1988."

9 (1) Schedule 26 (non-resident companies: transactions through broker, investment manager or Lloyd's agent) is amended as follows.

(2) In paragraph 3(2)—
(a) at the end of paragraph (d), insert "and", and
(b) omit paragraph (f) (and the "and" before it).

(3) Omit paragraph 4(5).

(4) After paragraph 5 insert—

"Profits attributable to permanent establishment: disregard of profits of certain investment transactions

5A (1) This paragraph applies if—
(a) an investment manager carries out one or more investment transactions ("relevant investment transactions") on behalf of a non-resident company (whether or not the investment manager also carries out other transactions of any kind on behalf of the company), and
(b) as regards the non-resident company, the investment manager is not regarded as an agent of independent status acting in the ordinary course of his business (whether because conditions in paragraph 3 are not met in relation to relevant investment transactions or otherwise).

(2) In determining under section 11AA of the Taxes Act 1988 the amount of the profits attributable to the permanent establishment represented by the investment manager acting as an agent on behalf of the non-resident company, chargeable profits that derive from a relevant investment transaction are to be disregarded in either of the following cases.

(3) The first case is where the conditions in paragraph 3 are met in relation to the transaction.

(4) The second case is where the conditions in paragraph 3, except for the requirements of the 20% rule, are met in relation to the relevant investment transaction.

(5) But, in the second case, the chargeable profits are to be disregarded only to the extent that they do not represent relevant excluded income of the company to which the investment manager or a person connected with the investment manager has or has had any beneficial entitlement.

(6) Expressions used in this paragraph and in paragraph 3 or 4 have the same meaning in this paragraph as in paragraph 3 or 4."

ITA 2007

10 (1) Section 818 of ITA 2007 (the independent investment manager conditions) is amended as follows.

(2) In subsection (1), for the words from "if" to the end substitute "if conditions A to E are met."

(3) Omit subsections (7) and (8).

PART 4

COMMENCEMENT

11 (1) The amendments made by paragraph 1 have effect in relation to business that relates to investment transactions occurring on or after the day on which this Act is passed.

(2) The amendments made by paragraphs 7 to 9 have effect in relation to accounting periods ending on or after the day on which this Act is passed.

(3) The amendments made by paragraph 10 have effect for the tax year 2008-09 and subsequent tax years.

(4) Subject to sub-paragraphs (1) to (3), the amendments made by this Schedule come into force on the day on which this Act is passed.

(5) But, despite the coming into force of paragraph 2, 3 or 5—

(a) the superseded provision, and

(b) any regulations made under the superseded provision,

continue to have effect until such time as the first regulations under the new regulation-making power come into force.

(6) In sub-paragraph (5)—

"new regulation-making power" means the regulation-making power substituted by paragraph 2, 3 or 5, and

"superseded provision" means—

(a) in relation to paragraph 2, the existing section 127(12) and (13) of FA 1995,

(b) in relation to paragraph 3, the existing paragraph 3(3) and (4) of Schedule 26 to FA 2003, or

(c) in relation to paragraph 5, the existing section 827(2) and (3) of ITA 2007.

SCHEDULE 17

Section 43

INSURANCE COMPANIES ETC

Financing-arrangement-funded transfers

1 (1) FA 1989 is amended as follows.

(2) In section 83(2A) (amounts not to be taken into account as receipts of a period of account where profits computed in accordance with Case I of Schedule D), after paragraph (ab) insert—

"(ac) consists of amounts brought into account as mentioned in section 83YC(5) below;".

(3) After section 83YB insert—

"83YC FAFTS: charge in relevant period of account

(1) This section applies where an insurance company makes a financing-arrangement-funded transfer to shareholders (a "FAFTS") in relation to a non-profit fund.

(2) A company makes a FAFTS in relation to a non-profit fund if—

(a) the company enters into a relevant financing arrangement in relation to a non-profit fund in a period of account (see subsection (4) below),

(b) a positive amount is brought into account by the company as a transfer to non-technical account from the non-profit fund for that or any subsequent period of account ("the relevant period of account"), and

(c) the positive amount so brought into account for the relevant period of account exceeds the non-FAFTS surplus (see subsection (8) below).

(3) The amount of that excess is to be treated for the purposes of section 83(2) as brought into account by the company for the relevant period of account as an increase in the value of assets.

(4) For the purposes of this section and section 83YD a company enters into a relevant financing arrangement in relation to a non-profit fund in a period of account if—

(a) the loan condition (see subsection (5) below), or

(b) the reinsurance condition (see subsection (6) below),

is met.

(5) The loan condition is met if credits in respect of a money debt which is to any extent referable to the company's life assurance business (a "relevant money debt") are brought into account in relation to a non-profit fund as part of total income for the period of account.

(6) The reinsurance condition is met if—

(a) in the period of account the company enters into a financial reinsurance arrangement relating to any liabilities (see subsection (7) below), and

(b) the reinsurance of the liabilities would (but for section 83YF(2)) be taken into account in calculating profits of the company's life assurance business in accordance with the provisions of Case I of Schedule D for the period of account;

and such liabilities are referred to in this section and section 83YD as "relevant liabilities".

(7) For the purposes of this section the company enters into a financial reinsurance arrangement if—

(a) it enters into a contract of insurance under which liabilities of the company to policy holders or annuitants (or both) in respect of a non-profit fund are reinsured,

(b) the reinsured liabilities are to reduce over time,

(c) the contract is a financing arrangement within the meaning of paragraph 9(3) of Appendix 9.4 to the Prudential Sourcebook (Insurers), and

(d) the premiums which, immediately after entering into the contract, the company is liable to pay under the contract are an insubstantial proportion of the amount of the reinsured liabilities at that time.

(8) For the purposes of this section the "non-FAFTS surplus" is—

(a) the amount shown in line 39 of Form 58 in relation to the non-profit fund in the periodical return for the relevant period of account, reduced (but not to below nil) by

(b) so much of the aggregate of the relevant outstanding debt amount (see subsection (9) below) and the relevant outstanding reinsurance amount (see subsection (10) below) as is untaxed (see subsection (11) below).

(9) The "relevant outstanding debt amount" is the total amount of the credits brought into account by the company in relation to the non-profit fund as part of total income—

(a) for the relevant period of account, or

(b) for any earlier period of account,

in respect of relevant money debts to the extent that they have not been repaid before the end of the relevant period of account.

(10) The "relevant outstanding reinsurance amount" is the total of the amounts which would (but for section 83YF(2)) be taken into account in calculating profits of the company's life assurance business in accordance with the provisions of Case I of Schedule D—

(a) for the relevant period of account, or

(b) for any earlier period of account,

in respect of the reinsurance of relevant liabilities to the extent that they have not ceased to be reinsured before the end of the relevant period of account.

(11) The aggregate of the relevant outstanding debt amount and the relevant outstanding reinsurance amount is "untaxed" to the extent that it exceeds the difference between—

(a) the aggregate of the amounts treated as brought into account in the case of the company by the operation of subsection (3) above for periods of account of the company earlier than the relevant period of account, and

(b) the aggregate of the amounts which are the relevant amount for the relevant period of account or earlier periods of account of the company under section 83YD.

83YD FAFTS: deduction in subsequent periods of account

(1) This section applies where section 83YC(3) has operated in the case of the company for one or more periods of account.

(2) The relevant amount (see subsection (4) below) is to be treated for the purposes of section 83(2) as brought into account by the company as a decrease in the value of assets for any subsequent period of account in relation to which the condition in subsection (3) below is met.

(3) That condition is that—

(a) a payment made by the company in respect of a relevant money debt is brought into account for the period of account as part of total expenditure in the revenue account for the non-profit fund without being deductible under section 82(2)(b) of the Finance Act 1996, or

(b) relevant liabilities are recaptured (that is, cease to be reinsured under a financial reinsurance arrangement) during the period of account.

(4) For the purposes of subsection (2) above "the relevant amount" is an amount equal to so much of the aggregate of—

(a) the payments made and brought into account as mentioned in paragraph (a) of subsection (3) above, and

(b) the liabilities recaptured as mentioned in paragraph (b) of that subsection,

as, when added to the aggregate of the amounts which are the relevant amount for each earlier period of account of the company in relation to which this section has applied, does not exceed the taxed amount (see subsection (6) below).

(5) But the making of payments or recapture of liabilities is to be left out of account under paragraph (a) or (b) of subsection (4) above to the extent that it relates to refinancing; and for this purpose a payment or recapture of liabilities relates to refinancing if—

(a) the company enters into a relevant financing arrangement in relation to the non-profit fund (in any period of account), and

(b) it is reasonable to assume that the making of the payments or the recapture of the liabilities is connected with its doing so.

(6) For the purposes of subsection (4) above "the taxed amount" is the aggregate of the amounts treated as brought into account in the case of the company by the operation of section 83YC(3) above for earlier periods of account.

83YE Regulations: apportionment and redefining "financial reinsurance arrangement"

(1) The Treasury may by regulations make provision for determining what parts of amounts within sections 83YC(3) and 83YD(2)—

(a) are referable to life assurance business, or

(b) are referable to gross roll-up business.

(2) The Treasury may by regulations make provision amending section 83YC(7).

(3) Regulations under subsection (2) above may include incidental, supplementary, consequential, transitional and savings provisions and may amend or repeal any enactment.

(4) Regulations under this section—

(a) may make provision in relation to periods of account current when they are made, and

(b) if made before 1 January 2009, may make provision in relation to periods of account beginning on or after 1 January 2008 which have ended before they are made.

83YF Financial reinsurance arrangements: further provision

(1) This section applies where the company has entered into a financial reinsurance arrangement for the purposes of section 83YC.

(2) Any reduction in the company's liabilities as a result of it doing so is not to be taken into account in calculating profits of the company's life assurance business in accordance with the provisions of Case I of Schedule D.

(3) Any increase in the company's liabilities as a result of the reduction over time of the liabilities reinsured under the contract of reinsurance is not to be taken into account in calculating profits of the company's life assurance business in accordance with the provisions of Case I of Schedule D otherwise than in accordance with section 83YD."

(4) Omit section 83ZA (contingent loans).

2 In ICTA, for section 444AE substitute—

"444AE Transfers of business: FAFTS

(1) Where an insurance business transfer scheme has effect to transfer the relevant financing arrangements entered into in relation to a non-profit fund of an insurance company ("the transferor") to another person ("the transferee"), after the transfer—

(a) they are to be treated for the purposes of sections 83YC and 83YD of the Finance Act 1989 as having been entered into by the transferee, but

(b) the references in those sections to earlier periods of account of the transferee include earlier periods of account of the transferor.

(2) But if the insurance business transfer scheme has effect—

(a) to transfer some but not all of the relevant financing arrangements entered into in relation to the non-profit fund of the transferor, or

(b) to transfer all of those relevant financing arrangements but not all to one person,

any calculation required by virtue of section 83YC or 83YD in relation to a period of account of the transferor, or of the transferee or any of the transferees, ending after the transfer is to be made on a just and reasonable basis.

(3) Subsection (4) below applies where—

(a) relevant financing arrangements have been entered into in relation to a non-profit fund of an insurance company ("the old company"), and

(b) as a result of any transaction other than an insurance business transfer scheme, another insurance company ("the new company") becomes the debtor in respect of the money debt, or the cedant, under the financial reinsurance arrangements.

(4) Where this subsection applies, after the transaction—

(a) the relevant financing arrangements are to be treated for the purposes of sections 83YC and 83YD as having been entered into by the new company, but

(b) the references in those sections to earlier periods of account of the new company include earlier periods of account of the old company, and

(c) the transaction is not to be regarded as causing the condition in section 83YD(3) to be met in relation to the old company.

(5) But if the transaction has effect—

(a) to transfer some but not all of the relevant financing arrangements entered into in relation to the non-profit fund of the old company, or

(b) to transfer all of those relevant financing arrangements but not all to one person,

any calculation required by virtue of section 83YC or 83YD in relation to a period of account of the old company, or of the new company or any of the new companies, ending after the transaction is to be made on a just and reasonable basis.

(6) Expressions used in this section and section 83YC or 83YD have the same meanings here as there."

3 In consequence of paragraphs 1 and 2, omit—

(a) paragraph 2(2A) of Schedule 11 to FA 1996,

(b) paragraph 3 of Schedule 33 to FA 2003,

(c) paragraph 8 of Schedule 11 to FA 2006, and

(d) paragraph 1 of Schedule 10 to FA 2007.

4 (1) The amendments made by paragraphs 1 to 3 have effect in relation to periods of account beginning on or after 1 January 2008.

(2) Where, at the end of the last period of account of an insurance company before the first beginning on or after 1 January 2008 ("the initial period of account") the company has unrepaid contingent loan liabilities, sections 83YC and 83YD of FA 1989, as inserted by paragraph 1, have effect as follows.

(3) Those sections have effect as if—

(a) the amount of the unrepaid contingent loan liabilities, so far as relating to a non-profit fund, were credits in respect of a money debt brought into account in relation to a non-profit fund as part of total income for the initial period of account, and

(b) any amount by which—

$$AA > R$$

for any period of account beginning on or after 1 January 2008 is to be included in the relevant amount for the period of account for the purposes of section 83YD(2).

(4) For the purposes of sub-paragraph (2), subsection (3) of section 83ZA of FA 1989 applies for determining whether the company has unrepaid contingent loan liabilities; and for the purposes of sub-paragraph (3)(a) the amount of the unrepaid contingent loan liabilities is the amount given by subsection (7) of that section for the period of account preceding the initial period of account.

(5) In sub-paragraph (3)(b)—

AA is the amount which would have been allowable for the period of account by virtue of subsection (13) of section 83ZA of FA 1989, and

R is the amount which would have been taken into account as a receipt of the period of account under subsection (6)(b) of that section (on the assumption that there were no reduction under subsection (7)(a) of that section).

(6) Where by virtue of sub-paragraph (3)(b) an amount ("the contingent loan amount") is included in the relevant amount for a period of account for the

purposes of subsection (2) of section 83YD of FA 1989 by reason of any repayment of a money debt, a payment brought into account as mentioned in subsection (3)(a) of that section in respect of the money debt for the period of account does not form part of the relevant amount for that period of account for those purposes except to the extent that it exceeds the contingent loan amount.

Expenses: fronting reinsurance commissions etc

5 (1) Section 76 of ICTA (expenses of insurance companies) is amended as follows.

(2) In subsection (7), in Step 2, omit "or" at the end of paragraph (b) and insert at the end "or

(d) required to be deducted by subsection (9A) below."

(3) After subsection (9) insert—

"(9A) The amount required to be deducted at paragraph (d) of Step 2 is the total of the amounts (if any) arrived at under subsection (9C) below in relation to the fronting reinsurance contracts (if any) made by the company.

(9B) A fronting reinsurance contract is a contract of reinsurance forming part of a fronting reinsurance arrangement; and a fronting reinsurance arrangement is an arrangement under which the company—

(a) enters into a contract constituting term assurance with a person, and

(b) reinsures all, or substantially all, of the liabilities under that contract with a reinsurer which—

(i) does not meet the BLAGAB group reinsurance conditions in paragraph 1(3) of Schedule 19ABA to this Act, and

(ii) is connected with that person or with a person entitled to commission from the company in respect of the contract.

(9C) The amount referred to in subsection (9A) above in relation to any fronting reinsurance contract made by the company is the relevant reinsurance fraction of so much of the amount found at Step 1 as relates to policies and contracts which are relevant reinsured policies and contracts in relation to the fronting reinsurance contract.

(9D) For the purposes of subsection (9C) above "the relevant reinsurance fraction" is—

$$\frac{RL}{TL}$$

where—

RL is so much of TL as is reinsured under the fronting reinsurance contract, and

TL is the amount of the total liabilities under the relevant reinsured policies and contracts at the end of the accounting period.

(9E) For the purposes of subsections (9B) and (9C) above policies and contracts are relevant reinsured policies and contracts in relation to a fronting reinsurance contract if—

(a) they are attributable to the company's basic life assurance and general annuity business, and

(b) any or all of the risks under them are reinsured under the fronting reinsurance contract."

(4) The amendments made by this paragraph have effect in relation to policies and contracts made on or after 9 October 2007.

(5) For the purposes of the operation of Step 6 in section 76(7) of ICTA in relation to an accounting period of an insurance company beginning on or after 9 October 2007, the adjusted amount of the acquisition expenses (within the meaning of section 86(6) of FA 1989) of the company for any earlier accounting period which is relevant for those purposes (a "relevant earlier accounting period") is to be arrived at as if the amendments made by this paragraph had effect in relation to policies and contracts whenever made.

(6) And for those purposes, if the relevant earlier accounting period is a period which began before 1 April 2004 the amount which would be required to be deducted for that period at paragraph (d) of Step 2 by the subsection (9A) inserted by sub-paragraph (3) is to be treated as an amount to be deducted from the amount treated as the expenses of management of the company for that period under section 75 of ICTA as it applied in relation to the relevant earlier accounting period by virtue of section 76 of that Act.

(7) In the application of the subsection (9C) inserted by sub-paragraph (3) by virtue of sub-paragraph (6) the reference to Step 1 is to be read as a reference to section 75 (as it so applied).

6 (1) Section 85 of FA 1989 (charge of certain receipts of BLAGAB under Case VI) is amended as follows.

(2) In subsection (2), for paragraph (b) substitute—

"(b) any sum received under a reinsurance contract, except for reinsurance commissions, however described, (but subject to subsection (2ZA) below) and any sum calculated to any extent by reference to expenses of the company brought into account at Step 1 in section 76(7) of the Taxes Act 1988; or".

(3) In paragraph (f) of that subsection, after "Scheme" insert ", or from another insurance company,".

(4) After that subsection insert—

"(2ZA) The reference in subsection (2)(b) above to reinsurance commissions does not include so much of the relevant reinsurance fraction (see subsection (9D) of section 76 of the Taxes Act 1988) of any reinsurance commissions received from the reinsurer under a fronting reinsurance contract (within the meaning of subsection (9B) of that section) as does not exceed the amount arrived at under subsection (9C) of that section in relation to the contract."

(5) The amendments made by this paragraph have effect in relation to accounting periods beginning on or after 9 October 2007.

Structural assets

7 In section 83XA of FA 1989 (structural assets), omit—

(a) subsections (10) and (11), and

(b) in subsection (15), "or (10)".

8 (1) In section 431(2) of ICTA (interpretative provisions relating to insurance companies), in the definition of "free assets amount", after "long-term business" insert ", other than any structural assets (within the meaning of section 83XA of the Finance Act 1989),".

(2) The amendment made by sub-paragraph (1) has effect for periods of account beginning on or after 1 January 2007.

Deposit back arrangements

9 (1) In paragraph 3A of Schedule 11 to FA 1996 (apportionments), after sub-paragraph (2) insert—

"(2A) If any debits or credits relate to liabilities arising from deposit back arrangements, they are (subject to sub-paragraph (2B)) referable to the category of long-term business which comprises the business reinsured by the arrangements under which the deposit back arrangements are made.

(2B) If the business reinsured is not all of the same category of long-term business, the debits and credits for any period of account are referable to the categories of business in the same proportions as the mean of the proportions at the beginning and end of the period of account of the liabilities reinsured by the arrangements which are liabilities of the categories of business.";

and, in sub-paragraph (4), after "(2)" insert ", (2A)".

(2) In section 431(2) of ICTA (interpretative provisions relating to insurance companies), after the definitions of "contract of insurance" and "contract of long-term insurance" insert—

""deposit back arrangements" means arrangements by which an amount is deposited by the reinsurer under a contract of reinsurance with the cedant;";

and, in the definition of "liabilities", omit the words following paragraph (b).

(3) The amendments made by this paragraph have effect in relation to periods of account beginning on or after 1 January 2008 and ending on or after 12 March 2008.

Foreign business assets

10 (1) In ICTA, in subsection (2) of section 431 (interpretative provisions about insurance companies), for the definition of "foreign currency assets" substitute—

"foreign business assets", in relation to an insurance company, means assets, other than linked assets, which either—

(a) are shown in the records of the company as being primarily attributable to liabilities of the company's foreign business, or

(b) are attributable, under the law of a country or territory outside the United Kingdom, to a permanent establishment of the company in that country or territory through which it carries on foreign business;

and for this purpose "foreign business" means overseas life assurance business or life reinsurance business to the extent that it consists of the reinsurance of overseas life assurance business;".

(2) After that section insert—

"431ZA Election that assets not be foreign business assets

(1) An insurance company may, in its company tax return for the first accounting period of the company beginning on or after 1 January 2008 in which any of the assets of the company's long-term insurance fund would (apart from this section) be foreign business assets, elect that none of the assets of the company's long-term insurance fund are to be regarded for the purposes of this Act as being foreign business assets.

(2) The election has effect for that accounting period and all subsequent accounting periods of the company.

(3) An election under subsection (1) is irrevocable."

(3) In ICTA—

(a) in section 432A(4A),
(b) in section 432C(3), (4), (5), (7), (8) and (9),
(c) in section 432E, in subsection (3)(a), in subsection (4), in the definition of A, and in subsection (4A),
(d) in section 440(4), and
(e) in section 804B(3A),

for "currency" substitute "business".

(4) In section 432E of ICTA—

(a) in subsection (3)(b), and
(b) in subsection (4), in the definition of B,

omit "and foreign currency assets".

(5) In paragraph 19(4)(b) of Schedule 7 to FA 2007, omit sub-paragraph (ii) (and the "and" before it).

(6) The amendments made by this paragraph have effect in relation to periods of account beginning on or after 1 January 2008.

(7) But an insurance company may, in its company tax return for an accounting period beginning on or after 1 January 2007 but before 1 January 2008, elect that the amendments made by this paragraph have effect in relation to that accounting period.

Foreign currency assets

11 (1) In section 431(2) of ICTA (interpretative provisions about insurance companies), in the definition of "foreign currency assets", for "three months" substitute "one year".

(2) The amendment made by sub-paragraph (1) has effect in relation to periods of account beginning on or after 1 January 2007 but before 1 January 2008.

Derivative contracts

12 (1) Schedule 26 to FA 2002 (derivative contracts) is amended as follows.

(2) In sub-paragraph (2) of paragraph 41, for "paragraphs 42 and 43" substitute "the following paragraphs".

(3) After that paragraph insert—

"Application of section 103(3)(c) of the Finance Act 1996

41A Section 103(3)(c) of the Finance Act 1996 has effect for the purposes of this Schedule as for the purposes of Chapter 2 of Part 4 of that Act."

(4) Omit paragraph 42 (and the heading before it).

(5) After that paragraph insert—

"Mutual trading and non-life mutual business

43 Paragraphs (a) and (b) of section 103(3) of the Finance Act 1996 have effect for the purposes of this Schedule as for the purposes of Chapter 2 of Part 4 of that Act."

(6) The amendments made by sub-paragraphs (2) and (3) have effect in relation to periods of account beginning on or after 1 January 2007.

(7) The amendments made by sub-paragraphs (4) and (5) have effect in relation to periods of account beginning on or after 1 January 2008 and ending on or after 12 March 2008.

Apportionments

13 In section 210A of TCGA 1992 (ring fencing of losses), after subsection (10) insert—

"(10A) But where the BLAGAB profits for an accounting period are nil, the policy holders' share of the chargeable gains or allowable losses accruing in the accounting period—

(a) if there are Case I profits of the accounting period in respect of its life assurance business, is nil, and

(b) otherwise, is such proportion of the chargeable gains or allowable losses as is just and reasonable;

and for this purpose there are Case I profits if there are profits computed in accordance with the provisions applicable to Case I of Schedule D after making adjustments in respect of losses in accordance with section 85A(4) of the Finance Act 1989."

14 In section 755A of ICTA (treatment of chargeable profits and creditable tax apportioned to life assurance company), after subsection (11B) insert—

"(11BA) But where the BLAGAB profits for the relevant accounting period are nil, the relevant fraction—

(a) if there are Case I profits of the accounting period in respect of its life assurance business, is nil, and

(b) otherwise, is such fraction as is just and reasonable;

and for this purpose there are Case I profits if there are profits computed in accordance with the provisions applicable to Case I of Schedule D after making adjustments in respect of losses in accordance with section 85A(4) of the Finance Act 1989."

15 The amendments made by paragraphs 13 and 14 have effect in relation to accounting periods beginning on or after 1 January 2008 and ending on or after 12 March 2008.

UK distributions received by insurance companies

16 (1) In ICTA, after section 95 insert—

"95ZA Taxation of UK distributions received by insurance companies

(1) If the total amount of relevant distributions received by a company in an accounting period exceeds £50,000, those distributions are to be taken into account in calculating for corporation tax purposes the profits of the company in that period (and accordingly section 208 does not apply in relation to those distributions).

(2) A company ("company A") receives a "relevant distribution" if—

(a) it receives a distribution made by a company resident in the United Kingdom ("company B"),

(b) the value of the shares or stock in respect of which the distribution is made ("the holding") is materially reduced by reason of the distribution,

(c) a profit on the sale of the holding (to anyone other than company B) would be taken into account in calculating company A's profits in respect of relevant insurance business, and

(d) either—

(i) the holding amounts to, or is an ingredient in a holding amounting to, 10% of all holdings of the same class in company B, or

(ii) the period between the acquisition by company A of the holding and that company first taking steps to dispose of the holding does not exceed 30 days.

(3) In this section "relevant insurance business" means any kind of insurance business other than life assurance business.

(4) Section 177(7) of TCGA 1992 (provision supplementing provision corresponding to subsection (2)(d)(i) above) applies for the purposes of subsection (2)(d)(i).

(5) Section 731(4) below (interpretation of "taking steps to dispose of securities") applies for the purposes of subsection (2)(d)(ii) as if the reference to the securities were to the holding."

(2) The amendment made by sub-paragraph (1) has effect in relation to distributions made on or after 1 April 2008.

Clarification of scope of ICTA s.432A

17 (1) Section 432A of ICTA (apportionment of income and gains) is amended as follows.

(2) In subsection (1)—

(a) for "This" substitute "Subject to section 432B, this",

(b) in paragraph (a), after "income" insert "or losses", and

(c) in paragraph (b), insert at the end "in accordance with the provisions of the 1992 Act".

(3) After that subsection insert—

"(1ZA) In subsection (1)(a) above "income" means—

(a) income chargeable under Schedule A in respect of any separate Schedule A businesses treated as carried on by the company under section 432AA,

(b) income chargeable under Schedule A in respect of distributions treated by section 121(1)(a) of the Finance Act 2006 as profits of a Schedule A business carried on by the company,

(c) income chargeable under Case V of Schedule D in respect of any overseas property business treated as carried on by the company under section 432AA,

(d) other income of the company chargeable under Case V of Schedule D,

(e) distributions received by the company from companies resident in the United Kingdom,

(f) credits in respect of any creditor relationships (within the meaning of Chapter 2 of Part 4 of the Finance Act 1996) of the company,

(g) credits in respect of any derivative contracts (within the meaning of Schedule 26 to the Finance Act 2002) of the company,

(h) any income of the company chargeable under Case III of Schedule D in respect of annuities and other annual payments within paragraph (b) of Case III of Schedule D as substituted by section 18(3A),

(i) any credits brought into account by the company under Part 3 of Schedule 29 to the Finance Act 2002 (intangible fixed assets), and

(j) any income of the company chargeable under Case VI of Schedule D, other than profits of the company chargeable under section 436A (gross roll-up business).

(1ZB) In subsection (1)(a) above "losses" means—

(a) losses in respect of any separate Schedule A businesses treated as carried on by the company under section 432AA,

(b) losses in respect of any overseas property businesses treated as carried on by the company under that section,

(c) debits in respect of any creditor relationships (within the meaning of Chapter 2 of Part 4 of the Finance Act 1996) of the company,

(d) debits in respect of any derivative contracts (within the meaning of Schedule 26 to the Finance Act 2002) of the company,

(e) any debits brought into account by the company under Part 2 of Schedule 29 to the Finance Act 2002 (intangible fixed assets), and

(f) any losses of the company computed in the same way as profits chargeable under Case VI of Schedule D, other than any losses of gross roll-up business.

(1ZC) For determining as mentioned in subsection (1) above what parts of income or gains arising from the assets of the company's long-term insurance fund are referable to PHI business (to the extent that it would not be the case by virtue of subsections (1ZA) and (1ZB))—

(a) "income" also includes profits shown in the technical account, and

(b) "losses" also includes losses so shown."

(4) In subsection (1A), for ", all of the income and gains or losses referred to in subsection (1) above is" substitute—

"(a) all of the income and losses referred to in paragraph (a) of subsection (1) above, and

(b) all of the gains and losses referred to in paragraph (b) of that subsection,

are".

(5) In subsection (3), after "Income" insert "or losses".

(6) After that subsection insert—

"(3A) Amounts falling within—

(a) section 442A,

(b) section 85(2C) of the Finance Act 1989, or

(c) section 85A of that Act,

are directly referable to basic life assurance and general annuity business."

(7) In subsection (4A), after "Income" insert "or losses".

(8) In subsection (5), for "income, gains or losses" substitute "income and losses referred to in paragraph (a) of subsection (1) above, and any gains and losses referred to in paragraph (b) of that subsection,".

(9) In subsection (7)—

(a) in paragraph (a), for "income, gains or losses" substitute "income and losses referred to in paragraph (a) of subsection (1) above, and gains and losses referred to in paragraph (b) of that subsection," and insert at the end "and",

(b) in paragraph (b), for "arising from the assets is, and gains or losses accruing on the disposal of the assets are," substitute "and losses arising from the assets, and gains and losses accruing on the disposal of the assets, are", and

(c) omit paragraph (c) and the "and" before it.

(10) In consequence of the preceding provisions, omit the provisions specified in sub-paragraph (11).

(11) The provisions mentioned in sub-paragraph (10) are—

(a) section 432AB(2) of ICTA,

(b) section 502H of that Act,

(c) paragraph 3 of Schedule 11 to FA 1996,

(d) paragraph 19(4) of Schedule 12 to FA 1997,

(e) paragraphs 36(1) and (3) and 138(2) and (3) of Schedule 29 to FA 2002,

(f) paragraph 19(4) of Schedule 9 to F(No.2)A 2005, and

(g) paragraphs 13(2) and 44 of Schedule 7, and paragraph 5 of Schedule 8, to FA 2007.

(12) The amendments made by this paragraph have effect in relation to accounting periods beginning on or after 1 January 2008.

"BLAGAB profits" etc

18 (1) In section 431 of ICTA (interpretative provisions relating to insurance companies), after subsection (2YA) insert—

"(2YB) "BLAGAB profits", in relation to an accounting period of an insurance company, means the company's BLAGAB income and gains for the period reduced (but not below nil) by the company's BLAGAB deductions for the period.

(2YC) "BLAGAB income and gains", in relation to an accounting period of an insurance company, means the aggregate of—

(a) income chargeable for the period under Schedule A or Case III, V or VI of Schedule D so far as referable (in accordance with section 432A) to the company's basic life assurance and general annuity business, and

(b) chargeable gains so far as so referable accruing to the company in the period, but (subject to section 210A of the 1992 Act) after deducting—

(i) any allowable losses so referable and so accruing, and

(ii) so far as they have not been allowed as a deduction from chargeable gains in any previous accounting period, any allowable losses so referable previously accruing to the company.

(2YD) "BLAGAB deductions", in relation to an accounting period of an insurance company, means the aggregate of—

(a) amounts falling in respect of any non-trading deficits on the company's loan relationships to be brought into account in the period in accordance with paragraph 4 of Schedule 11 to the Finance Act 1996, and

(b) the expenses deduction given by Step 8 in section 76(7) for the period."

(2) In section 755A(11C) of that Act (treatment of chargeable profits and creditable tax apportioned to company carrying on life assurance business), omit paragraph (b) and the "and" before it.

(3) In section 85A of FA 1989 (excess adjusted Case I profits), for subsections (6)

and (7) substitute—

"(6) "The relevant income" means—

(a) the company's BLAGAB income and gains for the accounting period and distributions received by the company in the accounting period from companies resident in the United Kingdom so far as referable (in accordance with section 432A of the Taxes Act 1988) to the company's basic life assurance and general annuity business (but excluding any amount within this section), and

(b) profits of the company chargeable under Case VI of Schedule D under section 436A of the Taxes Act 1988 (gross roll-up business) for the accounting period."

(4) In section 88 of that Act (meaning of "policy holders' share of profits"), for subsections (3) to (3B) substitute—

"(3) For the purposes of subsection (1) above the relevant profits of a company for an accounting period consist of the aggregate of—

(a) the company's BLAGAB profits for the period, and

(b) profits of the company chargeable under Case VI of Schedule D under section 436A of the Taxes Act 1988 (gross roll-up business) for the period."

(5) Omit—

(a) section 89(1B) of FA 1989,

(b) in section 210A(10)(a) of TCGA 1992, "(within the meaning of section 89(1B) of the Finance Act 1989)",

(c) paragraph 21(2) of Schedule 8 to FA 1995,

(d) paragraph 2(1) of Schedule 11, and paragraph 56 of Schedule 14, to FA 1996,

(e) paragraph 6(1) of Schedule 33 to FA 2003,

(f) in paragraph 9(2) of Schedule 7 to FA 2004, paragraphs (a) to (c) and the words from"; and, in consequence of" to the end, and

(g) paragraphs 58 and 67(2) of Schedule 7, and paragraphs 15(3) and 16(2) of Schedule 8, to FA 2007.

(6) The amendments made by this paragraph have effect in relation to accounting periods beginning on or after 1 January 2008.

Abolition of "inherited estates" apportionment rules

19 (1) Chapter 1 of Part 12 of ICTA (insurance companies) is amended as follows.

(2) In section 431(2ZB) and (2ZC) (interpretative provisions), insert "or" at the end of paragraph (b) and omit paragraph (d) and the "or" before it.

(3) In section 432A (apportionment of income and gains), omit—

(a) in subsection (6), paragraph (b) of the definition of A (but not the "and" following it),

(b) in subsection (8), paragraph (b) and the "and" before it, and

(c) subsections (8A) and (8B).

(4) In section 432B (apportionment of receipts brought into account), omit subsections (4) to (12).

(5) The amendments made by this paragraph have effect in relation to periods of account beginning on or after 1 January 2007.

Insurance special purpose vehicles

20 In section 431A of ICTA (powers to amend), after subsection (2) insert—

"(2A) The Treasury may by order make provision as to the application of the Corporation Tax Acts in relation to insurance special purpose vehicles.

(2B) An order under subsection (2A) above may in particular contain provision—

(a) making amendments of any provision of the Corporation Tax Acts, or

(b) making provision for the life assurance provisions of the Corporation Tax Acts to have effect in relation to any specified description of insurance special purpose vehicles subject to specified modifications or exceptions.

(2C) An order under subsection (2A) above—

(a) may make provision having effect in relation to accounting periods current when it is made, and

(b) if it is made in consequence of, or otherwise in connection with, provision made by any enactment or instrument, may make provision having effect in relation to the same times as that enactment or instrument."

Group relief: gross profits to exclude relevant profits

21 (1) In section 434A of ICTA (computation of losses and limitation on relief), insert at the end—

"(4) For the purposes of section 403, where the surrendering company is an insurance company which is charged to tax under the I minus E basis in respect of its life assurance business for the surrender period, the company's gross profits of that period do not include its relevant profits (within the meaning of section 88 of the Finance Act 1989) for that period; and expressions used in this subsection and section 403 have the same meaning here as there."

(2) The amendment made by sub-paragraph (1) has effect in relation to accounting periods beginning on or after 1 January 2008.

Charges on income

22 (1) In section 434A(3) of ICTA (limitation on relief), after paragraph (a) (before the "or" at the end) insert—

"(aa) (where the company's life assurance business is not mutual business) in respect of any amount which is a charge on income for the purposes of corporation tax,".

(2) The amendment made by sub-paragraph (1) has effect in relation to periods of account beginning on or after 1 January 2008 and ending on or after 12 March 2008.

Remediation of contaminated land

23 (1) Schedule 22 to FA 2001 (remediation of contaminated land) is amended as follows.

(2) In paragraph 14 (entitlement to land remediation tax credit)—
(a) in sub-paragraph (7), omit "or (13)", "and charges on income" and "and charges",
(b) in sub-paragraph (8), omit "or (13)", and
(c) in sub-paragraph (9)—
(i) for "Step 6" substitute "Step 7", and
(ii) omit "or (13)", in the first place.

(3) In paragraph 17 (restriction on losses carried forward), omit—
(a) in sub-paragraph (3)(b), "or (13)", "and charges on income" and "and charges", and
(b) in sub-paragraph (4), "or (13)".

(4) In paragraph 21 (provision in respect of I minus E basis), for the words after "where" substitute "an insurance company is charged to tax under the I minus E basis in respect of its life assurance business for any accounting period."

(5) In paragraph 22(2) (entitlement to relief: I minus E basis), for "is entitled to relief for that accounting period in respect of its qualifying expenditure" substitute "may treat the amount of its qualifying expenditure as expenses payable which fall to be brought into account for that accounting period at Step 1 in section 76(7) of the Taxes Act 1988".

(6) In paragraph 24 (entitlement to life assurance company tax credit), omit—
(a) in sub-paragraph (3), "or (13)", in the first place, and
(b) in sub-paragraph (2)(b), "or (13)", "and charges on income" and "and charges".

(7) In paragraph 27(1) (restriction on carrying forward expenses payable)—
(a) in paragraph (a), omit "or (13)", and
(b) in paragraph (b), omit "for the next accounting period".

(8) The amendments made by this paragraph have effect in relation to accounting periods beginning on or after 1 January 2008.

Repeal of ICTA s.56(4)

24 (1) In section 56 of ICTA (transactions in deposits and debts), omit subsection (4) (which relates to section 76(2) computations and is spent).

(2) In consequence of sub-paragraph (1), in section 164 of FA 1996, omit subsection (4) (which amends section 56(4) of ICTA).

Partnership returns

25 In section 12AE(2) of TMA 1970 (partnership returns: alternative methods for bringing amounts into charge to tax), for "84(2) or (3)" substitute "84(1)".

Overseas life assurance business

26 (1) Section 431D of ICTA (meaning of "overseas life assurance business") is amended as follows.

(2) In subsections (2) and (4), for "Board" substitute "Commissioners".

(3) In subsection (3), for "Board" substitute "Commissioners for Her Majesty's Revenue and Customs".

27 (1) In section 476(3) of ITTOIA 2005 (foreign policies), omit—

(a) "as a result of section 431D(1)(a) of ICTA (business with a non-UK resident policy holder)", and

(b) "as a result of section 431D(1) of ICTA".

(2) In consequence of sub-paragraph (1), omit paragraph 78 of Schedule 7 to FA 2007.

(3) The amendments made by this paragraph have effect as if they were made by Schedule 7 to FA 2007 (see section 38(2) of that Act).

Trades in I minus E

28 (1) In section 53 of ICTA (farming and market gardening and managing land on commercial basis for profit), insert at the end—

"(5) The preceding provisions of this section do not apply in relation to—

(a) farming or market gardening by an insurance company on land which is an asset of the company's long-term insurance fund, or

(b) the occupation by an insurance company of land which is such an asset for a purpose other than farming or market gardening."

(2) In section 55 of ICTA (mines, quarries etc), insert at the end—

"(3) Subsection (1) does not apply in relation to any concern carried on by an insurance company on land which is an asset of the company's long-term insurance fund."

(3) In section 432AB(5) (losses from Schedule A business etc), for "section 392A or 392B" substitute "sections 392A and 503, or section 392B,".

(4) The amendments made by this paragraph have effect in relation to accounting periods beginning on or after 1 January 2008.

Controlled foreign companies

29 (1) In paragraph 4(1A) of Schedule 25 to ICTA (controlled foreign companies), for "436, 439B or 441" substitute "436A".

(2) The amendment made by sub-paragraph (1) has effect in relation to accounting periods beginning on or after 1 January 2008.

Offshore income gains

30 (1) In section 757 of ICTA (disposals to which Chapter 5 of Part 17 of that Act

applies), after subsection (1) insert—

"(1A) But this Chapter does not apply to disposals of assets of an insurance company's long-term insurance fund."

(2) The amendment made by sub-paragraph (1) has effect in relation to disposals made in accounting periods beginning on or after 1 January 2008.

Transfers of business

31 (1) In section 444AB(6) of ICTA (transfer schemes transferring whole of business), for the words after "means" substitute "the period of account of the transferor ending, or treated by section 444AA(2) as ending, immediately before the transfer date."

(2) The amendment made by sub-paragraph (1) has effect in relation to transfers of business taking place on or after 1 July 2008.

32 (1) In section 444ABB(1A)(b)(ii) of ICTA (retained assets), for "liabilities" substitute "mathematical reserves (as determined in accordance with section 1.2 of the Insurance Prudential Sourcebook)".

(2) The amendment made by sub-paragraph (1) has effect in relation to transfers of business taking place on or after 1 July 2008.

33 (1) In section 444ABD(1) of ICTA (transferor's period of account including transfer), for "liabilities" substitute "mathematical reserves (as determined in accordance with section 1.2 of the Insurance Prudential Sourcebook)".

(2) The amendment made by sub-paragraph (1) has effect in relation to transfers of business with a transfer date after 21 March 2007.

Periodical return

34 In section 431(2) of ICTA, in the definition of "periodical return", insert at the end "(and does not include the Forms mentioned in Rule 9.3(5))".

Repeal of section 737D of ICTA

35 (1) In ICTA, omit section 737D (power to provide that manufactured payments are to be treated as income eligible for relief under section 438).

(2) In consequence of sub-paragraph (1), omit—
(a) section 83(1) of FA 1995,
(b) section 139(6) of FA 2006, and
(c) paragraph 175 of Schedule 1 to ITA 2007.

R&D relief

36 In paragraph 12 of Schedule 12 to FA 2002 (insurance companies treated as large companies), for the words following paragraph (b) substitute "the company does not qualify as a small or medium-sized enterprise for the purposes of Parts 1 to 3 of this Schedule or Schedule 20 to the Finance Act 2000."

Section 89(7) of FA 1989

37 (1) In section 89(7) of FA 1989 (policy holders' share of profits), for "in respect of losses in accordance with section 85A(4)" substitute "in accordance with section 85A(4) in respect of losses incurred in an accounting period in which 31 December 2002 is included or any later accounting period."

(2) The amendment made by sub-paragraph (1) has effect in relation to accounting periods beginning on or after 1 January 2008 and ending on or after 15 May 2008.

(3) But that amendment does not have effect (and is to be treated as never having had effect) in relation to a company if a relevant determination is made in proceedings commenced by the company before 15 May 2008 and is not reversed on an appeal or further appeal.

(4) A relevant determination is a determination that losses incurred in an accounting period earlier than that in which 31 December 2002 was included are to be taken into account for the purposes of section 89 of FA 1989 in arriving at Case I profits for accounting periods—

(a) beginning on or after 1 January 2003, and

(b) ending on or before 31 December 2006.

Commencement of Schedule 9 to FA 2007

38 (1) Paragraph 17 of Schedule 9 to FA 2007 (transfers: commencement) is amended as follows.

(2) In sub-paragraph (2), for "9, 10(3) to (5)," substitute "10(5),".

(3) In sub-paragraph (3)—

(a) after "effect" insert "(a)", and

(b) insert at the end "and

(b) in relation to periods of account ending after 30 June 2008 where the transfer of business or demutualisation concerned took place on or after 21 March 2007 and before 1 July 2008."

(4) After sub-paragraph (4) insert—

"(4A) The amendment made by paragraph 9 has effect in relation to contracts entered into in a period of account beginning on or after 1 January 2008."

(5) Insert at the end—

"(6) The amendments made by paragraph 10(3) and (4) have effect in relation to assets transferred on or after 1 January 2008."

Commencement of Business Transfer Schemes Order

39 (1) In article 1(5) of the Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), for "other" substitute "earlier".

(2) In article 29(2), for ""assuming the transferor had continued to carry on the business transferred after the transfer"" substitute ""assuming that the transferor had continued to carry on the business transferred"".

(3) The amendments made by this paragraph are to be treated as always having had effect.

Gross roll-up business

40 (1) In section 436A(6) of ICTA (gross roll-up business: separate charge on profits), omit "under subsection (4) above".

(2) The amendment made by sub-paragraph (1) has effect in relation to periods of account beginning on or after 1 January 2008 and ending on or after 12 March 2008.

Repeal of spent provision

41 In section 88(5) of FA 1989 (policy holders' share of profits), omit the words after "January 1990".

SCHEDULE 18

Section 44

FRIENDLY SOCIETIES

Introduction

1 Chapter 2 of Part 12 of ICTA (friendly societies etc) is amended as follows.

PHI business

2 (1) In section 466(1) ("life or endowment business"), for paragraph (b) substitute—

"(b) any PHI business (as defined in section 431) if—

(i) the contract is one made before 1 September 1996, or

(ii) the contract is one made on or after that date and the effecting and carrying out of the business also constitutes business within paragraphs I, II or III of Part II of Schedule 1 to the Financial Services and Markets Act (Regulated Activities) Order 2001."

(2) The amendment made by sub-paragraph (1) has effect for periods of account beginning on or after 1 January 2007.

Transfers of exempt "other" business

3 (1) After section 461C insert—

"461D Transfers of other business

(1) Where—

(a) at any time a friendly society ("the transferee") acquires by way of transfer of engagements or amalgamation from another friendly society ("the transferor") any business, other than life or endowment business, consisting of business which relates to contracts made before that time, and

(b) immediately before that time the transferor was exempt from corporation tax on profits arising from that business,

the transferee is so exempt after that time.

(2) But if during an accounting period of the transferee there is an increase in the scale of benefits which it undertakes to provide in the course of carrying on that business, the transferee shall not be exempt from corporation tax by virtue of subsection (1) above for that or any subsequent accounting period.

(3) Where—

(a) at any time a friendly society ("the transferee") acquires by way of transfer of engagements or amalgamation from another friendly society ("the transferor") any business, other than life or endowment business, consisting of business which relates to contracts made before that time, and

(b) immediately before that time the transferor was not exempt from corporation tax on profits arising from that business,

the transferee is not so exempt after that time.

(4) The Treasury may by regulations provide that, where any business of a friendly society is exempt from corporation tax by virtue of subsection (1) above, or not so exempt by virtue of subsection (3) above, the Corporation Tax Acts have effect subject to such modifications (or exceptions) as the Treasury consider appropriate.

(5) Regulations under subsection (4) above—

(a) may make different provision for different cases,

(b) may include any incidental, supplementary, consequential or transitional provisions which the Treasury consider appropriate, and

(c) may include retrospective provision.

(2) The amendment made by sub-paragraph (1) has effect in relation to transfers of engagements and amalgamations taking place on or after the day on which this Act is passed.

Extension of section 463

4 In subsection (1) of section 463 (application of Corporation Tax Acts to life or endowment business carried on by friendly societies), for "the life or endowment" substitute "long-term"; and, accordingly, in the heading of that section, for "**Life or endowment**" substitute "**Long-term**".

Repeal of obsolete provisions

5 (1) Omit—

(a) section 462(3) and (4) (tax exempt business: insurances made in 1984-85), and

(b) section 462A (election relating to profits attributable to pre-1991 contracts expressed not to be part of tax exempt business).

(2) In section 462(1), for "subsections (2) to (4)" substitute "subsection (2)".

(3) In consequence of sub-paragraph (1), omit—

(a) paragraph 2 of Schedule 9 to FA 1991,

(b) paragraph 9 of Schedule 9 to F(No.2)A 1992, and

(c) section 45(4) and (5) of FA 2007.

SCHEDULE 19

Section 53

REDUCTION OF BASIC RATE OF INCOME TAX: TRANSITIONAL RELIEF FOR GIFT AID CHARITIES

Payment of gift aid supplement

1 (1) A charity is entitled to be paid an amount by the Commissioners (referred to in this Schedule as a payment of "gift aid supplement") if the following conditions are met.

(2) Condition A is that a gift aid donation is made to the charity in a transitional tax year.

(3) Condition B is that the charity makes a claim for the donation to be exempt from tax by virtue of—

(a) section 505(1)(c)(ii) of ICTA (charitable companies),

(b) section 521(4) of ITA 2007 (charitable trusts), or

(c) paragraph 5(1)(c) of Schedule 18 to FA 2002 (community amateur sports clubs).

(4) Condition C is that the claim is made within the period of two years beginning immediately after the end of—

(a) the accounting period to which the claim relates (in a case falling within sub-paragraph (3)(a) or (c)), or

(b) the tax year to which the claim relates (in a case falling within sub-paragraph (3)(b)).

(5) Condition D is that the claim is allowed.

Amount of gift aid supplement

2 (1) The amount of gift aid supplement that a charity is entitled to be paid in respect of a gift aid donation is—

$$DGN - DGA$$

where—

DGN is the amount of the gift aid donation grossed up by reference to the notional basic rate for the transitional tax year, and

DGA the amount of the gift aid donation grossed up by reference to the actual basic rate of income tax for the transitional tax year.

(2) A charity is not entitled to be paid gift aid supplement in respect of a gift aid donation if the amount determined in accordance with sub-paragraph (1) is a negative amount.

The "notional basic rate"

3 (1) The "notional basic rate" for a transitional tax year is calculated by adding together—

(a) the actual basic rate of income tax for that year, and

(b) the transitional supplement for that year.

(2) But if the rate calculated for a transitional tax year by adding those two things together is more than 22%, the notional basic rate for that year is 22%.

(3) The "transitional supplement" for each transitional tax year is 2%.

(4) Section 998 of ITA 2007 applies to the grossing up of an amount by reference to a notional basic rate as if the notional basic rate were an actual rate of tax.

Errors in connection with payment of gift aid supplement

4 (1) This paragraph applies if an officer of Revenue and Customs discovers that payment or set-off of an amount of gift aid supplement—

(a) ought not to have been made, or

(b) is or has become excessive.

(2) The relevant amount of gift aid supplement may be recovered as if it were an amount of income tax wrongly repaid to the charity (and, in particular, section 30 of TMA 1970 and paragraph 52 of Schedule 18 to FA 1998 apply accordingly).

(3) An amount to be recovered in accordance with sub-paragraph (2) is liable to interest as if it were an amount of income tax wrongly repaid to the charity.

(4) In this paragraph "relevant amount of gift aid supplement" means the payment or set-off of the amount of gift aid supplement, to the extent that it—

(a) ought not to have been made, or

(b) is or has become excessive.

(5) For the purposes of this paragraph income tax is "wrongly repaid" to a charity if it is an amount repaid to the charity which ought not to have been repaid.

(6) For the purposes of this paragraph it does not matter if a charity is within the charge to income tax or the charge to corporation tax.

General

5 Gift aid supplement is not—

(a) income for the purposes of income tax, or

(b) profits for the purposes of corporation tax.

6 Any expenditure incurred by the Commissioners under this Schedule is to be paid out of money provided by Parliament.

7 In this Schedule—

"charity" has the same meaning as in Chapter 2 of Part 8 of ITA 2007 (gift aid);

"the Commissioners" means the Commissioners for Her Majesty's Revenue and Customs;

"gift aid donation" means a gift which is a qualifying donation for the purposes of Chapter 2 of Part 8 of ITA 2007;

"gift aid supplement" has the meaning given in paragraph 1(1);

"transitional tax year" means each of the tax years 2008-09, 2009-10 and 2010-11.

Amendments

8 In section 25 of FA 1990 (donations to charities by individuals), after

subsection (10) insert—

"(10A) Schedule 19 to the Finance Act 2008 contains provision for transitional payments to charitable companies in respect of gifts made in the tax years 2008-09 to 2010-11."

9 In section 521 of ITA 2007 (gifts entitling donor to gift aid relief: income tax liability and exemption of charity), after subsection (6) insert—

"(7) Schedule 19 to FA 2008 contains provision for transitional payments to charitable trusts in respect of gifts made in the tax years 2008-09 to 2010-11."

SCHEDULE 20

Section 55

LEASES OF PLANT OR MACHINERY

Capital received in respect of lease to be treated as income

1 (1) In Chapter 6 of Part 17 of ICTA (tax avoidance: miscellaneous), after section 785A insert—

"785B Plant and machinery leases: capital receipts to be treated as income

(1) This section applies if—

(a) there is an unconditional obligation, under a lease of plant or machinery or a relevant arrangement, to make a relevant capital payment (at any time), or

(b) a relevant capital payment is made under such a lease or arrangement otherwise than in pursuance of such an obligation.

(2) The lessor is treated for corporation tax purposes as receiving income attributable to the lease of an amount equal to the amount of the capital payment.

(3) The income is treated—

(a) if subsection (1)(a) applies, as income for the period of account in which there is first an obligation of the kind mentioned there, and

(b) if subsection (1)(b) applies, as income for the period of account in which the payment is made.

785C Section 785B: interpretation

(1) The expressions used in section 785B and this section are to be interpreted as follows.

(2) "Capital payment" means any payment except one which, if made to the lessor—

(a) would fall to be included in a calculation of the lessor's income for corporation tax purposes, or

(b) would fall to be included in such a calculation but for section 502B (rental earnings under long funding finance lease).

(3) "Lease" includes—

(a) a licence, and
(b) the letting of a ship or aircraft on charter or the letting of any other asset on hire,

and "lessor" and "lessee" are to be read accordingly.

(4) "Lease of plant or machinery" includes a lease of plant or machinery and other property but does not include—
(a) a lease where the income attributable to the lease received by the lessor (if any) would be chargeable to tax under Schedule A, or
(b) a lease of plant or machinery where the lessor has incurred what would (but for section 34A of the Capital Allowances Act) be qualifying expenditure (within the meaning of Part 2 of that Act) on the plant or machinery.

(5) "Relevant arrangement" means any agreement or arrangement relating to a lease of plant or machinery, including one made before the lease is entered into or after it has ended (and, accordingly, "lessor" and lessee" include prospective and former lessors and lessees).

(6) A capital payment, in relation to a lease or relevant arrangement, is "relevant" if condition A or B is met (but this is subject to subsection (9)).

(7) Condition A is that the capital payment is payable (or paid), directly or indirectly, by (or on behalf of) the lessee to (or on behalf of) the lessor in connection with—
(a) the grant, assignment, novation or termination of the lease, or
(b) any provision of the lease or relevant arrangement (including the variation or waiver of any such provision).

(8) Condition B is that rentals payable under the lease are less than (or payable later than) they might reasonably be expected to be if there were no obligation to make the capital payment (and the capital payment were not made).

(9) A capital payment is not "relevant" if or to the extent that—
(a) the capital payment reduces (or would but for section 536 of the Capital Allowances Act reduce) the amount of expenditure incurred by the lessor for the purposes of the Capital Allowances Act in respect of the plant or machinery in question,
(b) the capital payment is compensation for loss resulting from damage to, or damage caused by, the plant or machinery in question, or
(c) the capital payment would fall (or falls) to be brought into account by the lessor as a disposal receipt within the meaning of Part 2 of the Capital Allowances Act (see section 60(1) of that Act).

(10) References to payment include the provision of value by any means other than the making of a payment, and accordingly—
(a) references to the making of a payment include the passing of value (by any other means), and

(b) references to the amount of the payment include the value passed.

785D Section 785B: lease of plant and machinery and other property

(1) This section applies if section 785B applies in relation to a lease of plant or machinery and other property (see section 785C(4)).

(2) The relevant capital payment is to be apportioned, on a just and reasonable basis, between—

(a) the plant and machinery, and

(b) the other property.

(3) If the income (if any) received by the lessor that is attributable to any of the plant or machinery is chargeable to tax under Schedule A, treat that plant or machinery as falling within subsection (2)(b) (and not subsection (2)(a)).

(4) Section 785B(2) has effect as if the reference to the amount of the capital payment were to such amount as is apportioned under subsection (2) in respect of the plant or machinery within subsection (2)(a).

785E Section 785B: expectation that relevant capital payment will not be paid

(1) This section applies for corporation tax purposes if—

(a) section 785B applies by virtue of subsection (1)(a) of that section, and

(b) at any time, the lessor reasonably expects that the relevant capital payment will not be paid (or will not be paid in full).

(2) For the purposes of calculating the profits of the lessor, a deduction is allowed for the period of account which includes that time.

(3) The amount of the deduction is equal to the amount reasonably expected not to be paid.

(4) No other deduction is allowed in respect of the matters mentioned in subsection (1).”

(2) The amendment made by sub-paragraph (1) has effect in relation to—

(a) cases where there is first an obligation of the kind mentioned in subsection (1)(a) of section 785B of ICTA on or after 13 December 2007, and

(b) capital payments within subsection (1)(b) of that section made on or after that date.

(3) In relation to a case where the condition in paragraph (a) or (b) of section 785B(1) of ICTA was met before 12 March 2008, sections 785B to 785E of that Act have effect as if—

(a) for section 785C(4) there were substituted—

“(4) “Lease of plant or machinery”—

(a) includes an equipment lease within the meaning of Chapter 14 of Part 2 of the Capital Allowances Act, but

(b) subject to that, does not include a lease of plant or machinery and other property.", and

(b) section 785D were omitted.

2 (1) In ITA 2007, after section 809 insert—

"CHAPTER 6

AVOIDANCE INVOLVING LEASES OF PLANT AND MACHINERY

809ZA Plant and machinery leases: capital receipts to be treated as income

(1) This section applies if—

(a) there is an unconditional obligation, under a lease of plant or machinery or a relevant arrangement, to make a relevant capital payment (at any time), or

(b) a relevant capital payment is made under such a lease or arrangement otherwise than in pursuance of such an obligation.

(2) The lessor is treated for income tax purposes as receiving income attributable to the lease of an amount equal to the amount of the capital payment.

(3) The income is treated—

(a) if subsection (1)(a) applies, as income for the period of account in which there is first an obligation of the kind mentioned there, and

(b) if subsection (1)(b) applies, as income for the period of account in which the payment is made.

809ZB Section 809ZA: interpretation

(1) The expressions used in section 809ZA and this section are to be interpreted as follows.

(2) "Capital payment" means any payment except one which, if made to the lessor—

(a) would fall to be included in a calculation of the lessor's income for income tax purposes, or

(b) would fall to be included in such a calculation but for section 148A of ITTOIA 2005 (rental earnings under long funding finance lease).

(3) "Lease" includes—

(a) a licence, and

(b) the letting of a ship or aircraft on charter or the letting of any other asset on hire,

and "lessor" and "lessee" are to be read accordingly.

(4) "Lease of plant or machinery" includes a lease of plant or machinery and other property but does not include—

(a) a lease where the income attributable to the lease received by the lessor (if any) would be chargeable to tax under Part 3 of ITTOIA 2005 (property income), or

(b) a lease of plant or machinery where the lessor has incurred what would (but for section 34A of CAA 2001) be qualifying expenditure (within the meaning of Part 2 of that Act) on the plant or machinery.

(5) "Relevant arrangement" means any agreement or arrangement relating to a lease of plant or machinery, including one made before the lease is entered into or after it has ended (and, accordingly, "lessor" and lessee" include prospective and former lessors and lessees).

(6) A capital payment, in relation to a lease or relevant arrangement, is "relevant" if condition A or B is met (but this is subject to subsection (9)).

(7) Condition A is that the capital payment is payable (or paid), directly or indirectly, by (or on behalf of) the lessee to (or on behalf of) the lessor in connection with—

(a) the grant, assignment, novation or termination of the lease, or

(b) any provision of the lease or relevant arrangement (including the variation or waiver of any such provision).

(8) Condition B is that rentals payable under the lease are less than (or payable later than) they might reasonably be expected to be if there were no obligation to make the capital payment (and the capital payment were not made).

(9) A capital payment is not "relevant" if or to the extent that—

(a) the capital payment reduces (or would but for section 536 of CAA 2001 reduce) the amount of expenditure incurred by the lessor for the purposes of CAA 2001 in respect of the plant or machinery in question,

(b) the capital payment is compensation for loss resulting from damage to, or damage caused by, the plant or machinery in question, or

(c) the capital payment would fall (or falls) to be brought into account by the lessor as a disposal receipt within the meaning of Part 2 of CAA 2001 (see section 60(1) of that Act).

(10) References to payment include the provision of value by any means other than the making of a payment, and accordingly—

(a) references to the making of a payment include the passing of value (by any other means), and

(b) references to the amount of the payment include the value passed.

809ZC Section 809ZA: lease of plant and machinery and other property

(1) This section applies if section 809ZA applies in relation to a lease of plant or machinery and other property (see section 809ZB(4)).

(2) The relevant capital payment is to be apportioned, on a just and reasonable basis, between—

(a) the plant and machinery, and

(b) the other property.

(3) If the income (if any) received by the lessor that is attributable to any of the plant or machinery is chargeable to tax under Part 3 of ITTOIA 2005 (property income), treat that plant or machinery as falling within subsection (2)(b) (and not subsection (2)(a)).

(4) Section 809ZA(2) has effect as if the reference to the amount of the capital payment were to such amount as is apportioned under subsection (2) in respect of the plant or machinery within subsection (2)(a).

809ZD Section 809ZA: expectation that relevant capital payment will not be paid

(1) This section applies for income tax purposes if—

(a) section 809ZA applies by virtue of subsection (1)(a) of that section, and

(b) at any time, the lessor reasonably expects that the relevant capital payment will not be paid (or will not be paid in full).

(2) For the purposes of calculating the profits of the lessor, a deduction is allowed for the period of account which includes that time.

(3) The amount of the deduction is equal to the amount reasonably expected not to be paid.

(4) No other deduction is allowed in respect of the matters mentioned in subsection (1).”

(2) The amendment made by sub-paragraph (1) has effect in relation to—

(a) cases where there is first an obligation of the kind mentioned in subsection (1)(a) of section 809ZA of ITA 2007 on or after 13 December 2007, and

(b) capital payments within subsection (1)(b) of that section made on or after that date.

(3) In relation to a case where the condition in paragraph (a) or (b) of section 809ZA(1) of ITA 2007 was met before 12 March 2008, sections 809ZA to 809ZD of that Act have effect as if—

(a) for section 809ZB(4) there were substituted—

“(4) “Lease of plant or machinery”—

(a) includes an equipment lease within the meaning of Chapter 14 of Part 2 of CAA 2001, but

(b) subject to that, does not include a lease of plant or machinery and other property.”, and

(b) section 809ZC were omitted.

3 In section 785A of ICTA (rent factoring of leases of plant or machinery), after subsection (5A) insert—

“(5B) This section does not apply in relation to a relevant capital payment to which section 785B below or section 809ZA of ITA 2007 applies; and “relevant capital payment” here has the same meaning as in that section.”

Disposal events: grant of long funding lease

4 (1) Section 61 of CAA 2001 (disposal events and disposal values) is amended as follows.

(2) In the second column of the Table in subsection (2), in the entry relating to item 5A, at the end insert "("the relevant date")".

(3) After subsection (5) insert—

"(6) The following provisions apply for the purposes of calculating the disposal value for item 5A of the Table.

(7) Treat any rentals under the lease made (or due) on or before the relevant date as made (and due) on the day after that date."

(4) After subsection (7) insert—

"(8) Treat the lessor as having no liabilities of any kind at any time on the relevant date (but only if the effect of doing so would be to increase the disposal value).

(9) For the purposes of subsection (8) "liabilities" includes, where the lessor is a company, any share capital issued by the company which falls to be treated for accounting purposes as a liability."

(5) The amendments made by sub-paragraphs (2) and (3) have effect in relation to leases granted on or after 13 December 2007.

(6) The amendment made by sub-paragraph (4) has effect in relation to leases granted on or after 12 March 2008.

Deemed disposals: plant or machinery used under long funding lease

5 (1) Section 25A of TCGA 1992 (long funding leases of plant and machinery: deemed disposals) is amended as follows.

(2) In subsection (4)(a), after "lessor" insert "("the relevant date")".

(3) After subsection (4) insert—

"(4A) The following provisions apply for the purposes of subsection (4)(a).

(4B) Treat any rentals under the lease made (or due) on or before the relevant date as made (and due) on the day after that date."

(4) After subsection (4B) insert—

"(4C) Treat the lessor as having no liabilities of any kind at any time on the relevant date (but only if the effect of doing so would be to increase the amount calculated under subsection (4)(a)).

(4D) For the purposes of subsection (4C) "liabilities" includes, where the lessor is a company, any share capital issued by the company which falls to be treated for accounting purposes as a liability."

(5) The amendments made by sub-paragraphs (2) and (3) have effect in relation to leases granted on or after 13 December 2007.

(6) The amendment made by sub-paragraph (4) has effect in relation to leases granted on or after 12 March 2008.

Plant or machinery subject to a sale and finance leaseback or lease and finance leaseback

6 (1) Part 2 of CAA 2001 (plant and machinery allowances) is amended as follows.

(2) In section 13(5) (use for qualifying activity of plant or machinery provided for other purposes), omit "or 224".

(3) In section 52(5) (first-year allowances), omit ", 223".

(4) In section 57(3) (available qualifying expenditure), omit "224(1),".

(5) In section 66 (provisions referred to in section 60(1)(b)), omit the entry relating to section 222.

(6) In section 70I (meaning of "short lease"), after subsection (9) insert—

"(10) Where plant or machinery is the subject of a sale and finance leaseback (as defined in section 221), any finance lease of a kind mentioned in section 221(1)(c) is not a short lease (if it otherwise would be).

(11) But, if the conditions set out in section 227(2) are met, B and S (within the meaning of section 221) may make an election the effect of which is that—

(a) subsection (10) above does not apply,

(b) section 228(2) and (3) apply in relation to B (but this does not prevent section 225 from applying), and

(c) section 228(5) applies in relation to S.

(12) Subsections (4) to (6) of section 227 apply in relation to elections under this section as they apply in relation to elections under that section."

(7) In section 89(3)(b) (disposal to connected person), for "sections 222 to" substitute "section".

(8) In section 217 (no first-year allowance for B's expenditure), for subsection (3) substitute—

"(3) This section does not apply if plant or machinery is the subject of a sale and finance leaseback (as defined in section 221)."

(9) In section 218 (restriction on B's qualifying expenditure), for subsection (4) substitute—

"(4) This section does not apply if plant or machinery is the subject of a sale and finance leaseback (as defined in section 221), but see section 225."

(10) In section 219(1) (meaning of "finance lease"), omit "and which are not a long funding lease in the case of the lessor".

(11) In section 221(1) (meaning of "sale and finance leaseback"), for "sections 222 to 228" substitute "section 225".

(12) Omit—

(a) section 222 (disposal value restricted),

(b) section 223 (no first-year allowance for B's expenditure),

(c) section 224 (restriction on B's qualifying expenditure), and

(d) section 226 (qualifying expenditure limited in subsequent transactions).

(13) In section 227 (circumstances in which election may be made)—

(a) in subsection (1)(b), omit sub-paragraph (ii) (and the "or" before it), and

(b) in subsection (2)(c), for "217, 218, 223 or 224" substitute "217 or 218",

and the heading before that section accordingly becomes "*Sale and leaseback: election for special treatment*".

(14) In section 228 (effect of election: relaxation of restriction on B's qualifying expenditure, etc)—

(a) in subsection (1), omit "or 224", and

(b) omit subsection (4).

(15) In section 230(2) (exception for manufacturers and suppliers), for "sections 222 to" substitute "section".

(16) In section 241(1)(b) (no first-year allowance in respect of additional VAT liability), omit "or 223(1)".

(17) Omit section 243 (restriction on B's qualifying expenditure: sale and finance leaseback).

(18) In section 774E(6) of ICTA (structured finance arrangements: exceptions), omit the second sentence.

(19) The amendments made by this paragraph have effect in the case of plant or machinery which is the subject of a sale and finance leaseback (as defined in section 221 of CAA 2001) where the date of the transaction (within the meaning of that section) is on or after 9 October 2007.

(20) In the case of plant or machinery which is the subject of a sale and finance leaseback (as defined in section 221 of CAA 2001) where the date of the transaction (within the meaning of that section) is before 12 March 2008, section 70I(10) of CAA 2001 has effect as if for "any finance lease of a kind" there were substituted "the finance lease".

7 (1) In section 70I of CAA 2001 (meaning of "short lease"), after subsection (9) insert—

"(9A) Where plant or machinery is the subject of a lease and finance leaseback (as defined in section 228A)—

(a) the finance lease mentioned in section 228A(2)(c), and

(b) any other finance lease forming part of the arrangements for the lease and finance leaseback (except the lease referred to in section 228A(2)(a)),

is not a short lease (if it otherwise would be)."

(2) The amendment made by sub-paragraph (1) has effect in the case of plant or machinery which is the subject of a lease and finance leaseback (as defined in section 228A of CAA 2001) where the date of the transaction mentioned in subsection (2)(a) of that section is on or after 12 March 2008.

Restriction on lessee's right to elect that rules for non-long funding leases apply

8 (1) In section 70H of CAA 2001 (lessee: requirement for tax return treating lease

as long funding lease), after subsection (1) insert—

"(1A) Subsection (1) does not apply in respect of a lease of plant or machinery ("lease A") if, at any time in the relevant period—

(a) the lessee is the lessor of a lease of any of that plant or machinery ("lease B"), and

(b) lease B is a long funding lease.

(1B) In subsection (1A) "the relevant period" means the period—

(a) beginning with the inception of lease A, and

(b) ending with the making of the tax return for the initial period (or, if that return is amended, the making of the last amendment)."

(2) The amendment made by sub-paragraph (1) has effect in relation to leases entered into on or after 13 December 2007.

Lessors under long funding leases of plant or machinery

9 (1) Chapter 5A of Part 12 of ICTA (special rules for long funding leases of plant or machinery: corporation tax) is amended as follows.

(2) After section 502G insert—

"Lessors under long funding finance or operating leases: avoidance etc

502GA Cases where ss. 502B to 502G do not apply: plant or machinery held as trading stock

(1) Sections 502B to 502G do not apply in the case of a company which is or has been the lessor of any plant or machinery under a long funding lease if the following condition is met.

(2) The condition is that any part of the expenditure incurred by the company on the acquisition of the plant or machinery for leasing under the lease—

(a) is (apart from those sections) allowable as a deduction in calculating its profits or losses for the purposes of corporation tax, and

(b) is so allowable as a result of the plant or machinery forming part of its trading stock.

(3) For the purposes of this section the cases in which expenditure incurred by a company on the acquisition of any plant or machinery for leasing under a lease is allowable as such a deduction include any case where—

(a) the company becomes entitled to the deduction at any time after the expenditure is incurred, and

(b) the deduction arises as a result of the plant or machinery forming part of its trading stock at that time.

(4) If—

(a) at any time any of sections 502B to 502G has applied for determining the amounts to be taken into account in calculating the profits or losses of the company for the purposes of corporation tax, and

(b) the condition in subsection (2) is met at any subsequent time,

those amounts, and any other amounts which (as a result of this section) are to be so taken into account, are subject to such adjustments as are just and reasonable.

(5) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (4)."

(3) After section 502GA insert—

"502GB Cases where ss. 502B to 502G do not apply: lessor also lessee under non-long funding lease

(1) This section applies if—

(a) a company is the lessee of any plant or machinery under a lease ("lease A") that is not a long funding lease,

(b) it enters into a lease ("lease B") of any of that plant or machinery (as lessor), and

(c) lease B is a long funding lease.

(2) Sections 502B to 502G do not apply in relation to lease B.

(3) If by virtue of section 70H of the Capital Allowances Act (tax return by lessee treating lease as long funding lease) lease A becomes a long funding lease (and does not cease to be such a lease), treat this section as never having applied in relation to lease B."

(4) After section 502GB insert—

"502GC Cases where ss. 502B to 502G do not apply: other avoidance

(1) Sections 502B to 502G do not apply in the case of a company which is or has been the lessor of any plant or machinery under a long funding lease if conditions A to C are met.

(2) Condition A is that the long funding lease forms part of any arrangement entered into by the company which includes one or more other transactions (whether the arrangement is entered into before or after or at the inception of the lease).

(3) Condition B is that the main purpose, or one of the main purposes, of the arrangement is to secure that, over the relevant period, there would be a substantial difference between—

(a) the total amount of the amounts under the arrangement which are, in accordance with generally accepted accounting practice, recognised in determining the company's profit or loss for any period or taken into account in calculating the amounts which are so recognised, and

(b) the total amount of the amounts under the arrangement which are taken into account in calculating the profits or losses of the company for the purposes of corporation tax.

(4) For the purposes of condition B "the relevant period" means the period which begins with the inception of the lease and ends with the end of the term of the lease.

(5) Condition C is that the difference would be attributable (wholly or partly) to the application of any of sections 502B to 502G in relation

to the company by reference to the plant or machinery under the lease.

(6) The reference in this section to an amount being recognised in determining a company's profit or loss for a period is to an amount being recognised for accounting purposes—

(a) in the company's profit and loss account or income statement,

(b) in the company's statement of recognised gains and losses or statement of changes in equity, or

(c) in any other statement of items brought into account in calculating the company's profits and losses for that period.

(7) For the purposes of this section it does not matter whether the parties to any transaction which forms part of the arrangement differ from the parties to any of the other transactions.

(8) For the purposes of this section the cases in which two or more transactions are to be taken as forming part of an arrangement include any case in which it would be reasonable to assume that one or more of them—

(a) would not have been entered into independently of the other or others, or

(b) if entered into independently of the other or others, would not have taken the same form or been on the same terms.

(9) If—

(a) at any time any of sections 502B to 502G has applied for determining the amounts to be taken into account in calculating the profits or losses of the company for the purposes of corporation tax, and

(b) conditions A to C are met at any subsequent time,

those amounts, and any other amounts which (as a result of this section) are to be so taken into account, are subject to such adjustments as are just and reasonable.

(10) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (9)."

(5) The amendment made by sub-paragraph (2) has effect where—

(a) expenditure is incurred on or after 9 October 2007, or

(b) a company becomes entitled to a deduction in calculating its profits or losses for the purposes of corporation tax as a result of any plant or machinery forming part of its trading stock on or after that date.

(6) The amendment made by sub-paragraph (3) has effect where the lease mentioned in section 502GB(1)(b) of ICTA is entered into on or after 13 December 2007.

(7) The amendment made by sub-paragraph (4) has effect in relation to arrangements entered into on or after 9 October 2007.

10 (1) Chapter 10A of Part 2 of ITTOIA 2005 (corresponding income tax rules) is amended as follows.

(2) After section 148F insert—

"Lessors under long funding finance or operating leases: avoidance etc

148FA Cases where ss. 148A to 148F do not apply: plant or machinery held as trading stock

(1) Sections 148A to 148F do not apply in the case of a person carrying on a trade who is or has been the lessor of any plant or machinery under a long funding lease if the following condition is met.

(2) The condition is that any part of the expenditure incurred by the person on the acquisition of the plant or machinery for leasing under the lease—

(a) is (apart from those sections) allowable as a deduction in calculating the profits or losses of the trade, and

(b) is so allowable as a result of the plant or machinery forming part of the trading stock of the trade.

(3) For the purposes of this section the cases in which expenditure incurred by a person carrying on a trade on the acquisition of any plant or machinery for leasing under a lease is allowable as such a deduction include any case where—

(a) the person becomes entitled to the deduction at any time after the expenditure is incurred, and

(b) the deduction arises as a result of the plant or machinery forming part of the trading stock of the trade at that time.

(4) If—

(a) at any time any of sections 148A to 148F has applied for determining the amounts to be taken into account in calculating the profits or losses of the trade, and

(b) the condition in subsection (2) is met at any subsequent time,

those amounts, and any other amounts which (as a result of this section) are to be so taken into account, are subject to such adjustments as are just and reasonable.

(5) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (4)."

(3) After section 148FA insert—

"148FB Cases where ss. 148A to 148F do not apply: lessor also lessee under non-long funding lease

(1) This section applies if—

(a) a person is the lessee of any plant or machinery under a lease ("lease A") that is not a long funding lease,

(b) the person enters into a lease ("lease B") of any of that plant or machinery (as lessor), and

(c) lease B is a long funding lease.

(2) Sections 148A to 148F do not apply in relation to lease B.

(3) If by virtue of section 70H of CAA 2001 (tax return by lessee treating lease as long funding lease) lease A becomes a long funding lease

(and does not cease to be such a lease), treat this section as never having applied in relation to lease B."

(4) After section 148FB insert—

"148FC Cases where ss. 148A to 148F do not apply: other avoidance

(1) Sections 148A to 148F do not apply in the case of a person carrying on a trade who is or has been the lessor of any plant or machinery under a long funding lease if conditions A to C are met.

(2) Condition A is that the long funding lease forms part of any arrangement entered into by the person which includes one or more other transactions (whether the arrangement is entered into before or after or at the inception of the lease).

(3) Condition B is that the main purpose, or one of the main purposes, of the arrangement is to secure that, over the relevant period, there would be a substantial difference between—

(a) the total amount of the amounts under the arrangement which are, in accordance with generally accepted accounting practice, recognised in determining the profit or loss of the trade for any period or taken into account in calculating the amounts which are so recognised, and

(b) the total amount of the amounts under the arrangement which are taken into account in calculating the profits or losses of the trade.

(4) For the purposes of condition B "the relevant period" means the period which begins with the inception of the lease and ends with the end of the term of the lease.

(5) Condition C is that the difference would be attributable (wholly or partly) to the application of any of sections 148A to 148F in relation to the person by reference to the plant or machinery under the lease.

(6) The reference in this section to an amount being recognised in determining the profit or loss of a trade for a period is to an amount being recognised for accounting purposes—

(a) in the profit and loss account or income statement relating to the trade,

(b) in the statement of recognised gains and losses or statement of changes in equity relating to the trade, or

(c) in any other statement of items brought into account in calculating the profits and losses of the trade for that period.

(7) For the purposes of this section it does not matter whether the parties to any transaction which forms part of the arrangement differ from the parties to any of the other transactions.

(8) For the purposes of this section the cases in which two or more transactions are to be taken as forming part of an arrangement include any case in which it would be reasonable to assume that one or more of them—

(a) would not have been entered into independently of the other or others, or

(b) if entered into independently of the other or others, would not have taken the same form or been on the same terms.

(9) If—

(a) at any time any of sections 148A to 148F has applied for determining the amounts to be taken into account in calculating the profits or losses of the trade, and

(b) conditions A to C are met at any subsequent time,

those amounts, and any other amounts which (as a result of this section) are to be so taken into account, are subject to such adjustments as are just and reasonable.

(10) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (9)."

(5) The amendment made by sub-paragraph (2) has effect where—

(a) expenditure is incurred on or after 9 October 2007, or

(b) a person carrying on a trade becomes entitled to a deduction in calculating the profits or losses of the trade as a result of any plant or machinery forming part of the trading stock of the trade on or after that date.

(6) The amendment made by sub-paragraph (3) has effect where the lease mentioned in section 148FB(1)(b) of ITTOIA 2005 is entered into on or after 13 December 2007.

(7) The amendment made by sub-paragraph (4) has effect in relation to arrangements entered into on or after 9 October 2007.

11 (1) If, at the beginning of 13 December 2007 ("the relevant date")—

(a) a company or a person carrying on a trade is the lessee of any plant or machinery under a lease that is not a long funding lease ("lease A"), and

(b) the company or person is the lessor of any of that plant or machinery under a lease that is a long funding finance lease ("lease B"),

sub-paragraphs (2) to (10) apply in respect of lease B.

(2) Section 502B of ICTA or section 148A of ITTOIA 2005 (rental earnings) does not apply in relation to a period of account within sub-paragraph (3).

(3) A period of account is within this sub-paragraph if—

(a) it begins on or after the relevant date, and

(b) no rentals which were due under lease B before the relevant date are (wholly or in part) in respect of any part of the period of account.

(4) For the purpose of calculating the profits of the lessor under lease B for a period of account ending on or after the relevant date that is not within sub-paragraph (3), treat the lessor as receiving for that period of account income attributable to lease B of an amount equal to the relevant amount.

(5) The "relevant amount" is an amount equal to so much of the rentals that—

(a) become due on or after the relevant date, and

(b) are wholly or partly in respect of the period of account,

as would not reasonably be regarded as reflected in the rental earnings for that period of account.

"Rental earnings" here has the same meaning as in section 502B of ICTA or section 148A of ITTOIA 2005.

(6) If any rental is paid for a period ("the rental period") which begins before the relevant date or is not wholly within the period of account, for the purposes of sub-paragraph (5) treat the amount of that rent as equal to the amount apportioned (on a time basis) in respect of so much of the rental period as falls on or after the relevant date and within the period of account.

(7) The income treated as received by virtue of sub-paragraph (4) is in addition to any amount brought into account under section 502B(2) of ICTA or section 148A(2) of ITTOIA 2005.

(8) Section 502C of ICTA or section 148B of ITTOIA 2005 (exceptional items) does not apply in relation to any profit or loss arising on or after the relevant date.

(9) If section 502D of ICTA or section 148C of ITTOIA 2005 (lessor making termination payment) applies in respect of the termination of lease B on or after the relevant date, a deduction is allowed (in calculating the profits of the lessor) in respect of the sum paid to the lessee.

(10) The amount of that deduction is (if it would otherwise exceed that amount) limited to the total amount brought into account in respect of the lease by virtue of sub-paragraph (2) or (4).

(11) If lease A becomes a long funding lease by virtue of section 70H of CAA 2001 (and does not cease to be such a lease), treat this paragraph as never having applied in relation to lease B.

(12) Chapter 6A of Part 2 of CAA 2001 (interpretation of provisions about long funding leases) applies in relation to this paragraph.

Plant and machinery allowances: anti-avoidance

12 (1) Chapter 17 of Part 2 of CAA 2001 (plant and machinery allowances: anti-avoidance) is amended as follows.

(2) For section 228A substitute—

"228A Application of sections 228B and 228C

(1) Sections 228B and 228C apply where plant or machinery is the subject of a lease and finance leaseback.

(2) Plant or machinery is the subject of a lease and finance leaseback if—
(a) a person ("S") leases the plant or machinery to another ("B"),
(b) after the date of that transaction, the use of the plant or machinery falls within sub-paragraph (i), (ii) or (iii) of section 221(1)(b), and
(c) it is directly as a consequence of having been leased under a finance lease that the plant or machinery is available to be so used after that date.

(3) For the purposes of subsection (2), S leases the plant or machinery to B only if—
(a) S grants B rights over the plant or machinery,
(b) consideration is given for that grant, and

(c) S is not required to bring all of that consideration into account under this Part."

(3) In section 228B (lessee's income or profits: deductions)—

(a) in subsection (1), for "the lessee's" substitute "S's",

(b) in subsection (2), for the words from "the total" to the end substitute "the amount of the finance charges shown in the accounts.",

(c) in subsection (4), in the definition of "Original Consideration", for "entering into the relevant transaction" substitute "granting B rights over the plant or machinery", and

(d) the heading accordingly becomes "**S's income or profits: deductions**".

(4) In section 228C (lessee's income or profits: termination of leaseback)—

(a) in subsection (2), for "the lessee" substitute "S",

(b) in subsection (3), in the formula, for "Net" substitute "Original" and for the definition of "Net Consideration" substitute—

""Original Consideration" means the consideration payable to S for granting B rights over the plant or machinery,",

(c) in subsection (6), for "the lessee's" substitute "S's" and for "the lessor" substitute "B (or, where appropriate, an assignee of B)", and

(d) the heading accordingly becomes "**S's income or profits: termination of leaseback**".

(5) Omit—

(a) section 228D (lessor's income or profits),

(b) section 228E (lessor's income or profits: termination of leaseback), and

(c) section 228F (lease and finance leaseback).

(6) In section 228G (leaseback not accounted for as finance lease in accounts of lessee)—

(a) in subsection (1), for "the lessee" substitute "S",

(b) in subsection (2), for "the lessee" (in both places) substitute "S",

(c) in subsection (3), for "the lessee's" substitute "S's",

(d) in subsection (4), for "the lessee" substitute "S",

(e) in subsection (6), for "the lessee" substitute "S" and for the words from "increased by—" to the end substitute "increased by the consideration payable to S for granting B rights over the plant or machinery.", and

(f) the heading accordingly becomes "**Leaseback not accounted for as finance lease in S's accounts**".

(7) Section 228H (sections 228A to 228G: supplementary) is amended as follows.

(8) In subsection (1)—

(a) insert (as the first defined term)—

""consideration" does not include rentals;",

(b) omit the definition of "lessee",

(c) in the definition of "net book value", for "the lessee's" substitute "S's",

(d) omit the definition of "restricted disposal value",

(e) before the definition of "termination" insert—

""S" does not include an assignee of S;", and

(f) in the definition of "termination", omit "(except in section 228E)", for "the lessee's" (in both places) substitute "S's" and for "the lessee" substitute "S".

(9) After that subsection insert—

"(1A) For the purposes of sections 228A to 228G, references to consideration given (or payable to S) for the grant to B of rights over the plant or machinery do not include—

(a) rentals payable under that grant, or

(b) any relevant capital payment (within the meaning of section 785B of ICTA or section 809ZA of ITA 2007) to which either of those sections applies.

(1B) In relation to a case where some but not all of the consideration mentioned in subsection (1A) falls within paragraph (b) of that subsection, sections 228B to 228G or section 228J have effect subject to such modifications as are just and reasonable."

(10) In section 228J(8) (plant or machinery subject to further operating lease), in the definition of "lease and finance leaseback", for "section 228F" substitute "section 228A".

(11) In section 774E(5)(b) of ICTA (structured finance arrangements: exceptions), omit "with the modifications contained in section 228F of that Act".

(12) The amendments made by this paragraph have effect in relation to transactions referred to in section 228A(2)(a) of CAA 2001 (as substituted by this paragraph) entered into on or after 9 October 2007.

13 (1) Section 228B of CAA 2001 (S's income or profits: deductions) is amended as follows.

(2) After subsection (4) insert—

"(5) If the use mentioned in section 228A(2)(b) includes use by a person (other than B) who is connected with S, this section applies in relation to that person as it applies in relation to S.

(3) Accordingly, in the heading, after "**profits**" insert "**etc**".

(4) The amendments made by this paragraph have effect in relation to transactions referred to in section 228A(2)(a) of CAA 2001 entered into on or after 12 March 2008.

SCHEDULE 21

Section 60

RESTRICTION ON LOSS RELIEF FOR NON-ACTIVE TRADERS

Introduction

1 ITA 2007 is amended as follows.

Main provisions

2 After section 74 insert—

"General restrictions on sideways relief and capital gains relief

74A Reliefs in any tax year not to exceed cap for tax year

(1) This section applies if—

(a) during a tax year an individual carries on one or more trades, otherwise than as a partner in a firm, in a non-active capacity (see section 74C), and

(b) the individual makes a loss in any of those trades (an "affected loss") in that tax year.

(2) There is a restriction on the amount of sideways relief and capital gains relief which (after applying the restrictions under the other provisions of this Chapter) may be given to the individual for any affected loss (but see subsections (7) and (8)).

(3) The restriction is that the total amount of the sideways relief and capital gains relief given to the individual for all the affected losses must not exceed the cap for that tax year.

(4) The cap for any tax year is £25,000.

(5) The Treasury may by order amend the sum for the time being specified in subsection (4).

(6) If—

(a) in a tax year an individual makes a loss to which the restriction under section 103C (losses in trade carried on by non-active or limited partner) applies, and

(b) sideways relief or capital gains relief is given to the individual for that loss,

the amount of the cap under this section for the tax year in the case of the individual is reduced by the amount of that loss.

(7) The restriction under this section does not apply to so much of any affected loss as derives from qualifying film expenditure (see section 74D).

(8) The restriction under this section does not affect the giving of sideways relief for a loss made in a trade against the profits of that trade.

(9) In this section "trade" does not include a trade which consists of the underwriting business of a member of Lloyd's (within the meaning of section 184 of FA 1993).

(10) For the purposes of this section—

(a) capital gains relief is, in relation to a loss, the treatment of a loss as an allowable loss by virtue of section 261B of TCGA 1992 (use of trading loss as a CGT loss), and

(b) capital gains relief is given for a loss when it is so treated.

74B No relief for tax-generated losses

(1) This section applies if—

(a) during a tax year an individual carries on a trade, otherwise than as a partner in a firm, in a non-active capacity (see section 74C),

(b) the individual makes a loss in the trade in that tax year, and

(c) the loss arises directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements.

(2) No sideways relief or capital gains relief may be given to the individual for the loss (but subject to subsection (5)).

(3) In subsection (1) "relevant tax avoidance arrangements" means arrangements made by the individual the main purpose, or one of the main purposes, of which is the obtaining of a reduction in tax liability by means of sideways relief or capital gains relief.

(4) In subsection (3) "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

(5) This section has no effect in relation to any loss that derives wholly from qualifying film expenditure (see section 74D).

(6) Subsection (10) of section 74A (capital gains relief) applies for the purposes of this section.

74C Meaning of "non-active capacity" for purposes of sections 74A and 74B etc

(1) For the purposes of sections 74A and 74B an individual carries on a trade in a non-active capacity during a tax year if the individual—

(a) carries on the trade at a time during the year, and

(b) does not devote a significant amount of time to the trade in the relevant period for the tax year.

(2) For the purposes of this section an individual devotes a significant amount of time to a trade in the relevant period for a tax year if, in the relevant period, the individual spends an average of at least 10 hours a week personally engaged in activities of the trade and those activities are carried on—

(a) on a commercial basis, and

(b) with a view to the realisation of profits as a result of the activities.

(3) For this purpose "the relevant period" means the basis period for the tax year (unless the basis period is shorter than 6 months).

(4) If the basis period for the tax year is shorter than 6 months, "the relevant period" means—

(a) the period of 6 months beginning with the date on which the individual first started to carry on the trade (if the basis period begins with that date), or

(b) the period of 6 months ending with the date on which the individual permanently ceased to carry on the trade (if the basis period ends with that date).

(5) If—

(a) any relief is given on the assumption that the individual devoted or will devote a significant amount of time to the trade in the relevant period for a tax year, but

(b) the individual in fact failed or fails to do so,

the relief is withdrawn by the making of an assessment to income tax under this section.

74D Meaning of "qualifying film expenditure" for purposes of sections 74A and 74B

(1) For the purposes of sections 74A and 74B expenditure is qualifying film expenditure if—

(a) it is deducted under a relevant film provision for the purposes of calculating the profits of a trade, or

(b) it is incidental expenditure which (although not deducted under a relevant film provision) is incurred in connection with the production of a film, or the acquisition of the original master version of a film, in relation to which expenditure is so deducted.

(2) Expenditure is incidental if it is on management, administration or obtaining finance.

(3) The extent to which expenditure is within subsection (1)(b) is determined on a just and reasonable basis.

(4) For the purposes of sections 74A and 74B the amount of any loss that derives from qualifying film expenditure is determined on a just and reasonable basis.

(5) In this section—

"the acquisition of the original master version of a film" has the same meaning as in Chapter 9 of Part 2 of ITTOIA 2005 (see sections 130 and 132 of that Act),

"film" is to be read in accordance with paragraph 1 of Schedule 1 to the Films Act 1985, and

"a relevant film provision" means any one of sections 137 to 140 of ITTOIA 2005 (relief for certified master versions of films)."

Other amendments

3 In section 32 (liability not dealt with in the calculation), before the entry relating to section 79(1) insert—

"under section 74C(5) (non-active traders: withdrawal of relief),".

4 In section 64(8) (deduction of trade losses from general income), after paragraph (b) insert—

"(ba) sections 74A to 74D (general restrictions on relief),".

5 In section 72(5) (early trade loss relief)—

(a) in paragraph (b), after "relief" insert "unless trade is commercial etc", and

(b) after that paragraph insert—

"(ba) sections 74A to 74D (general restrictions on relief),".

Commencement

6 (1) Section 74A of ITA, and the other provisions inserted into that Act by this Schedule so far as relating to that section, have effect in relation to any loss made by an individual in the tax year 2007-08 or any subsequent tax year.

(2) But those provisions do not have effect in relation to a loss made by an individual in a tax year the basis period for which ended before 12 March 2008.

(3) If the basis period for the tax year in which a loss is made by an individual begins before 12 March 2008 and ends on or after that date (a "straddling basis period"), the amount of that loss for the purposes of section 74A of ITA 2007 is—

(a) the amount of sideways relief and capital gains relief which (after applying the restrictions under the other provisions of Chapter 2 of Part 4 of that Act) may be given to the individual for that loss, less

(b) the amount (if any) of the pre-announcement loss.

(4) "The pre-announcement loss" is determined as follows.

(5) Calculate the profits or losses of the straddling basis period, but without regard to capital allowances and qualifying film expenditure (within the meaning of section 74D of ITA 2007).

(6) If that calculation produces a loss, apportion the loss produced by that calculation to the part of the straddling basis period which falls before 12 March 2008 in proportion to the number of days in that part.

(7) Calculate so much of the loss of the straddling basis period as derives from relevant pre-announcement capital expenditure.

(8) The pre-announcement loss is the sum of—

(a) the amount of the loss apportioned under sub-paragraph (6) (if any), and

(b) so much of the loss of the straddling period (if any) as derives from relevant pre-announcement capital expenditure.

(9) For the purposes of this paragraph the amount of the loss of the straddling basis period that derives from relevant pre-announcement capital expenditure is determined on a just and reasonable basis.

(10) In this paragraph "relevant pre-announcement capital expenditure" means—

(a) any capital allowance in respect of expenditure paid before 12 March 2008, and

(b) any capital allowance in respect of expenditure paid on or after that date pursuant to an unconditional obligation in a contract made before that date;

and for this purpose "an unconditional obligation" means an obligation which may not be varied or extinguished by the exercise of any right conferred on the individual in question (whether or not under the contract).

7 (1) Section 74B of ITA, and the other provisions inserted into that Act by this Schedule so far as relating to that section, have effect in relation to a loss arising directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements made on or after 12 March 2008.

(2) But those provisions do not have effect if the arrangements were made pursuant to an unconditional obligation in a contract made before that date; and for this purpose "an unconditional obligation" means an obligation which may not be varied or extinguished by the exercise of any right conferred on the individual in question (whether or not under the contract).

SCHEDULE 22

Section 62

AVOIDANCE INVOLVING FINANCIAL ARRANGEMENTS

Rent factoring of leases of plant or machinery

1 (1) Section 785A of ICTA (rent factoring of leases of plant or machinery) is amended as follows.

(2) In subsection (1), omit paragraph (d).

(3) In subsection (2)—

(a) for "relevant portion of the consideration" substitute "market value of the rights transferred", and

(b) for "in a period of account to the extent that it is receivable in that period of account" substitute "at the time of the transfer".

(4) After that subsection insert—

"(2A) But subsection (2) does not apply if and to the extent that any of the market value of the rights transferred is (apart from this section) brought into account—

(a) as income, or

(b) as a capital allowances disposal receipt."

(5) After subsection (5) insert—

"(5ZA) The references in subsections (1)(c) and (3) to another person include any person in which P has an interest, including any partnership of which P is a member and the trustees of any trust of which P is a beneficiary."

(6) The amendments made by this paragraph have effect in relation to arrangements for transfers of rights entered into on or after 12 March 2008.

Credit allowable in relation to interest

2 (1) In section 807A of ICTA (disposals and acquisitions of company loan relationships with or without interest), omit subsection (3) (credit allowable as if amount of foreign tax had been paid).

(2) Accordingly, omit—

(a) in section 807A of ICTA, subsections (5) and (6) and, in subsection (7), the definitions of "related transaction" and "trading credit", and

(b) section 91(4) of FA 1997.

(3) The repeals made by this paragraph have effect in relation to related transactions on or after 12 March 2008.

Distributions arising from tax arrangements

3 (1) In paragraph 1 of Schedule 9 to FA 1996 (loan relationships: distributions), after sub-paragraph (1) insert—

"(1A) Credits relating to any amount which falls, when paid, to be treated as a distribution in respect of a loan relationship are to be brought into account for the purposes of this Chapter if the amount arises in consequence of, or otherwise in connection with, arrangements the purpose, or one of the main purposes, of which is securing for any person a tax advantage; and for this purpose—

(a) "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions, and

(b) "tax advantage" has the meaning given by section 840ZA of the Taxes Act 1988."

(2) The amendment made by sub-paragraph (1) has effect in relation to accounting periods ending on or after 12 March 2008 but, in the case of an accounting period beginning before that date, only if the credits relate to any time on or after that date.

Disposals for consideration not recognised by accounting practice

4 (1) In Schedule 9 to FA 1996 (loan relationships: special computational provisions), after paragraph 11A insert—

"Disposals for consideration not fully recognised by accounting practice

11B (1) This paragraph applies where in any accounting period ("the relevant accounting period") a company, with the relevant avoidance intention, disposes of rights under a creditor relationship (in whole or in part) for consideration which—

(a) is not wholly in the form of money or a debt that falls to be settled by the payment of money, and

(b) is not fully recognised.

(2) The relevant avoidance intention is the intention of eliminating or reducing the credits to be brought into account for the purposes of this Chapter.

(3) Consideration is not fully recognised if, as a result of the application of generally accepted accounting practice, the full amount or value of the consideration is not recognised in determining the company's profit or loss for the relevant accounting period or any other accounting period.

(4) In determining the credits to be brought into account by the company for the period for the purposes of this Chapter, it is to be assumed that the whole of the consideration is recognised in determining the company's profit or loss for the relevant accounting period.

(5) But this paragraph does not apply if paragraph 1(2) of Schedule 28AA to the Taxes Act 1988 (provision not at arm's length) operates in relation to the disposal so as to increase the tax liability of the company."

(2) In Schedule 26 to FA 2002 (derivative contracts), after paragraph 27 insert—

"Disposals for consideration not fully recognised by accounting practice

27A (1) This paragraph applies where in any accounting period ("the relevant accounting period") a company, with the relevant avoidance intention, disposes of rights or liabilities under a derivative contract (in whole or in part) for consideration which—

(a) is not wholly in the form of money or a debt that falls to be settled by the payment of money, and

(b) is not fully recognised.

(2) The relevant avoidance intention is the intention of eliminating or reducing the credits to be brought into account for the purposes of this Schedule.

(3) Consideration is not fully recognised if, as a result of the application of generally accepted accounting practice, the full amount or value of the consideration is not recognised in determining the company's profit or loss for the relevant accounting period or any other accounting period.

(4) In determining the credits to be brought into account by the company for the period for the purposes of this Schedule, it is to be assumed that the whole of the consideration is recognised in determining the company's profit or loss for the relevant accounting period.

(5) But this paragraph does not apply if paragraph 1(2) of Schedule 28AA to the Taxes Act 1988 (provision not at arm's length) operates in relation to the disposal so as to increase the tax liability of the company."

(3) The amendments made by this paragraph have effect in relation to disposals on or after 16 May 2008.

Avoidance relying on continuity of treatment provisions

5 (1) In paragraph 12 of Schedule 9 to FA 1996 (loan relationships: continuity of treatment), after sub-paragraph (2C) insert—

"(2D) This paragraph does not apply where—

(a) the transferor company is party to arrangements in accordance with which there is likely to be a transfer of rights or liabilities under the loan relationship by the transferee company to another person in circumstances in which this paragraph would not apply, and

(b) the purpose, or one of the main purposes, of the arrangements is to secure a tax advantage for the transferor company or a person connected with it.

(2E) In sub-paragraph (2D) above—

(a) "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions,

(b) "tax advantage" has the meaning given by section 840ZA of the Taxes Act 1988, and

(c) "transfer" includes any arrangement which equates in substance to a transfer (including an acquisition or disposal of, or increase or decrease in, a share of the profits or assets of a partnership);

and section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of that sub-paragraph.

(2F) This paragraph does not apply in relation to a disposal if paragraph 11B above applies in relation to it."

(2) In paragraph 28 of Schedule 26 to FA 2002 (derivative contracts: continuity of treatment), after sub-paragraph (3ZA) insert—

"(3ZB) This paragraph does not apply where—

(a) the transferor company is party to arrangements in accordance with which there is likely to be a transfer of rights or liabilities under the derivative contract by the transferee company to another person in circumstances in which this paragraph would not apply, and

(b) the purpose, or one of the main purposes, of the arrangements is to secure a tax advantage for the transferor company or a person connected with it.

(3ZC) In sub-paragraph (3ZB) above—

(a) "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions,

(b) "tax advantage" has the meaning given by section 840ZA of the Taxes Act 1988, and

(c) "transfer" includes any arrangement which equates in substance to a transfer (including an acquisition or disposal of, or increase or decrease in, a share of the profits or assets of a partnership);

and section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of that sub-paragraph.

(3ZD) This paragraph does not apply in relation to a disposal if paragraph 27A applies in relation to it."

(3) The amendments made by this paragraph have effect in relation to transactions taking place, or a series of transactions of which the first takes place, on or after 16 May 2008.

Distributions from shares treated as loan relationships

6 (1) In FA 1996, in—

(a) section 91A(2)(b) (distributions in respect of shares subject to outstanding third party obligations), and

(b) section 91B(2)(b) (distributions in respect of non-qualifying shares),

omit "falling within section 209(2)(a) or (b) of the Taxes Act 1988".

(2) The repeals made by sub-paragraph (1) have effect in relation to distributions on or after 9 October 2007.

Depreciatory transactions

7 (1) Section 91A of FA 1996 (shares treated as loan relationship: shares subject to outstanding third party obligations which are interest-like investments) is amended as follows.

(2) After subsection (2) insert—

"(2A) No debits are to be brought into account by the investing company for the purposes of this Chapter as respects the share."

(3) In subsections (3) and (4), omit "debits and".

8 (1) Section 91B of FA 1996 (shares treated as loan relationship: non-qualifying shares) is amended as follows.

(2) After subsection (2) insert—

"(2A) No debits are to be brought into account by the investing company for the purposes of this Chapter as respects the share."

(3) In subsections (3) and (4), omit "debits and".

(4) After subsection (6) insert—

"(6A) Where a share is a non-qualifying share for the purposes of this section by reason of the Condition in section 91E being satisfied—

(a) subsection (2A) does not apply in relation to the share, but

(b) the amount of the debits brought into account by the investing company as respects the share are not to exceed the amount of the credits brought into account in respect of the associated transactions under Schedule 26 to the Finance Act 2002."

9 The amendments made by paragraphs 7 and 8 have effect in relation to accounting periods ending on or after 12 March 2008 but, in the case of an accounting period beginning before that date, only if the debits relate to any time on or after that date.

Falsifying transactions

10 (1) Section 91A of FA 1996 (shares treated as loan relationship: shares subject to outstanding third party obligations) is amended as follows.

(2) In subsection (7), for "paragraph (b) above" substitute "this subsection".

(3) In subsection (8)(b), after "will be" insert "or has been".

11 (1) Section 91C of FA 1996 (shares treated as loan relationship: shares likely to increase in value at rate representing return on investment of money) is amended as follows.

(2) In subsection (1), for "paragraph (b) above" substitute "this subsection".

(3) In subsection (6), for "entered into by the investing company" substitute "or has been entered into".

12 The amendments made by paragraphs 10 and 11 have effect in relation to times on or after 12 March 2008.

Non-qualifying shares

13 (1) In section 91B(5)(a) of FA 1996 (debits and credits to be brought into account where Condition 3 in section 91E is satisfied), omit "by the investing company".

(2) The repeal made by sub-paragraph (1) has effect in relation to credits and debits relating to any time on or after 16 May 2008.

Income producing assets

14 (1) In section 91C(3) of FA 1996 (assets which are income producing), for paragraph (c) substitute—

"(c) any share as respects which the condition in section 91D(1)(b) below is satisfied;".

(2) The amendment made by sub-paragraph (1) has effect in relation to times on or after 16 May 2008.

Exit arrangements

15 (1) In section 91D(2) of FA 1996 (shares treated as loan relationship: redeemable shares), omit "or" at the end of paragraph (a) and insert at the end "or

(c) it is reasonable to assume that the investing company will or might become entitled to qualifying redemption amounts."

(2) The amendments made by sub-paragraph (1) have effect in relation to times on or after 12 March 2008.

Schemes etc designed to reproduce interest-like return

16 (1) Section 91E of FA 1996 (shares treated as loan relationship: schemes etc designed to produce return equating to return on investment of money at interest) is amended as follows.

(2) In subsection (1)—

(a) after "arrangement" insert "(whether or not the investing company is a party to it)", and

(b) after "return" insert "(for any one or more persons)".

(3) In subsection (3), insert at the end (but not as part of paragraph (d))—

"and acquiring rights or receiving benefits in respect of other shares."

(4) The amendments made by this paragraph have effect in relation to times on or after 12 March 2008.

Partnerships

17 (1) In FA 1996, after section 91G insert—

"Partnerships

91H Payments in return for capital contribution

(1) This section applies where a company is a party to relevant arrangements under which—

(a) a partnership of which it is a member is or may become entitled to receive a capital contribution from any person (whether directly or indirectly), and

(b) that person, or a person connected with that person, receives a sum of money or other asset from the company (whether directly or indirectly).

(2) In subsection (1) "relevant arrangements" means arrangements—

(a) which are designed to produce for the company a return which equates, in substance, to a return on the investment of the money or other asset at a commercial rate of interest, and

(b) the purpose or one of the main purposes of which is to secure a tax advantage.

(3) The return is to be treated for the purposes of this Chapter as a profit from a loan relationship of the company; and the credits to be brought into account in respect of the loan relationship are to be determined on the amortised cost basis of accounting.

(4) But where the return to any extent represents partnership profits in respect of which the company is chargeable to corporation tax (whether for the same or any earlier accounting period), the charge to corporation tax is to be reduced to such extent as is just and reasonable.

(5) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of subsection (1).

(6) In subsection (2)—

(a) "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions, and

(b) "tax advantage" has the meaning given by section 840ZA of the Taxes Act 1988.

91I Change of partnership shares

(1) This section applies where a company is a party to relevant arrangements under which—

(a) the company makes a capital contribution to a partnership of which it is a member,

(b) profits of the partnership fall to be shared in a way such that the company is not allocated the whole of its due share of the profits, and

(c) the capital of the partnership falls to be shared in a way such that the company or a person connected with the company is entitled to more than the whole of its due share of the capital.

(2) In subsection (1) "relevant arrangements" means arrangements—

(a) which are designed to produce for the company a return which equates, in substance, to a return on the investment of the capital contribution at a commercial rate of interest, and

(b) the purpose or one of the main purposes of which is to secure a tax advantage.

(3) The return is to be treated for the purposes of this Chapter as a profit from a loan relationship of the company; and the credits to be brought into account in respect of the loan relationship are to be determined on the amortised cost basis of accounting.

(4) But where the return to any extent represents partnership profits in respect of which the company is chargeable to corporation tax (whether for the same or any earlier accounting period), the charge to corporation tax is to be reduced to such extent as is just and reasonable.

(5) For the purposes of subsection (1) a company's "due share" of any profits or capital is the share that the company would have been allocated or entitled to if allocation or entitlement were determined by reference to the proportion of the total capital contributed to the partnership that was contributed by it.

(6) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of subsection (1).

(7) In subsection (2)—

(a) "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions, and

(b) "tax advantage" has the meaning given by section 840ZA of the Taxes Act 1988."

(2) In section 131 of FA 2004 (companies in partnership), insert at the end—

"(10) Subsection (4) does not apply if and to the extent that the chargeable amount is brought into account under section 91H or 91I of the Finance Act 1996."

(3) The amendments made by this paragraph have effect in relation to returns arising on or after 12 March 2008.

Loan relationships treated differently by debtor and creditor

18 (1) In FA 1996, after section 94A insert—

"94B Loan relationships treated differently by connected debtor and creditor

(1) This section applies where there are two companies which are connected and conditions A, B and C are met.

(2) Condition A is that one of the companies ("the debtor company"), in accordance with generally accepted accounting practice, treats the rights and liabilities under a loan relationship to which it is a party as debtor as divided between—

(a) rights and liabilities under a loan relationship ("the host contract"), and

(b) rights and liabilities under one or more derivative financial instruments or equity instruments.

(3) Condition B is that the other company is party to the loan relationship as creditor ("the creditor company") and, in accordance with generally accepted accounting practice, does not treat its rights and liabilities under the loan relationship as so divided.

(4) Condition C is that the debits brought into account by the debtor company under this Chapter in respect of the host contract for any accounting period exceed the credits brought into account (otherwise than by virtue of this section) in respect of the loan relationship by the creditor company for the corresponding accounting period or periods of the creditor company.

(5) The creditor company is to be treated for the purposes of this Chapter as bringing into account for the corresponding accounting period or periods additional credits in respect of the loan relationship of an amount equal to the excess.

(6) But where the creditor company is party to the loan relationship as creditor during only part of the corresponding accounting period (or any of the corresponding periods) it is to be treated for those purposes as bringing into account for the period only such portion of the excess as is just and reasonable.

(7) The references in this section to a company which is party to a loan relationship as debtor or creditor include a company which indirectly stands in the position of a debtor or creditor as respects the loan relationship by reference to a series of loan relationships or money debts which would be loan relationships if a company directly stood in the position of debtor or creditor.

(8) For the purposes of this section an accounting period of the creditor company corresponds with an accounting period of the debtor company if it coincides with it or falls wholly or partly within it.

(9) Where a corresponding accounting period of the creditor company does not coincide with that of the debtor company such apportionments as are just and reasonable are to be made for the purposes of this section.

(10) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of this section; but two companies are also connected for the purposes of this section if their accounting results are reflected in the consolidated group accounts of a group of companies."

(2) In paragraph 7 of Schedule 6 to F(No.2)A 2005 (loan relationships with embedded derivatives), after sub-paragraph (1) insert—

"(1A) An election under this paragraph does not have effect in relation to any relevant assets in the case of which section 94B of FA 1996 applies."

(3) The amendment made by sub-paragraph (1) has effect in relation to debits and credits arising on or after 12 March 2008.

(4) The amendment made by sub-paragraph (2) has effect in relation to elections made on or after that date.

Commercial rate of interest

19 (1) In section 103 of FA 1996 (interpretation of Chapter 2 of Part 4), omit subsections (3A) and (3B) (meaning of "commercial rate of interest").

(2) Accordingly—

(a) in section 91A(7)(a) of FA 1996, omit "(see section 103(3A))", and

(b) in Schedule 7 to F(No.2)A 2005, omit paragraph 13.

(3) The repeals made by this paragraph have effect in relation to times on or after 12 March 2008.

Derivative contracts

20 (1) Schedule 26 to FA 2002 (derivative contracts) is amended as follows.

(2) In paragraph 3(1)(b)(ii) (contract must be treated for accounting purposes as financial asset or liability), for "is treated for accounting purposes as, or as forming" substitute "for accounting purposes is, or forms".

(3) In paragraph 4(2)(b) (contracts excluded by virtue of underlying subject matter) after "(2D)" insert "and which are not designed to produce a return which equates, in substance, to the return on an investment of money at a commercial rate of interest".

(4) The amendments made by this paragraph have effect in relation to accounting periods ending on or after 12 March 2008.

(5) But where a company was, immediately before that date, a party to a relevant contract that becomes a derivative contract for the purposes of Schedule 26 to FA 2002 by virtue of those amendments, it is to be regarded for those purposes as having been entered into by the company on that date for a consideration equal to the notional carrying value (within the meaning of paragraph 43A(5) of that Schedule) on that date.

Restrictions on relief for interest payments

21 (1) Section 384 of ITA 2007 (general restrictions on relief for interest payments) is amended as follows.

(2) In subsection (2), for "interest is paid at a rate in excess of a reasonable commercial rate" substitute "the interest paid on a loan in a tax year exceeds a reasonable commercial amount of interest on the loan for the relevant period".

(3) After subsection (2) insert—

"(3) The relevant period is the tax year or, if the loan exists for part only of the tax year, the part of the tax year for which the loan exists.

(4) A reasonable commercial amount of interest on the loan for the relevant period is an amount which, together with any interest paid before that period (other than unrelieved interest), represents a reasonable commercial rate of interest on the loan from the date it was made to the end of that period.

(5) "Unrelieved interest" means interest which because of subsection (2) is not eligible for relief under this Chapter."

(4) The amendments made by this paragraph have effect in relation to interest paid on or after 9 October 2007; but in relation to interest paid in the period beginning with that date and ending with 5 April 2008, they have effect as if the references in section 384(2) and (3) to a tax year were to that period.

SCHEDULE 23

Section 63

MANUFACTURED PAYMENTS: ANTI-AVOIDANCE

Introduction

1 Chapter 2 of Part 11 of ITA 2007 (manufactured payments) is amended as follows.

Section 572A

2 After section 572 insert—

"572A Meaning of "avoidance arrangements"

(1) In this Chapter "avoidance arrangements" means any arrangements the main purpose, or one of the main purposes, of which is to secure a deduction for the purposes of income tax, or any other income tax advantage, for any person.

(2) In subsection (1) "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

(3) In subsection (1) "income tax advantage" means—

(a) a relief from income tax or increased relief from income tax,

(b) a repayment of income tax or increased repayment of income tax,

(c) the avoidance, reduction or delay of a charge to income tax or assessment to income tax, or

(d) the avoidance of a possible assessment to income tax.

(4) In subsection (3)(a) "relief from income tax" includes a tax credit.

(5) For the purposes of subsection (3)(c) or (d) it does not matter whether the avoidance or reduction is effected—

(a) by receipts accruing in such a way that the recipient does not pay or bear income tax on them, or

(b) by a deduction in calculating profits or gains."

Section 573

3 In section 573(4) (manufactured dividends on UK shares: Income Tax Acts to apply subject to sections 574 and 575 where payer is UK resident and not a company), for "sections 574 and 575" substitute "section 574".

Section 574

4 (1) Section 574 (allowable deductions for manufactured dividends on UK shares: matching) is amended as follows.

(2) In subsection (2), for the words after "allowable" substitute "for income tax purposes as a deduction in calculating the net income of the payer (see Step 2 of the calculation in section 23).

This is subject to subsection (3)."

(3) For subsections (3) to (9) substitute—

"(3) It is—

(a) deductible by virtue of subsection (2) only so far as it is not otherwise deductible and so far as section 263D of TCGA 1992 does not apply, and

(b) not deductible (whether by virtue of subsection (2) or otherwise) if it (or any part of it) is made directly or indirectly in consequence of, or otherwise in connection with, avoidance arrangements."

(4) In subsection (10), for "deductible if" substitute "otherwise deductible if, apart from this section,".

(5) In the heading, omit "**: matching**".

Section 575

5 Omit section 575 (allowable deductions for manufactured dividends on UK shares: restriction on double-counting).

Section 578

6 In section 578(3) (manufactured interest on UK securities: Income Tax Acts to apply subject to sections 579 and 580 where payer is UK resident or acting in course of trade carried on through UK branch or agency), for "sections 579 and 580" substitute "section 579".

Section 579

7 (1) Section 579 (allowable deductions for manufactured interest on UK securities: matching) is amended as follows.

(2) For subsections (3) to (8) substitute—

"(3) It is—

(a) deductible by virtue of subsection (2) only so far as it is not otherwise deductible, and

(b) not deductible (whether by virtue of subsection (2) or otherwise) if it (or any part of it) is made directly or indirectly in consequence of, or otherwise in connection with, avoidance arrangements."

(3) In subsection (9), for "deductible if" substitute "otherwise deductible if, apart from this section,".

(4) Omit subsection (10).

(5) In the heading, omit "**: matching**".

Section 580

8 Omit section 580 (allowable deductions for manufactured interest on UK securities: restriction on double counting).

Section 581A

9 After section 581 insert—

"581A Avoidance arrangements

(1) A manufactured overseas dividend is not deductible if it (or any part of it) is made directly or indirectly in consequence of, or otherwise in connection with, avoidance arrangements.

(2) For the purposes of subsection (1) an amount is deductible if it is—

(a) deductible in calculating any of the payer's profits or gains for income tax purposes, or

(b) deductible for those purposes in calculating the net income of the payer."

Section 583

10 In section 583 (manufactured payments exceeding underlying payments), insert at the end—

"(5) Nothing in this section makes the excess deductible (whether by virtue of this Chapter or otherwise) if it (or any part of it) is made directly or indirectly in consequence of, or otherwise in connection with, avoidance arrangements."

Capital gains

11 (1) Section 263D of TCGA 1992 (gains accruing to persons paying manufactured dividends) is amended as follows.

(2) In subsection (6)(b), for "adjusted amount" substitute "amount specified in subsection (7) below".

(3) For subsection (7) substitute—

"(7) The amount referred to in subsection (6) above is the lesser of—

(a) the amount of the manufactured dividend paid, and

(b) the amount of the dividend of which the manufactured dividend is representative."

12 In ITA 2007, omit paragraph 335(5) of Schedule 1 (which amended section 263D(7) of TCGA 1992).

SCHEDULE 24

Section 74

ANNUAL INVESTMENT ALLOWANCE

PART 1

AMENDMENTS OF CAA 2001

1 CAA 2001 is amended as follows.

2 In Part 2, after Chapter 3 insert—

"CHAPTER 3A

AIA QUALIFYING EXPENDITURE

38A AIA qualifying expenditure

(1) An annual investment allowance is not available unless the qualifying expenditure is AIA qualifying expenditure.

(2) Expenditure is AIA qualifying expenditure if—
  (a) it is incurred by a qualifying person on or after the relevant date, and
  (b) it is not excluded by any of the general exclusions in section 38B.

(3) "Qualifying person" means—
  (a) an individual,
  (b) a partnership of which all the members are individuals, or
  (c) a company.

(4) In determining whether expenditure is AIA qualifying expenditure, any effect of section 12 on the time at which it is to be treated as incurred is to be disregarded.

(5) "The relevant date" means—
  (a) for corporation tax purposes, 1 April 2008, and
  (b) for income tax purposes, 6 April 2008.

38B General exclusions applying to section 38A

Expenditure within any of the following general exclusions is not AIA qualifying expenditure.

General exclusion 1

The expenditure is incurred in the chargeable period in which the qualifying activity is permanently discontinued.

General exclusion 2

The expenditure is incurred on the provision of a car (as defined by section 81).

General exclusion 3

The expenditure is incurred wholly for the purposes of a ring fence trade in respect of which tax is chargeable under section 501A of ICTA (supplementary charge in respect of ring fence trades).

General exclusion 4

The circumstances of the incurring of the expenditure are that—

(a) the provision of the plant or machinery on which the expenditure is incurred is connected with a change in the nature or conduct of the trade or business carried on by a person other than the person incurring the expenditure, and

(b) the obtaining of an annual investment allowance is the main benefit, or one of the main benefits, which could reasonably be expected to arise from the making of the change.

General exclusion 5

Any of the following sections applies—

section 13 (use for qualifying activity of plant or machinery provided for other purposes);

section 13A (use for other purposes of plant or machinery provided for long funding leasing);

section 14 (use for qualifying activity of plant or machinery which is a gift).

This is subject to section 161 (pre-trading expenditure on mineral exploration and access)."

3 In Chapter 5 of Part 2 (allowances and charges), insert at the beginning—

"Annual investment allowance

51A Entitlement to annual investment allowance

(1) A person is entitled to an allowance (an "annual investment allowance") in respect of AIA qualifying expenditure if—

(a) the expenditure is incurred in a chargeable period to which this Act applies, and

(b) the person owns the plant and machinery at some time during that chargeable period.

(2) Any annual investment allowance is made for the chargeable period in which the AIA qualifying expenditure is incurred.

(3) If the AIA qualifying expenditure incurred in a chargeable period is less than or equal to the maximum allowance, the person is entitled to an annual investment allowance in respect of all the AIA qualifying expenditure.

(4) If the AIA qualifying expenditure incurred in a chargeable period is more than the maximum allowance, the person is entitled to an annual investment allowance in respect of so much of the AIA qualifying expenditure as does not exceed the maximum allowance.

(5) The maximum allowance is £50,000.

(6) But if the chargeable period is more or less than a year, the maximum allowance is proportionately increased or reduced.

(7) A person may claim an annual investment allowance in respect of all the AIA qualifying expenditure in respect of which the person is entitled to an allowance, or in respect of only some of it.

(8) The Treasury may by order substitute for the amount for the time being specified in subsection (5) such other amount as it thinks fit.

(9) An order under subsection (8) may make such incidental, supplemental, consequential and transitional provision as the Treasury thinks fit.

(10) This section is subject to—

(a) sections 51B to 51N (restrictions on entitlement to annual investment allowance),

(b) section 205 (reduction of allowance if plant or machinery provided partly for purposes other than those of qualifying activity),

(c) section 210 (reduction of allowance if it appears that a partial depreciation subsidy is or will be payable), and

(d) sections 217, 218A and 241 (anti-avoidance: no allowance in certain cases),

and needs to be read with section 236 (additional VAT liabilities).

51B First restriction: companies

(1) A company is entitled to a single annual investment allowance in respect of all the qualifying activities carried on by the company in a chargeable period.

(2) The company may allocate the annual investment allowance to the relevant AIA qualifying expenditure as it thinks fit.

(3) The relevant AIA qualifying expenditure is the AIA qualifying expenditure incurred by the company in the chargeable period mentioned in subsection (1).

(4) This section is subject to sections 51C, 51D and 51E.

51C Second restriction: groups of companies

(1) This section applies in relation to—

(a) a company which, in a financial year, is a parent undertaking of one or more other companies, and

(b) those other companies.

(2) The companies are entitled to a single annual investment allowance between them in respect of the relevant AIA qualifying expenditure.

(3) The companies may allocate the annual investment allowance to the relevant AIA qualifying expenditure as they think fit.

(4) The relevant AIA qualifying expenditure is the AIA qualifying expenditure incurred by the companies in chargeable periods ending in the financial year mentioned in subsection (1).

(5) A company ("P") is a parent undertaking of another company ("C") in a financial year if P is a parent undertaking of C at the end of C's chargeable period ending in that financial year.

(6) In this section "parent undertaking" has the same meaning as in section 1162 of the Companies Act 2006.

(7) This section is subject to section 51D.

51D Third restriction: groups of companies under common control

(1) Where in a financial year two or more groups of companies are—

(a) controlled by the same person (see section 51F), and

(b) related to one another (see section 51G),

this section applies in relation to the companies which are members of those groups.

(2) The companies are entitled to a single annual investment allowance between them in respect of the relevant AIA qualifying expenditure.

(3) The companies may allocate the annual investment allowance to the relevant AIA qualifying expenditure as they think fit.

(4) The relevant AIA qualifying expenditure is the AIA qualifying expenditure incurred by the companies in chargeable periods ending in the financial year mentioned in subsection (1).

(5) In this section and in sections 51F and 51G, a group of companies means—

(a) a company which, in the financial year mentioned in subsection (1), is a parent undertaking of one or more other companies, and

(b) those other companies,

(and the members of the group are the company which is the parent undertaking and those other companies).

(6) A company ("P") is a parent undertaking of another company ("C") in a financial year if P is a parent undertaking of C at the end of C's chargeable period ending in that financial year.

(7) In this section "parent undertaking" has the same meaning as in section 1162 of the Companies Act 2006.

51E Fourth restriction: other companies under common control

(1) This section applies in relation to two or more companies which in a financial year are—

(a) controlled by the same person (see section 51F), and

(b) related to one another (see section 51G),

and in relation to which to neither section 51C nor section 51D applies.

(2) The companies are entitled to a single annual investment allowance between them in respect of the relevant AIA qualifying expenditure.

(3) The companies may allocate the annual investment allowance to the relevant AIA qualifying expenditure as they think fit.

(4) The relevant AIA qualifying expenditure is the AIA qualifying expenditure incurred by the companies in chargeable periods ending in the financial year mentioned in subsection (1).

51F Companies and groups: meaning of "control"

(1) A company is controlled by a person in a financial year if it is controlled by that person at the end of its chargeable period ending in that financial year.

(2) A group of companies is controlled by a person in a financial year if the company which is the parent undertaking is controlled by that person at the end of its chargeable period ending in that financial year.

(3) Section 574(2) defines "control" in relation to a company which is a body corporate.

(4) In relation to a company ("C") which is not a body corporate, control means the power of a person ("P") to secure—

(a) by means of the holding of shares or the possession of voting power in relation to C or another body, or

(b) as a result of any powers conferred by the constitution of C or another body,

that the affairs of C are conducted in accordance with P's wishes.

(5) In subsection (4) "shares" has the meaning given by section 1161(2) of the Companies Act 2006.

51G Companies and groups: meaning of "related"

(1) A company ("C1") is related to another company ("C2") in a financial year if one or both of—

(a) the shared premises condition, and

(b) the similar activities condition,

are met in relation to the companies in that financial year.

(2) Where C1 is related to C2 in a financial year, C1 is also related to any other company to which C2 is related in that financial year.

(3) A group of companies ("G1") is related to another group of companies ("G2") in a financial year if in that financial year a company which is a member of G1 is related to a company which is a member of G2.

(4) Where G1 is related to G2 in a financial year, G1 is also related to any other group of companies to which G2 is related in that financial year.

(5) The shared premises condition is met in relation to two companies in a financial year if, at the end of the relevant chargeable period of one or both of the companies, the companies carry on qualifying activities from the same premises.

(6) The similar activities condition is met in relation to two companies in a financial year if—

(a) more than 50% of the turnover of one company for the relevant chargeable period is derived from qualifying activities within a particular NACE classification, and

(b) more than 50% of the turnover of the other company for the relevant chargeable period is derived from qualifying activities within that NACE classification.

(7) In this section—

"NACE classification" means the first level of the common statistical classification of economic activities in the European Union established by Regulation (EC) No 1893/2006 of the

European Parliament and the Council of 20 December 2006 (as that Regulation has effect from time to time), and

"relevant chargeable period", in relation to a company and a financial year, means the chargeable period of the company ending in that financial year.

51H Fifth restriction: qualifying activities under common control

(1) This section applies in relation to two or more qualifying activities which, in a tax year—

(a) are carried on by a qualifying person other than a company,

(b) are controlled by the same person (see section 51I), and

(c) are related to one another (see section 51J).

(2) A qualifying activity is carried on by a qualifying person in a tax year if it is carried on by the person at the end of the chargeable period for the activity ending in the tax year.

(3) Where all the qualifying activities are carried on by one qualifying person, that person is entitled to a single annual investment allowance in respect of the relevant AIA qualifying expenditure.

(4) Where the qualifying activities are carried on by more than one qualifying person, those persons are entitled to a single annual investment allowance between them in respect of the relevant AIA qualifying expenditure.

(5) The person or persons carrying on the qualifying activities may allocate the annual investment allowance to the relevant AIA qualifying expenditure as the person or persons think fit.

(6) The relevant AIA qualifying expenditure is the AIA qualifying expenditure incurred for the purposes of the qualifying activities in the chargeable periods for those activities ending in the tax year mentioned in subsection (1).

51I Qualifying activities: meaning of control

(1) A qualifying activity is controlled by a person in a tax year if it is controlled by the person at the end of the chargeable period for that activity which ends in that tax year.

(2) A qualifying activity carried on by an individual is controlled by the individual who carries it on.

(3) A qualifying activity carried on by a partnership is controlled by the person (if any) who controls the partnership.

(4) Section 574(3) defines "control" in relation to a partnership.

(5) Where partners who between them control one partnership also between them control another partnership, the qualifying activities carried on by the partnerships are to be treated as controlled by the same person.

51J Qualifying activity: meaning of "related"

(1) A qualifying activity ("A1") is related to another qualifying activity ("A2") in a tax year if one or both of—

(a) the shared premises condition, and
(b) the similar activities condition,

are met in relation to the activities in the tax year.

(2) Where A1 is related to A2 in a tax year, A1 is also related to any other qualifying activity to which A2 is related in that tax year.

(3) The shared premises condition is met in relation to two qualifying activities in a tax year if, at the end of the relevant chargeable period for one or both of the activities, the activities are carried on from the same premises.

(4) The similar activities condition is met in relation to two qualifying activities in a tax year if, at the end of the relevant chargeable period for one or both of the activities, the activities are within the same NACE classification.

(5) In this section—

"NACE classification" has the same meaning as in section 51G, and

"relevant chargeable period", in relation to a qualifying activity and a tax year, means the chargeable period for that activity ending in that tax year.

51K Operation of annual investment allowance where restrictions apply

(1) This section applies where because of section 51B, 51C, 51D, 51E or 51H a person is (or persons between them are) entitled to a single annual investment allowance in respect of relevant AIA qualifying expenditure.

(2) If the relevant AIA qualifying expenditure is less than or equal to the maximum allowance, the person is (or the persons between them are) entitled to an annual investment allowance in respect of all the relevant AIA qualifying expenditure.

(3) If the relevant AIA qualifying expenditure is more than the maximum allowance, the person is (or the persons between them are) entitled to an annual investment allowance in respect of so much of the relevant AIA qualifying expenditure as does not exceed the maximum allowance.

(4) The maximum allowance is the amount for the time being specified in section 51A(5); but this is subject to sections 51M and 51N (which provide that in certain cases an additional amount of annual investment allowance may be available).

(5) The person or persons may claim an annual investment allowance in respect of all the relevant AIA qualifying expenditure in respect of which the person is (or the persons between them are) entitled to an allowance, or in respect of only some of it.

(6) The amount of the annual investment allowance allocated to relevant AIA qualifying expenditure incurred in a chargeable period must not exceed the amount of the annual investment allowance to which a person would be entitled in respect of that expenditure under section 51A(5) and (6) if section 51B, 51C, 51D, 51E or 51H did not apply.

51L Special provision for short chargeable periods

(1) This section applies where—

(a) more than one chargeable period of a company ends in a financial year, or

(b) more than one chargeable period for a qualifying activity ends in a tax year.

(2) Whether section 51C, 51D or 51E applies in relation to the company, or section 51H applies in relation to the qualifying activity, is to be determined in relation to each chargeable period ending in that year as if it were the only chargeable period ending in that year.

(3) AIA qualifying expenditure incurred in a chargeable period in relation to which the section in question does not apply is not relevant AIA qualifying expenditure for the purposes of that section.

51M Special provision for long chargeable periods

(1) This section applies where—

(a) section 51H applies in relation to two or more qualifying activities controlled by a person ("P") in a tax year, and

(b) the relevant chargeable period for one of those qualifying activities ("A1") is longer than a year.

(2) An additional amount of annual investment allowance may be allocated to relevant AIA qualifying expenditure incurred for the purposes of A1.

(3) That additional amount is the amount, or the aggregate of the amounts, of any relevant unused allowance for each tax year (a "previous tax year")—

(a) which falls before the tax year mentioned in subsection (1)(a), and

(b) in which part of A1's relevant chargeable period falls.

(4) The amount of the relevant unused allowance for a previous tax year is (subject to subsections (7) and(8))—

$$MA - AM$$

but where the amount given by that formula is less than nil, the amount of the relevant unused allowance for the previous tax year is nil.

(5) In subsection (4)—

MA is the amount specified in section 51A(5) in relation to the previous tax year, and

AM is the amount of any annual investment allowance made under section 51A or 51K in respect of AIA qualifying expenditure incurred for the purposes of a relevant qualifying activity in the chargeable period for that activity ending in the previous tax year.

(6) "Relevant qualifying activity" means—

(a) any qualifying activity carried on by a qualifying person other than a company which was controlled by P in the

previous tax year (see section 51I) and related to A1 in that tax year (see section 51J), and

(b) if A1 was controlled by P in the previous tax year (see section 51I), A1.

(7) Where any part of the amount calculated under subsection (4) has, on a previous application of this section, been allocated to AIA qualifying expenditure incurred for the purposes of a qualifying activity controlled by P in a tax year before that mentioned in subsection (1)(a), the amount of the relevant unused allowance is reduced accordingly.

(8) Where the amount of the relevant unused allowance for a previous tax year would (apart from this subsection) exceed—

$$\frac{\text{DCPY}}{\text{DY}} \times \text{MA}$$

the amount of the relevant unused allowance for that tax year is limited to the amount given by that formula.

(9) In subsection (8)—

DCPY is the number of days in A1's relevant chargeable period falling in the previous tax year,

DY is the number of days in that tax year, and

MA has the meaning given by subsection (5).

(10) Nothing in this section prevents section 51K(6) applying in relation to relevant AIA qualifying expenditure incurred for the purposes of A1.

(11) In this section references to a relevant chargeable period, in relation to a qualifying activity, are to the chargeable period for that activity ending in the tax year mentioned in subsection (1)(a).

51N Special provision for long chargeable periods: supplementary

(1) This section applies where—

(a) section 51H applies in relation to two or more qualifying activities controlled by a person ("P") in a tax year, and

(b) the relevant chargeable period for more than one of those qualifying activities is longer than a year.

(2) Section 51M applies in relation to each of the qualifying activities mentioned in subsection (1)(b) and the tax year mentioned in subsection (1)(a), as it applies in relation to A1 and the tax year mentioned in subsection (1)(a) of that section.

(3) But where two or more of the qualifying activities mentioned in subsection (1)(b) were related in a previous tax year, section 51M applies with the following modifications.

(4) The amount of any relevant unused allowance for that tax year is to be calculated under section 51M(4) to (7) (without regard to section 51M(8)).

(5) For that purpose section 51M(6) applies as if the references to A1 were references to any of the qualifying activities mentioned in subsection (1)(b).

(6) The amount of the relevant unused allowance may be allocated between those activities, but this is subject to subsection (7).

(7) The amount of the relevant unused allowance allocated to any one of those activities may not exceed the amount given by the formula in section 51M(8)."

4 After section 52 insert—

"Prevention of double relief

52A Prevention of double relief

A person may not claim an annual investment allowance and a first-year allowance in respect of the same expenditure."

5 In section 58 (allocation of qualifying expenditure to pools), after subsection (4) insert—

"(4A) If an annual investment allowance is made to a person for a chargeable period—

(a) the AIA qualifying expenditure in respect of which the allowance is made must be allocated to the appropriate pool (or pools) in that chargeable period, and

(b) the available qualifying expenditure in a pool to which the expenditure (or some of it) is allocated is reduced by the amount of that expenditure."

6 (1) Section 205 (reduction of first-year allowances) is amended as follows.

(2) In subsection (1), after "any" insert "annual investment allowance or".

(3) In the heading, after "**of**" insert "**annual investment allowance and**".

7 (1) Section 210 (reduction of first-year allowances) is amended as follows.

(2) In subsection (1), after "amount of any" insert "annual investment allowance or".

(3) In the heading, after "**of**" insert "**annual investment allowance and**".

8 (1) Section 217 (restrictions on allowances) is amended as follows.

(2) In subsection (1), for "a first-year allowance is not" substitute "no annual investment allowance or first-year allowance is".

(3) In subsection (2), after "Any" insert "annual investment allowance or".

(4) In the heading, after "**No**" insert "**annual investment allowance or**".

9 After section 218 insert—

"218A Further restriction on annual investment allowance

(1) This section applies where an arrangement is entered into wholly or mainly for a disqualifying purpose.

(2) Arrangements are entered into for a disqualifying purpose if their main purpose, or one of their main purposes, is to enable a person to obtain an annual investment allowance to which the person would not otherwise be entitled.

(3) The annual investment allowance mentioned in subsection (2) is not to be made.

(4) Any annual investment allowance which is prohibited by subsection (3), but which has already been made, is to be withdrawn."

10 (1) Section 236 (additional VAT liability generates first-year allowance) is amended as follows.

(2) After subsection (3) insert—

"(3A) Subsection (3B) applies if—

(a) the original expenditure was AIA qualifying expenditure, and

(b) the additional VAT liability is incurred at a time when the plant or machinery is provided for the purposes of the qualifying activity.

(3B) The additional VAT liability is to be regarded for the purposes of this Part as AIA qualifying expenditure incurred on the same plant or machinery as the original expenditure in the chargeable period in which the liability accrues.

(3C) Section 51A(7) applies to AIA qualifying expenditure constituted by the additional VAT liability as it applies to other AIA qualifying expenditure."

(3) In the heading, after "**allowance**" insert "**or annual investment allowance**".

11 In section 237(1) (exceptions to section 236), after "liability is not" insert "AIA qualifying expenditure or".

12 (1) Section 241 (no first-year allowance in respect of additional VAT liability) is amended as follows.

(2) In subsection (1)(b), before "a first-year" insert "an annual investment allowance or".

(3) In subsection (2), for "A first-year allowance is not" substitute "No annual investment allowance or first-year allowance is".

(4) In subsection (3), after "Any" insert "annual investment allowance or".

(5) In the heading, after "**No**" insert "**annual investment allowance or**".

13 In section 263(3) (qualifying activities carried on in partnership), after "Any" insert "annual investment allowance,".

14 In section 265(4) (successions: general), after "to" insert "an annual investment allowance or".

15 In Part 2 of Schedule 1 (index of defined expressions), insert at the appropriate place—

"AIA qualifying expenditure section 38A".

PART 2

AMENDMENTS OF OTHER ENACTMENTS

ICTA

16 ICTA is amended as follows.

17 In section 395(1)(c) (leasing contracts and company reconstructions), after "for which" insert "an annual investment allowance or".

18 In paragraph 1(6)(b)(i) of Schedule 18 (group relief), before "a first-year" insert "an annual investment allowance or".

FA 2000

19 (1) Schedule 22 to FA 2000 (tonnage tax) is amended as follows.

(2) In paragraph 87(1)(a), for "a first-year allowance shall not" substitute "no annual investment allowance or first-year allowance is to be".

(3) In paragraph 94(2), after "any" insert "annual investment allowance or".

ITA 2007

20 ITA 2007 is amended as follows.

21 In section 76 (first-year allowances)—

(a) after "from" insert "an annual investment allowance or", and

(b) in the heading, after "**allowances**" insert "**and annual investment allowances**".

22 In section 78 (arrangements to reduce tax liabilities)—

(a) in subsection (1)(a), after "the" insert "annual investment allowance or", and

(b) in the heading, after "**allowances**" insert "**and annual investment allowances**".

PART 3

COMMENCEMENT

23 (1) This Schedule has effect in relation to expenditure incurred on or after the relevant date.

(2) In relation to a chargeable period which—

(a) begins before the relevant date, and

(b) ends on or after the relevant date,

the maximum allowance under section 51A of CAA 2001 is to be calculated as if the period beginning with the relevant date and ending with the end of the chargeable period were the chargeable period.

(3) The relevant date is—

(a) for corporation tax purposes, 1 April 2008, and

(b) for income tax purposes, 6 April 2008.

SCHEDULE 25

Section 79

FIRST-YEAR TAX CREDITS

PART 1

AMENDMENTS OF CAA 2001

1 CAA 2001 is amended as follows.

2 In section 2(3) (general means of giving effect to capital allowances), for "262" substitute "262A".

3 (1) Section 3 (claims for capital allowances) is amended as follows.

(2) In subsection (1), after "Act" insert ", and no first-year tax credit is to be paid under Schedule A1,".

(3) After subsection (2A) insert—

"(2B) Any claim for a first-year tax credit under Schedule A1 must be separately identified as such in the return."

4 After section 262 insert—

"First-year tax credits

262A First-year tax credits

Schedule A1 contains provision about the payment of first-year tax credits to companies in connection with certain first-year qualifying expenditure."

5 Before Schedule 1 insert—

"SCHEDULE A1

Section 262A

FIRST-YEAR TAX CREDITS

PART 1

ENTITLEMENT TO FIRST-YEAR TAX CREDITS

Entitlement to first-year tax credits

1 (1) A company may claim a first-year tax credit for a chargeable period in which it has a surrenderable loss, unless it is an excluded company in relation to that chargeable period.

(2) A company has a surrenderable loss in a chargeable period if in that chargeable period—

(a) a first-year allowance is made to the company in respect of relevant first-year expenditure (see paragraph 3) incurred for the purposes of a qualifying activity the profits of which are chargeable to corporation tax, and

(b) the company incurs a loss in carrying on that qualifying activity (see paragraphs 4 to 9).

(3) The amount of the surrenderable loss is equal to—

(a) so much of the loss incurred in carrying on the qualifying activity as is unrelieved (see paragraphs 10 to 16), or

(b) if less, the amount of the first-year allowance made in respect of the relevant first-year expenditure in the chargeable period in question.

(4) A company is an excluded company in relation to a chargeable period if at any time during that period it is entitled to make a claim under—

(a) section 488 of ICTA (rent etc of co-operative housing associations disregarded for tax purposes),

(b) section 489 of that Act (rent etc of self-build societies disregarded for tax purposes),

(c) section 505 of that Act (exemption from tax for charitable companies), or

(d) section 508 of that Act (exemption from tax for scientific research organisations).

Amount of first-year tax credit

2 (1) The amount of the first-year tax credit to which a company is entitled for a chargeable period in which it has a surrenderable loss is an amount equal to—

(a) 19% of the amount of the surrenderable loss for the chargeable period, or

(b) if the amount mentioned in paragraph (a) exceeds the upper limit, the upper limit.

(2) The upper limit is the greater of—

(a) the total amount of the company's PAYE and NICs liabilities for payment periods ending in the chargeable period (see paragraph 17), and

(b) £250,000.

(3) A company which is entitled to an amount of first-year tax credit may claim the whole amount or part only of the amount.

(4) The Treasury may by order substitute for the percentage for the time being specified in sub-paragraph (1)(a) such other percentage as it thinks fit.

(5) An order under sub-paragraph (4) may make such incidental, supplemental, consequential and transitional provision as the Treasury thinks fit.

Meaning of "relevant first-year expenditure"

3 (1) In this Schedule "relevant first-year expenditure" means expenditure which—

(a) is first-year qualifying expenditure by virtue of section 45A (energy-saving plant or machinery) or section 45H (environmentally beneficial plant or machinery), and

(b) is incurred in the period beginning with 1 April 2008 and ending with 31 March 2013,

but does not include expenditure which is treated as first-year qualifying expenditure within paragraph (a) by virtue of section 236 (additional VAT liability treated as expenditure).

(2) In determining whether expenditure is relevant first-year expenditure, any effect of section 12 on the time at which it is to be treated as incurred is to be disregarded.

(3) The Treasury may by order substitute, for the date for the time being specified in sub-paragraph (1)(b) as the date with which the period ends, such later date as it thinks fit.

(4) An order under sub-paragraph (3) may make such incidental, supplemental, consequential and transitional provision as the Treasury thinks fit.

Incurring a loss in carrying on a qualifying activity

4 Paragraphs 5 to 9 apply for the interpretation of paragraph 1(2)(b).

5 (1) This paragraph applies where the qualifying activity is a Schedule A business other than a furnished holiday lettings business and paragraph 7 does not apply.

(2) References in this Schedule to a loss incurred in carrying on the qualifying activity are to a loss incurred in carrying on that part of the business (if any) to which section 392A of ICTA (Schedule A losses) applies.

6 (1) This paragraph applies where the qualifying activity is an overseas property business and paragraph 7 does not apply.

(2) References in this Schedule to a loss incurred in carrying on the qualifying activity are to a loss incurred in carrying on that part of the business (if any) to which section 392B of ICTA (losses from overseas property business) applies.

7 (1) This paragraph applies where—

(a) the qualifying activity is a Schedule A business or an overseas property business, and

(b) the company is an insurance company.

(2) References in this Schedule to a loss incurred in carrying on the qualifying activity are to a loss which is treated under section 432AB(3) of ICTA, for the purposes of section 76 of that Act, as expenses payable which fall to be brought into account at Step 3 of subsection (7) of that section.

(3) Where the insurance company is treated under section 432AA of that Act as carrying on more than one Schedule A business or overseas property business, references in this Schedule to a loss incurred in carrying on the qualifying activity are to be construed in accordance with section 432AB(4) of that Act (aggregation of losses).

8 (1) This paragraph applies where the qualifying activity is managing the investments of a company with investment business.

(2) The company incurs a loss in carrying on that activity in a chargeable period if in that chargeable period—

(a) the sum of the expenses and charges mentioned in section 75(8)(a) and (b) of ICTA, exceeds

(b) the amount of the profits from which those expenses and charges are deductible,

and the amount of the loss is the amount of the excess.

9 (1) This paragraph applies where the qualifying activity is life assurance business and the profits of that business are charged to tax under the I minus E basis.

(2) The company incurs a loss in a chargeable period if in that chargeable period an amount falls to be carried forward to a succeeding chargeable period under section 76(12) of ICTA (carrying forward unrelieved expenses).

(3) The amount of the loss is the amount which falls to be so carried forward.

Unrelieved loss

10 Paragraphs 11 to 16 apply for the interpretation of paragraph 1(3)(a).

11 (1) This paragraph applies where the qualifying activity is a trade or a furnished holiday lettings business and paragraph 14 or 16 does not apply.

(2) The amount of the loss that is unrelieved is the amount of the loss, reduced by the amount of—

(a) any relief that was or could have been obtained by the company making a claim under section 393A(1)(a) of ICTA to set the loss against profits of whatever description of the same chargeable period,

(b) any other relief obtained by the company making a claim under section 393A(1)(b) or 393B(3) of that Act (losses set against profits of an earlier chargeable period),

(c) any loss that was or could have been surrendered under section 403(1) of that Act (surrender of relief to group or consortium members),

(d) any loss surrendered under a relevant tax credit provision, and

(e) any amount set off against the loss under section 400 of that Act (write-off of government investment).

(3) For this purpose no account is to be taken of any losses—

(a) brought forward from an earlier chargeable period under section 393(1) of ICTA,

(b) carried back from a later chargeable period under section 393A(1)(b) or 393B(3) of that Act, or

(c) incurred on a leasing contract (within the meaning of section 395 of that Act) in circumstances to which that section applies.

(4) In sub-paragraph (2)(d) "relevant tax credit provision" means—

(a) Part 2 of Schedule 20 to FA 2000 (tax credits for expenditure on research and development),
(b) Part 3 of Schedule 22 to FA 2001 (tax credits for remediation of contaminated land),
(c) Part 2 of Schedule 13 to FA 2002 (tax credits for expenditure on vaccine research), and
(d) Part 1 of Schedule 5 to FA 2006 (film tax credits).

12 (1) This paragraph applies where the qualifying activity is a Schedule A business other than a furnished holiday lettings business and paragraph 14 does not apply.

(2) The amount of the loss that is unrelieved is the amount of the loss, reduced by the amount of—
(a) any relief that was or could have been obtained by the company making a claim under section 392A(1) of ICTA to set the loss against profits of whatever description of the same chargeable period,
(b) any loss that was or could have been surrendered under section 403(1) of that Act (surrender of relief to group or consortium members),
(c) any loss surrendered under Part 3 of Schedule 22 to FA 2001 (tax credits for remediation of contaminated land), and
(d) any amount set off against the loss under section 400 of ICTA (write-off of government investment).

(3) For this purpose, no account is to be taken of any losses brought forward from an earlier chargeable period under section 392A(2) of ICTA.

13 (1) This paragraph applies where the qualifying activity is an overseas property business and paragraph 14 does not apply.

(2) The amount of the loss that is unrelieved is the amount of the loss, reduced by any amount set off against the loss under section 400 of ICTA (write-off of government investment).

(3) For this purpose, no account is to be taken of any losses brought forward from an earlier chargeable period under section 392B(1) of ICTA.

14 (1) This paragraph applies where—
(a) the qualifying activity is a Schedule A business or an overseas property business, and
(b) the company is an insurance company.

(2) If no amount falls to be carried forward to a succeeding chargeable period under section 76(12) of ICTA (carrying forward unrelieved expenses), no amount of the loss is unrelieved.

(3) If an amount falls to be carried forward to a succeeding chargeable period under section 76(12) of that Act, the amount of the loss that is unrelieved is equal to the lesser of—
(a) the amount of the loss (see paragraph 7), reduced by any amount within sub-paragraph (4), and

(b) the total amount which so falls to be carried forward.

(4) The amounts mentioned in sub-paragraph (3)(a) are—

(a) the amount of any loss surrendered under Part 3 of Schedule 22 to FA 2001 (tax credits for remediation of contaminated land), and

(b) any amount set of against the loss under section 400 of ICTA (write-off of government investment).

(5) Sub-paragraph (6) applies for determining whether there is an amount which falls to be carried forward under section 76(12) of ICTA.

(6) Disregard any amounts brought forward from an earlier chargeable period and treated for the purposes of section 76 of that Act as expenses payable which fall to be brought into account—

(a) in accordance with Step 7 in subsection (7) of that section, by virtue of a previous application of subsection (12) or (13) of that section, or

(b) in accordance with Step 3 in subsection (7) of that section, by virtue of paragraph 4(4) of Schedule 11 to FA 1996 (loan relationships deficit carried forward and so brought into account).

15 (1) This paragraph applies where the qualifying activity is managing the investments of a company with investment business.

(2) The amount of the loss that is unrelieved is the amount of the loss (see paragraph 8), reduced by the amount of—

(a) any loss that was or could have been surrendered under section 403(1) of ICTA (surrender of relief to group or consortium members), and

(b) any amount set off against the loss under section 400 of that Act (write-off of government investment).

(3) For this purpose, no account is to be taken of any amount brought forward from an earlier chargeable period under section 75(9) of that Act.

16 (1) This paragraph applies where the qualifying activity is life assurance business and the profits of that business are charged to tax under the I minus E basis.

(2) The amount of the unrelieved loss is the amount of the loss (see paragraph 9), reduced by—

(a) any loss surrendered under Part 4 of Schedule 22 to FA 2001 (tax credits for remediation of contaminated land), and

(b) any amount set off against the loss under section 400 of ICTA (write-off of government investment).

(3) For this purpose, no account is to be taken of any amounts brought forward from an earlier chargeable period and treated for the purposes of section 76 of ICTA as expenses payable which fall to be brought into account for the period in question—

(a) in accordance with Step 7 in subsection (7) of that section, by virtue of a previous application of subsection (12) or (13) of that section, or

(b) in accordance with Step 3 in subsection (7) of that section, by virtue of paragraph 4(4) of Schedule 11 to FA 1996 (loan relationships deficit carried forward and so brought into account).

Total amount of company's PAYE and NICs liabilities

17 (1) For the purposes of paragraph 2(2)(a) the total amount of the company's PAYE and NICs liabilities for a payment period is the total of—

(a) the amount of income tax for which the company is required to account to HMRC for that period under the PAYE regulations, disregarding any deduction the company is authorised to make in respect of child tax credit or working tax credit, and

(b) the Class 1 national insurance contributions for which the company is required to account to HMRC for that period, disregarding any deduction the company is authorised to make in respect of payments of statutory sick pay, statutory maternity pay, child tax credit or working tax credit.

(2) A "payment period" means a period which ends on the 5th day of a month and for which the company is liable to account for income tax and national insurance contributions to HMRC.

PART 2

GIVING EFFECT TO FIRST-YEAR TAX CREDITS

Payment in respect of first-year tax credit

18 (1) Where a company is entitled to a first-year tax credit for a chargeable period and makes a claim for payment of the credit, HMRC must pay to the company the amount of the credit.

(2) An amount payable in respect of—

(a) a first-year tax credit, or

(b) interest on a first-year tax credit under section 826 of ICTA,

may be applied in discharging any liability of the company's to pay corporation tax.

(3) To the extent that it is so applied, HMRC's obligation under sub-paragraph (1) is discharged.

(4) Where HMRC enquires into the company's company tax return for the chargeable period, no payment in respect of a first-year tax credit for that chargeable period need be made before HMRC's enquiries are completed (see paragraph 32 of Schedule 18 to FA 1998).

(5) In those circumstances HMRC may make a payment on a provisional basis of such amount as it thinks fit.

(6) No payment need be made in respect of a first-year tax credit for a chargeable period before the company has paid to HMRC any amount that it is required to pay for payment periods (within the meaning of paragraph 17(2)) ending in that chargeable period—

(a) under the PAYE regulations, or

(b) in respect of Class 1 national insurance contributions.

Restriction on losses carried forward

19 (1) For the purposes of the relieving provisions (see paragraph 20), the company's loss from the qualifying activity for a chargeable period in which it claims a first-year tax credit is treated as reduced by the amount of the loss surrendered.

(2) For the purposes of this Schedule, the amount of the loss surrendered is—

(a) where the amount of first-year tax credit mentioned in paragraph 2(1)(a) is claimed, the whole of the surrenderable loss for that period, and

(b) where less than that amount is claimed, a corresponding proportion of the surrenderable loss for that period.

20 The relieving provisions are—

(a) where the qualifying activity is a trade or a furnished holiday lettings business and paragraph 21 or 22 does not apply, section 393 of ICTA (relief of trading losses against future profits),

(b) where the qualifying activity is managing the investments of a company with investment business, section 75(9) of that Act (relief of expenses and charges against future profits),

(c) where the qualifying activity is a Schedule A business (other than a furnished holiday lettings business) and paragraph 21 does not apply, section 392A(2) of that Act (relief of Schedule A losses against future profits), and

(d) where the qualifying activity is an overseas property business and paragraph 21 does not apply, section 392B of that Act (relief of overseas property losses against future profits).

21 (1) This paragraph applies if the qualifying activity is a Schedule A business or an overseas property business, and in a chargeable period—

(a) the company's loss in carrying on that activity is a loss treated under section 432AB(3) of ICTA, for the purposes of section 76 of that Act, as expenses payable which fall to be brought into account at Step 3 in subsection (7) of that section,

(b) an amount falls to be carried forward to a succeeding chargeable period under section 76(12) of that Act (carrying forward unrelieved expenses on income), and

(c) the company claims a first-year tax credit for the chargeable period.

(2) The total amount which falls to be carried forward to a succeeding chargeable period under section 76(12) of ICTA is treated as reduced by the amount of the loss surrendered.

22 (1) This paragraph applies where the qualifying activity is life assurance business and the profits of that business are charged to tax under the I minus E basis.

(2) For the purposes of section 76 of ICTA, the total amount which may—

(a) be carried forward under subsection (12) of that section from a chargeable period in which the company claims a first-year tax credit, and

(b) be brought into account for the next chargeable period in accordance with Step 7 in subsection (7) of that section,

is treated as reduced by the amount of the loss surrendered.

Payment in respect of first-year tax credit not income

23 A payment in respect of a first-year tax credit is not income of the company for any tax purposes.

PART 3

CLAWBACK OF FIRST-YEAR TAX CREDIT

Circumstances in which first-year tax credit clawed back

24 (1) This paragraph applies where—

(a) a company to which a first-year tax credit is paid for a chargeable period disposes of an item of tax-relieved plant or machinery before the end of the clawback period in relation to that item, and

(b) after the disposal the amount (or the aggregate of the amounts) of the original expenditure on the retained tax-relieved plant and machinery is less than the amount of loss surrendered under this Schedule in the chargeable period for which the first-year tax credit was paid.

(2) The appropriate part ("the restored loss") of the loss surrendered under this Schedule in that chargeable period is to be treated as if it were not a surrenderable loss in that chargeable period.

(3) The amount of the restored loss is to be calculated in accordance with paragraph 26.

(4) The amount of first-year tax credit paid to the company in respect of the restored loss is to be treated as if it ought never to have been paid.

(5) The amount of first-year tax credit paid to the company in respect of the restored loss is the relevant percentage of the restored loss.

(6) "Relevant percentage" means the percentage specified in paragraph 2(1)(a) for the chargeable period for which the first-year tax credit is paid.

(7) This Part of this Schedule applies to an amount of first-year tax credit which is payable for a chargeable period but not yet paid, as it applies to an amount of first-year tax credit which is paid.

Interpretation

25 (1) This paragraph applies for the interpretation of this Part of this Schedule.

(2) References to a first-year tax credit being paid include the case where an amount payable in respect of first-year tax credit is applied in discharging any liability of the company's to pay corporation tax.

(3) An item of plant or machinery is tax-relieved if any expenditure on the item was relevant first-year expenditure in respect of which a first-year allowance was made for the chargeable period for which the first-year tax credit was paid.

(4) The original expenditure on the item is the amount of the relevant first-year expenditure on the item.

(5) A company disposes of an item of tax-relieved plant or machinery if—

(a) an event listed in section 61(1) occurs in relation to the item, or

(b) there is a change in the ownership of the item in relation to which a continuity of business provision applies.

(6) The disposal value of the item is the disposal value required to be brought into account by the company in respect of the item.

(7) But where—

(a) the company disposes of the item to a person connected with the company for less than its market value, or

(b) there is a change in the ownership of the item in relation to which a continuity of business provision applies,

the disposal value of the item is its market value (whether or not the company is required to bring that value into account).

(8) A "continuity of business provision" is an enactment under which anything done to or by the company which ceases to be the owner of the item is treated, for the purpose of making allowances and charges under this Act, as having been done to or by the person who becomes the owner of the item.

(9) The retained tax-relieved plant and machinery is the tax-relieved plant and machinery which the company has not disposed of.

(10) The clawback period, in relation to an item of tax-relieved plant and machinery—

(a) begins when the relevant first-year expenditure on the item is incurred, and

(b) ends 4 years after the end of the chargeable period for which the tax credit was paid.

Amount of restored loss

26 (1) The amount of the restored loss is—

$$(LS – OERPM) – (OE – DV) – ARL$$

but where the amount given by that formula is less than nil, the amount of the restored loss is nil.

(2) In sub-paragraph (1)—

LS is the amount of loss surrendered under this Schedule in the chargeable period for which the first-year tax credit was paid,

OERPM is the amount (or the aggregate of the amounts) of the original expenditure on the retained tax-relieved plant and machinery after the item is disposed of,

OE is the aggregate of the amount of the original expenditure on the item disposed of, and the amounts of the original expenditure on any items of tax-relieved plant and machinery which the company has previously disposed of,

DV is the aggregate of the disposal value of the item disposed of, and the disposal values of any items of tax-relieved plant and machinery which the company has previously disposed of, and

ARL is the amount of the restored loss (or the aggregate of the amounts of the restored loss) on any previous application of this paragraph.

Clawback of first-year tax credits: administrative provision

27 (1) Where paragraph 24 applies, all such assessments and adjustments of assessments are to be made as are necessary.

(2) If a company which has made a tax return becomes aware that, as a result of that paragraph applying after the return was made, the return has become incorrect, it must give notice to HMRC specifying how the return needs to be amended.

(3) The notice must be given within 3 months beginning with the day on which the company became aware that anything in the tax return had become incorrect because of paragraph 24.

PART 4

SUPPLEMENTARY

Artificially inflated claims

28 (1) To the extent that a transaction is attributable to arrangements entered into wholly or mainly for a disqualifying purpose, it shall be disregarded in determining for a chargeable period the amount of any first-year tax credit to which a company is entitled under this Schedule.

(2) Arrangements are entered into wholly or mainly for a disqualifying purpose if their main object, or one of their main objects, is to enable a company to obtain a first-year tax credit—

(a) to which it would not otherwise be entitled, or
(b) of a greater amount than that to which it would otherwise be entitled.

(3) "Arrangements" includes any scheme, agreement or understanding, whether or not legally enforceable.

Interpretation

29 In this Schedule—

"HMRC" means the Commissioners for Her Majesty's Revenue and Customs;

"national insurance contributions" means contributions under Part 1 of the Social Security Contributions and Benefits Act 1992 or Part 1 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992."

6 In Part 1 of Schedule 1, insert at the appropriate places—

"FA 2000	The Finance Act 2000 (c. 17)",
"FA 2001	The Finance Act 2001 (c. 9)", and
"FA 2002	The Finance Act 2002 (c. 23)".

PART 2

AMENDMENTS OF OTHER ENACTMENTS

ICTA

7 (1) Section 826 of ICTA (interest on tax overpaid) is amended as follows.

(2) In subsection (1), after paragraph (f) insert ", or

(g) a payment of first-year tax credit falls to be made to a company under Schedule A1 to the Capital Allowances Act."

(3) After subsection (3C) insert—

"(3D) In relation to a payment of first-year tax credit falling within subsection (1)(g) above the material date is whichever is the later of—

(a) the filing date for the company's company tax return for the accounting period for which the tax credit is claimed, and

(b) the date on which the company tax return or amended company tax return containing the claim for payment of the tax credit is delivered to the Commissioners for Her Majesty's Revenue and Customs.

For this purpose "the filing date", in relation to a company tax return, has the same meaning as in Schedule 18 to the Finance Act 1998."

(4) In subsection (8A)(b)(ii), after "film tax credit" insert "or first-year tax credit under Schedule A1 to the Capital Allowances Act".

(5) In subsection (8BA), after "film tax credit" (in both places) insert "or first-year tax credit under Schedule A1 to the Capital Allowances Act".

FA 1998

8 (1) Schedule 18 to FA 1998 (company tax returns, assessments etc.) is amended as follows.

(2) In paragraph 10(2)—
(a) after "capital allowances" insert ", first-year tax credits", and
(b) after "79" insert ", 83ZA".

(3) In paragraph 52, after sub-paragraph (2) insert—

"(2A) The provisions of paragraphs 41 and 45 to 48 relating to discovery assessments apply to an amount paid to a company by way of first-year tax credit under Schedule A1 to the Capital Allowances Act as if it were unpaid tax, but only to the extent that the company was not, or is no longer, entitled to it."

(4) In paragraph 52(5), after paragraph (ae) insert—

"(af) an amount of first-year tax credit under Schedule A1 to the Capital Allowances Act paid to a company for an accounting period,".

(5) After paragraph 83 insert—

"83ZA(1) Subject as follows, this Part of this Schedule applies to claims for a first-year tax credit under Schedule A1 to the Capital Allowances Act as it applies to claims for allowances under that Act.

(2) A company tax return in which a claim to a first-year tax credit is made must specify—
(a) the plant or machinery to which the relevant first-year expenditure relates,
(b) the amount of the relevant first-year expenditure incurred in respect of that plant or machinery, and
(c) the date on which that expenditure was incurred.

(3) Where an order under section 45B or 45I of that Act (first-year allowance available only if relevant certificate in force) applies in relation to the plant or machinery, the company tax return must be accompanied by the relevant certificate.

(4) The company is liable to a penalty where it—
(a) fraudulently or negligently makes a claim for a first-year tax credit which is incorrect, or
(b) discovers that a claim for a first-year tax credit made by it (neither fraudulently or negligently) is incorrect, and does not remedy the error without unreasonable delay.

(5) The penalty is an amount not exceeding the excess first-year tax credit claimed, that is the difference between—
(a) the amount of the first-year tax credit to which the company is entitled for the accounting period to which the claim relates, and

(b) the amount of the first-year tax credit claimed by the company for that period."

PART 3

COMMENCEMENT

9 The amendments made by this Schedule have effect in relation to expenditure incurred on or after 1 April 2008.

SCHEDULE 26

Section 82

SPECIAL RATE EXPENDITURE AND THE SPECIAL RATE POOL

PART 1

AMENDMENTS OF CAA 2001

Introductory

1 CAA 2001 is amended as follows.

Special rate expenditure and the special rate pool

2 After Chapter 10 insert—

"CHAPTER 10A

SPECIAL RATE EXPENDITURE

Special rate expenditure

104A Special rate expenditure

(1) "Special rate expenditure" means—

(a) expenditure incurred on or after the relevant date to which section 28 (thermal insulation) applies,

(b) expenditure incurred on or after that date to which section 33A (integral features) applies,

(c) long-life asset expenditure (within the meaning of Chapter 10) incurred on or after that date, and

(d) long-life asset expenditure (within the meaning of that Chapter) incurred before that date but allocated to a pool in a chargeable period beginning on or after that date.

(2) The relevant date is—

(a) for corporation tax purposes, 1 April 2008, and

(b) for income tax purposes, 6 April 2008.

104B Application of Chapter to part of expenditure

(1) If part only of the capital expenditure on plant and machinery is special rate expenditure—

(a) the part which is such expenditure, and

(b) the part which is not,

are to be treated for the purposes of this Act as expenditure on separate items of plant or machinery.

(2) For the purposes of subsection (1), all such apportionments are to be made as are just and reasonable.

Rules applying to special rate expenditure

104C Special rate pool

(1) Special rate expenditure to which this section applies, if allocated to a pool, must be allocated to a class pool ("the special rate pool").

(2) This section applies to special rate expenditure if—

(a) it is incurred wholly and exclusively for the purposes of a qualifying activity, and

(b) it is not expenditure which is required to be allocated to a single asset pool.

104D Writing-down allowances at 10%

(1) The amount of the writing-down allowance to which a person is entitled for a chargeable period in respect of expenditure which is special rate expenditure is 10% of the amount by which AQE exceeds TDR (see Chapter 5).

(2) Subsection (1) applies even if the special rate expenditure is in a single asset pool.

(3) In the case of expenditure in the special rate pool, this section is subject to section 56A (writing-down allowance for small pools).

(4) Subsections (3) and (4) of section 56 (proportionate increases or reductions in amount in certain cases) apply for the purposes of subsection (1) of this section as they apply for the purposes of subsection (1) of that section.

104E Disposal value of special rate assets

(1) This section applies if—

(a) section 104D (writing-down allowances at 10%) has had effect in relation to any special rate expenditure incurred by a person ("the taxpayer"),

(b) any disposal event occurs in relation to the item on which the expenditure was incurred,

(c) the disposal value to be brought into account by the taxpayer would (but for this section) be less than the notional written-down value of the item, and

(d) the disposal event is part of, or occurs as a result of, a scheme or arrangement the main purpose or one of the main purposes of which is the obtaining by the taxpayer of a tax advantage under this Part.

(2) The disposal value that the taxpayer must bring into account is the notional written-down value of the item.

(3) The notional written-down value is—

$$QE - A$$

where—

QE is the taxpayer's expenditure on the item that is qualifying expenditure, and

A is the total of all allowances which could have been made to the taxpayer in respect of that expenditure if—

(a) that expenditure had been the only expenditure that had ever been taken into account in determining the taxpayer's available qualifying expenditure,

(b) where the item is a long-life asset, that expenditure had not been prevented by the application of a monetary limit from being long-life asset expenditure, and

(c) all allowances had been made in full."

Consequential amendments

3 In section 54(5) (the different kinds of pools), for "section 101 (long life assets);" substitute "section 104C (special rate expenditure);".

4 In section 56(2) (amount of allowances and charges), for paragraph (a) substitute—

"(a) section 104D (special rate expenditure: 10%), and".

5 In section 65(1) (final chargeable period), for paragraph (b) substitute—

"(b) a special rate pool,".

6 In section 66 (list of provisions about disposal values), for the entry relating to section 104 substitute—

"section 104E special rate expenditure: avoidance cases".

7 In column 1 of the table in section 84 (cases in which short-life asset treatment is ruled out), for item 4 substitute—

"4 The expenditure is special rate expenditure (see Chapter 10A)."

8 Omit section 92 (application of Chapter 10 to part of expenditure).

9 For section 101 (long-life asset pool) substitute—

"101 Allocation of long-life asset expenditure to pool

Chapter 10A (special rate expenditure and the special rate pool) provides for long-life asset expenditure to be allocated to the special rate pool."

10 For section 102 (6% writing-down allowance in respect of long-life asset expenditure) substitute—

"102 Writing-down allowance in respect of long-life asset expenditure

Chapter 10A (special rate expenditure and the special rate pool) provides for the writing-down allowance to which a person is entitled in respect of long-life asset expenditure."

11 Omit section 104 (disposal value of long-life assets).

12 In section 266(7) (certain provisions disapplied where election made under section 266)—

(a) for "104" substitute "104E", and

(b) for "of long-life assets" substitute "in connection with special rate expenditure".

13 In Part 2 of Schedule 1 (index of defined expressions), insert at the appropriate place—

"special rate expenditure (in Part 2)	section 104A".

PART 2

COMMENCEMENT ETC

Commencement

14 (1) This Schedule has effect in relation to—

(a) expenditure incurred on or after the relevant date, and

(b) long-life asset expenditure (within the meaning of Chapter 10 of CAA 2001) incurred before the relevant date but allocated to a pool in a chargeable period beginning on or after that date.

(2) Sub-paragraph (1) is subject to—

(a) section 83 (which provides that certain other long-life asset expenditure is to be treated as special rate expenditure for the purposes of CAA 2001), and

(b) paragraphs 15 to 17.

(3) The relevant date is—

(a) for corporation tax purposes, 1 April 2008, and

(b) for income tax purposes, 6 April 2008.

Sale between connected persons

15 (1) This paragraph applies where, on or after the relevant date—

(a) there is a sale of a pre-commencement integral feature,

(b) the buyer and seller are connected persons (within the meaning of section 575 of CAA 2001), and

(c) the buyer's expenditure on the integral feature would (apart from this paragraph) be special rate expenditure.

(2) An integral feature is a pre-commencement integral feature if the seller—

(a) incurred expenditure on it before the relevant date, or

(b) incurred expenditure on it on or after that date which was not qualifying expenditure because of a previous application of this paragraph.

(3) The buyer's expenditure on the integral feature is not qualifying expenditure unless—

(a) the original expenditure was qualifying expenditure, or
(b) the buyer's expenditure would have been qualifying expenditure, had it been incurred at the time the original expenditure was incurred.

(4) The "original expenditure"—
(a) where the integral feature is a pre-commencement integral feature because of sub-paragraph (2)(a), is the expenditure mentioned in that sub-paragraph, and
(b) otherwise, is the expenditure incurred on the integral feature before the relevant date by virtue of which this paragraph first applied.

(5) The "relevant date" has the same meaning as in paragraph 14.

Saving for intra-group transfers

16 (1) This paragraph applies where, on or after the relevant date—
(a) there is a sale of a pre-commencement integral feature,
(b) the buyer and seller are companies which are members of the same group, and
(c) the buyer's expenditure on the integral feature would (apart from this paragraph) be special rate expenditure.

(2) An integral feature is a pre-commencement integral feature if qualifying expenditure on it—
(a) was incurred by the seller before the relevant date and allocated to the seller's main pool, or
(b) was incurred by the seller on or after that date and allocated to the seller's main pool because of a previous election under this paragraph.

(3) The buyer and seller may jointly elect for paragraph 17 to apply.

(4) The election must be made by notice to an officer of Revenue and Customs within 2 years after the date on which the sale takes place.

(5) All such assessments and adjustments of assessments are to be made as are necessary to give effect to the election.

(6) Whether the buyer and seller are members of the same group is to be determined in accordance with section 170(3) to (6) of TCGA 1992.

(7) The "relevant date" has the same meaning as in paragraph 14.

17 (1) Where this paragraph applies, for the purposes of making allowances and charges under Part 2 of CAA 2001—
(a) the integral feature is treated as having been sold by the seller to the buyer at a price which gives rise to neither a balancing allowance nor a balancing charge, and
(b) the buyer's expenditure on the integral feature is treated as qualifying expenditure which is not special rate expenditure (and, if allocated to a pool, is to be allocated to the buyer's main pool).

(2) Allowances and charges are to be made under Part 2 of CAA 2001 to or on the buyer as if everything done to or by the seller had been done to or by the buyer.

Interpretation

18 Expressions used in this Part of this Schedule and in Part 2 of CAA 2001 have the same meaning in this Part of this Schedule as in that Part of that Act.

SCHEDULE 27

Section 84

ABOLITION OF ALLOWANCES: CONSEQUENTIAL AMENDMENTS AND SAVINGS

PART 1

CONSEQUENTIAL AMENDMENTS

CAA 2001

1 CAA 2001 is amended as follows.

2 In section 1 (capital allowances), omit—
(a) subsection (2)(b) and (c) (entitlement to industrial and agricultural buildings allowances), and
(b) in subsection (3) ", industrial buildings or agricultural buildings,".

3 In section 2(3) (general means of giving effect to capital allowances), omit—
(a) "sections 352 to 355 (industrial buildings allowances);", and
(b) "sections 391 and 392 (agricultural buildings allowances);".

4 In section 3 (claims for capital allowances), omit subsections (4)(b) and (5)(b).

5 (1) Section 186 (fixture on which an industrial buildings allowance has been made) is amended as follows.

(2) In subsection (1)(a) and (b), for "is" substitute "was".

(3) In subsection (3)—
(a) at the beginning insert "If the total consideration for the transfer by the past owner exceeds R,", and
(b) in the definition of "R"—
(i) after "expenditure" insert "which would have been", and
(ii) at the end insert ", had the time immediately after the transfer fallen immediately before the repeal of Part 3 by section 84 of the Finance Act 2008."

(4) After that subsection insert—

"(3A) Where subsection (3) does not apply, the maximum allowable amount is the part of the consideration for the transfer by the past owner that is attributable to the fixture."

(5) In subsection (5), for "in Part 3" substitute "for the purposes of Part 3 immediately before its repeal by section 84 of the Finance Act 2008."

6 In section 443(3) (disposal values and disposal events), omit "or 3" and "and industrial building allowances".

7 In section 448(3) (additional VAT rebate generates disposal value), omit "or 3" and "and industrial buildings allowances".

8 In section 537 (contribution allowances), omit ", 3, 4" in—
(a) subsection (1),
(b) subsection (2)(b)(ii), and
(c) the heading.

9 Omit section 539 (contribution allowances: industrial buildings).

10 Omit section 540 (contribution allowances: agricultural buildings).

11 In section 542(1) (effect of transfers of trade on contribution allowances), for "Parts 3, 4 and 5" substitute "Part 5".

12 In section 546 (introduction to Chapter 2 of Part 12), omit paragraph (b).

13 In section 564 (application of procedure in section 563)—
(a) in subsection (1), for "3" substitute "3A", and
(b) omit subsection (3).

14 In section 567(1) (sales treated as for alternative amounts), omit "3," and "4,".

15 In section 569 (election to treat sale as being for an alternative amount), omit—
(a) in subsections (3)(a) and (5)(a), "3 or", and
(b) in subsection (5), "319 (building not an industrial building, etc throughout) or".

16 In section 570 (elections: supplementary), omit—
(a) in subsection (1), ", 4", and
(b) in subsection (3), "3,".

17 In section 570A(1) (avoidance affecting proceeds of balancing event), omit "3," and "4,".

18 In section 573(1) (transfers treated as sales), omit "3," and "4,".

19 (1) Part 2 of Schedule 1 (index of defined expressions) is amended as follows.

(2) Omit the entries relating to the following defined expressions—
"adjusted net cost (in Chapter 7 of Part 3)",
"agricultural building",
"balancing adjustment (in Part 3)",
"balancing adjustment (in Part 4)",
"balancing event (in Part 3)",
"balancing event (in Part 4)",
"building (in Part 3 - includes structure)",
"commercial building (in Part 3, in relation to qualifying enterprise zone expenditure)",
"developer, carrying on a trade as (in Chapter 4 of Part 3)",
"enterprise zone (in Part 3)",
"expenditure on the construction of a building (in Part 3)",
"expenditure on the construction of a building (in Part 4)",
"highway concession (in Chapter 9 of Part 3)",
"husbandry (in Part 4)",

"industrial building",
"lease and related expressions (in Part 3)",
"lease and related expressions (in Part 4)",
"proceeds from a balancing event (in Part 3)",
"proceeds from a balancing event (in Part 4)",
"qualifying enterprise zone expenditure (in Part 3)",
"qualifying hotel (in Part 3)",
"qualifying trade (in Part 3)",
"related agricultural land (in Part 4)",
"relevant interest (in Part 3)",
"relevant interest (in Part 4)",
"residue of qualifying expenditure (in Part 3)",
"residue of qualifying expenditure (in Part 4)", and
"writing-down period (in Part 4)".

(3) In the entry relating to "sale, transfers under Parts 3, 3A, 4, 4A and 10 treated as", omit "3," and "4,".

20 In Schedule 3 (transitional provision and savings), omit—
(a) paragraphs 56 to 83, and
(b) paragraph 110.

ICTA

21 In section 495 of ICTA (regional development grants), omit—
(a) in subsection (1)(b), ", 3" and ", industrial buildings", and
(b) in subsection (3)(b), ", 3".

FA 2000

22 In Schedule 22 (tonnage tax), omit paragraphs 84 and 86.

FA 2001

23 (1) FA 2001 is amended as follows.

(2) In Schedule 19 (insertion of Part 4A of CAA 2001: consequential amendments), omit paragraph 4.

(3) In Schedule 21 (capital allowances: minor amendments), omit paragraphs 5 and 6.

Proceeds of Crime Act 2002 (c. 29)

24 In Schedule 10 to the Proceeds of Crime Act 2002 (tax consequences of transfers under Part 5 of that Act), omit paragraphs 18 to 21.

Energy Act 2004 (c. 20)

25 In Schedule 4 to the Energy Act 2004 (tax exemption for NDA and NDA companies), omit paragraphs 5 and 6.

ITTOIA 2005

26 In Schedule 1 to ITTOIA 2005 (consequential amendments), omit paragraphs 552 to 558.

ITA 2007

27 (1) ITA 2007 is amended as follows.

(2) In section 24(1)(b) (reliefs deductible at Step 2), omit the entry relating to Part 3 of CAA 2001.

(3) In section 25(3) (reliefs deductible at Steps 2 and 3: supplementary), omit the entry relating to section 355 of that Act.

(4) In Schedule 1 (minor and consequential amendments), omit paragraph 406.

FA 2007

28 In FA 2007, omit section 36 (industrial and agricultural buildings allowances: balancing adjustments).

FA 2008

29 In FA 2008, omit—

(a) section 85 (phasing out of allowances before abolition),

(b) section 86 (qualifying enterprise zone expenditure: transitional provision), and

(c) section 87 (which inserts section 313A of CAA 2001).

Commencement

30 (1) Subject to sub-paragraph (2), this Part of this Schedule has effect in relation to chargeable periods (within the meaning of CAA 2001) beginning on or after—

(a) for corporation tax purposes, 1 April 2011, and

(b) for income tax purposes, 6 April 2011.

(2) The amendments made by paragraph 5 have effect in relation to a transfer by the past owner (within the meaning of section 186 of CAA 2001) in such a chargeable period.

PART 2

SAVINGS

Enterprise zone expenditure

31 (1) Sub-paragraph (2) applies if—

(a) an initial allowance or a writing down allowance has been made under Part 3 of CAA 2001 in respect of qualifying enterprise zone expenditure, and

(b) an event occurs in relation to the building on which the expenditure was incurred which, if that Part of that Act remained in force, would

be a balancing event in respect of which a balancing charge would be made.

(2) Unless the event occurs more than 7 years after the building was first used, a balancing charge is to be made in respect of the event as if that Part of that Act remained in force.

32 (1) Sub-paragraph (2) applies if—

(a) an initial allowance has been made under Part 3 of CAA 2001 in respect of qualifying enterprise zone expenditure, and

(b) an event occurs in relation to the building on which the expenditure was incurred which, if section 307 of that Act (withdrawal of allowance if building not industrial building when first used etc) remained in force, would result in the allowance being withdrawn.

(2) Unless the event occurs more than 7 years after the end of the chargeable period for which the allowance was made, the allowance is to be withdrawn as if that section remained in force.

Definition of structure

33 Despite the repeal of Part 3 of CAA 2001 by section 84, Chapter 2 of that Part continues to have effect for the purposes of paragraph (a) of item 7 in List B in section 22(1) of that Act (structures which are not plant and machinery).

Definition of qualifying trade

34 Despite the repeal of Part 3 of CAA 2001 by section 84, the following provisions continue to have effect for the purposes of section 484 of that Act (dredging allowances: definition of qualifying trade)—

(a) section 274(1) (definition of qualifying trade), and

(b) sections 276(3) and 341(4) of that Act (parts of trades and undertakings; meaning of "highway concession") so far as they relate to the Tables in that section.

Commencement

35 This Part of this Schedule has effect in relation to chargeable periods (within the meaning of CAA 2001) beginning on or after—

(a) for corporation tax purposes, 1 April 2011, and

(b) for income tax purposes, 6 April 2011.

SCHEDULE 28

Section 91

INHERITANCE OF TAX-RELIEVED PENSION SAVINGS

Amendments of Part 4 of FA 2004

1 Part 4 of FA 2004 (pension schemes etc) is amended as follows.

2 (1) Section 172 (assignment) is amended as follows.

(2) In subsection (3)—

(a) in paragraph (a), for "an actual or" substitute "a", and

(b) in paragraph (b), for "the member" substitute "a member of the pension scheme".

(3) After subsection (6) insert—

"(6A) References in this section to a benefit to which the member or a person has an entitlement under the pension scheme includes rights to payments under—

(a) a scheme pension or dependants' scheme pension provided by the scheme administrator or as a result of the application of sums or assets held for the purposes of the pension scheme, or

(b) a lifetime annuity or dependants' annuity purchased by the application of sums or assets held for the purposes of the pension scheme."

3 (1) Section 172A (surrender) is amended as follows.

(2) In subsection (1), at the end of paragraph (a) (but before the "or") insert—

"(aa) any rights to payments under a lifetime annuity or dependants' annuity purchased by the application of sums or assets held for the purposes of the pension scheme,".

(3) In subsection (3)(a), for "relating to" substitute "in respect of".

(4) In subsection (5), after paragraph (c) insert—

"(ca) a surrender of (or agreement to surrender) rights to payments under an annuity in any case covered by regulations under paragraph 3(2B) or 17(3) of Schedule 28;".

(5) After subsection (9) insert—

"(9A) References in this section to a benefit to which the member or a person has an entitlement under the pension scheme includes rights to payments under—

(a) a scheme pension or dependants' scheme pension provided by the scheme administrator or as a result of the application of sums or assets held for the purposes of the pension scheme, or

(b) a lifetime annuity or dependants' annuity purchased by the application of sums or assets held for the purposes of the pension scheme."

4 (1) Section 172B (increase in rights of connected person on death) is amended as follows.

(2) In subsection (2), at the end of paragraph (a) (but before the "or") insert—

"(aa) rights to payments under a scheme pension or dependants' scheme pension provided by the scheme administrator or as a result of the application of sums or assets held for the purposes of the pension scheme or under a lifetime annuity or dependants' annuity purchased by the application of sums or assets held for the purposes of the pension scheme,".

(3) In subsections (3)(a) and (7)(b), for "is actually or prospectively entitled" substitute "has an actual or prospective entitlement".

(4) In subsection (7)—

(a) omit paragraph (a) (including the "and" at the end), and
(b) in paragraph (b), for "them" substitute "at least 20 members of the pension scheme".

(5) After subsection (7) insert—

"(7A) This section does not apply if—
(a) the increase mentioned in subsection (1)(a) is an increase in the rate of a dependants' annuity or dependants' scheme pension or in rights representing a dependants' unsecured pension fund or dependants' alternatively secured pension fund, and
(b) the increase is attributable to rights of the dead member to payments under a dependants' annuity or dependants' scheme pension or rights representing a dependants' unsecured pension fund.

(7B) References in this section to a benefit to which the member or a person has an entitlement under the pension scheme includes rights to payments under—
(a) a scheme pension or dependants' scheme pension provided by the scheme administrator or as a result of the application of sums or assets held for the purposes of the pension scheme, or
(b) a lifetime annuity or dependants' annuity purchased by the application of sums or assets held for the purposes of the pension scheme."

5 In paragraph 16(2) of Schedule 28 (dependants' scheme pension), after "pension" insert "for the purposes of this Part".

Amendments of IHTA 1984

6 IHTA 1984 is amended as follows.

7 (1) Section 151A (person dying with alternatively secured pension fund) is amended as follows.

(2) In subsection (2), after "charged if it" insert "and any amount on which tax was previously charged under this section in relation to the member".

(3) In subsection (4B) —
(a) for the words from "that" to "per cent." substitute "amount that could be transferred by a chargeable transfer made (under section 4 above) on the member's death if it were to be wholly chargeable at the rate of nil per cent. (assuming, if necessary, that the value of the member's estate were sufficient but otherwise having regard to the circumstances of the member)", and
(b) for "that chargeable transfer" substitute "the chargeable transfer so made".

8 (1) Section 151BA (rate or rates of charge under section 151B) is amended as follows.

(2) In subsection (1), for the words after "(4) of that section)" substitute "less the amount of any previously charged income tax (within the meaning of

subsection (4A) of section 151A) constituted the relevant amount for the purposes of subsection (2) of that section, but subject as follows."

(3) Omit subsection (2).

(4) In subsection (3)—

(a) for the words from "on the taxable amount" to "of that section" substitute "is to be determined on the assumption that the references in section 151A(4A) and (5)", and

(b) for "this section" substitute "section 151B above".

9 (1) Section 151C (dependant dying with alternatively secured pension fund where section 151B does not apply) is amended as follows.

(2) In subsection (3B)—

(a) for the words from "that" to "per cent." substitute "amount that could be transferred by a chargeable transfer made (under section 4 above) on the dependant's death if it were to be wholly chargeable at the rate of nil per cent. (assuming, if necessary, that the value of the dependant's estate were sufficient but otherwise having regard to the circumstances of the dependant)", and

(b) for "that chargeable transfer" substitute "the chargeable transfer so made".

(3) In subsection (4), insert at the appropriate place—

""dependants' alternatively secured pension" has the meaning given by paragraph 19 of that Schedule;" , and

""dependants' unsecured pension" has the meaning given by paragraph 18 of that Schedule;",

and in the definition of "dependant's alternatively secured pension fund", for "Schedule 28 to that Act" substitute "that Schedule".

10 After section 151C insert—

"151D Unauthorised payment where person dies over 75 with pension or annuity

(1) This section applies where—

(a) a member of a registered pension scheme, or a dependant of such a member, dies after reaching the age of 75;

(b) immediately before death the member or dependant has under the pension scheme an actual right to payments under a relevant pension or relevant annuity or a prospective right to payments under a relevant pension; and

(c) at any time after the death a relevant unauthorised payment is made by the pension scheme.

(2) Where this section applies tax shall be charged under this section.

(3) The amount on which tax is charged under this section shall be the difference between—

(a) the amount of the relevant unauthorised payment; and

(b) the amount of any liability to income tax which has arisen under Part 4 of the Finance Act 2004 by virtue of the making of the relevant unauthorised payment.

(4) In this section—

"dependant" has the meaning given by paragraph 15 of Schedule 28 to the Finance Act 2004;

"dependants' annuity" has the same meaning as in that Part of that Act (see paragraph 17 of that Schedule);

"dependants' scheme pension" has the same meaning as in that Part of that Act (see paragraph 16 of that Schedule);

"lifetime annuity" has the same meaning as in that Part of that Act (see paragraph 3 of that Schedule);

"relevant annuity" means a lifetime annuity or dependants' annuity purchased by the application of sums or assets held for the purposes of the pension scheme;

"relevant pension" means a scheme pension or dependants' scheme pension provided by the scheme administrator or as a result of the application of sums or assets held for the purposes of the pension scheme;

"relevant unauthorised payment" means an unauthorised payment (within the meaning of Part 4 of the Finance Act 2004: see section 160(5) of that Act) which—

(a) consists of the payment of a lump sum in respect of the dead member or dependant; or

(b) is treated as made by virtue of the operation of section 172B of that Act by reason of the death; and

"scheme pension" has the same meaning as in Part 4 of that Act (see paragraph 2 of Schedule 28 to that Act).

151E Rate or rates of charge under section 151D

(1) Tax charged under section 151D above shall be charged at the rate or rates at which it would be charged if the amount on which it is charged, and any amount on which tax was previously charged under that section in relation to the death of the member or dependant, were part of the value transferred by the transfer of value made on the death of the member or dependant.

(2) The rate or rates at which tax is charged on that amount shall be determined as if that amount had formed the highest part of that value.

(3) Subsection (4) below applies where, before the time when the unauthorised payment is made, there have been one or more reductions of tax by virtue of the coming into force of a substitution of a new Table in Schedule 1 to this Act since the death of the member or dependant.

(4) The rate or rates at which tax is charged under section 151D above is to be determined as if the new Table effecting the reduction of tax (or the most recent reduction of tax) ("the applicable Table") had been in force at the time of the death of the member or dependant, but subject to subsections (5) and (8) below.

(5) The nil-rate band maximum in the applicable Table is to be treated for the purposes of this section as reduced by the used-up percentage of the difference between—

(a) that nil-rate band maximum, and

(b) the nil-rate band maximum which was actually in force at the time of the death of the member or dependant.

(6) For the purposes of subsection (5) above "the used-up percentage" is—

$$100 - \left(\frac{\text{E}}{\text{NRBM}} \times 100 \right)$$

where—

E is the amount by which M is greater than VT under section 8A(2) above in the case of the member or dependant; and

NRBM is the nil-rate band maximum at the time of the death of the member or dependant.

(7) The following provisions apply where—

(a) tax is charged under section 151D above, and

(b) immediately before the death of the member or dependant, the member or dependant had a spouse or civil partner ("the survivor").

(8) If the survivor died before the time when the unauthorised payment is made, tax is charged as if the personal nil-rate band maximum of the member or dependant were appropriately reduced.

(9) In subsection (8) above—

"the personal nil-rate band maximum of the member or dependant" is the nil rate band maximum in the applicable Table, increased in accordance with section 8A above where that section effected an increase in that nil-rate band maximum in the case of the member or dependant (as a survivor of another deceased person), and

"appropriately reduced" means reduced by the amount (if any) by which the amount on which tax was charged at the rate of nil per cent. on the death of the survivor was increased by reason of the operation of section 8A above by virtue of the position of the member or dependant.

(10) If the survivor did not die before the time when the unauthorised payment is made, tax is to be charged on the death of the survivor as if the percentage referred to in section 8A(3) above in the case of the member or dependant were that specified in subsection (11) below.

(11) That percentage is—

$$\frac{\text{AE}}{\text{ANRBM}} \times 100$$

where—

AE is the adjusted excess, that is the amount by which M would be greater than VT under section 8A(2) above in the case of the member or dependant if—

(a) the amount on which tax is charged under section 151D above were included in the value transferred by the chargeable value made on the death of the member or dependant, and

(b) the nil-rate band maximum at the time of the death were ANRBM; and

ANRBM is the adjusted nil-rate band maximum, that is the nil-rate band maximum in the applicable Table (as reduced under subsection (5) above where that subsection applies)."

11 In section 210 (persons liable), after subsection (2) insert—

"(3) The person liable for tax chargeable under section 151D is—

(a) if the tax is charged by reason of an unauthorised payment actually made by any person other than the scheme administrator of the pension scheme, that person, and

(b) otherwise, the scheme administrator of the pension scheme."

12 (1) Section 216 (delivery of accounts) is amended as follows.

(2) In subsection (1)(bca), after "210(2)" insert "or (3)".

(3) In subsection (6)(ac), after "scheme" insert "otherwise than by reason of a liability to tax under section 210(3)".

(4) In subsection (7), for "or 126" substitute ", 126 or 151D".

13 In section 226(4) (payment), for "or 151B" substitute ", 151B or 151D".

14 In section 233(1)(c) (interest on unpaid tax), for "or 151B" substitute ", 151B or 151D".

Commencement

15 (1) The amendments made by paragraph 2 have effect in relation to assignments or agreements to assign made on or after 10 October 2007.

(2) The amendments made by paragraph 3 have effect in relation to surrenders and agreements to surrender made on or after that date.

(3) The amendments made by paragraphs 4, 7(2), 8, 10 and 11 to 14 have effect in relation to deaths occurring on or after 6 April 2008.

SCHEDULE 29

Section 92

FURTHER PROVISION ABOUT PENSION SCHEMES

Authorised member payments

1 (1) Part 4 of FA 2004 (pension schemes etc) is amended as follows.

(2) In section 164 (authorised member payments)—

(a) the existing provision becomes subsection (1), and

(b) after that subsection insert—

"(2) Regulations under subsection (1)(f) may—

(a) provide that for the purposes of Part 9 of ITEPA 2003 all or part of a prescribed payment is to be treated as pension under a registered pension scheme, or as a lump sum of a prescribed description,

(b) provide that all or part of a prescribed payment is subject to the short service refund lump sum charge or the special lump sum death benefits charge,

(c) provide that a prescribed event in relation to a prescribed payment is to be treated for the purposes of the lifetime allowance charge as a benefit crystallisation event, and make provision as to the amount crystallised by that event,

(d) include provision having effect in relation to times before the regulations are made if that provision does not increase any person's liability to tax,

and "prescribed" means prescribed in regulations under subsection (1)(f)."

(3) In the table in section 216 (benefit crystallisation events and amounts crystallised), insert at the end—

"9. If regulations under section 164(1)(f) so provide, the happening of an event prescribed in the regulations in relation to a payment prescribed in the regulations	An amount determined in accordance with the regulations".

Transfer of lifetime annuities and dependants' annuities

2 (1) Schedule 28 to FA 2004 (authorised pensions etc) is amended as follows.

(2) In paragraph 3 (lifetime annuities), after sub-paragraph (2C) insert—

"(2CA) The regulations may include provision having effect in relation to times before they are made if that provision does not increase any person's liability to tax."

(3) In paragraph 17 (dependants' annuities), after sub-paragraph (4) insert—

"(4A) The regulations may include provision having effect in relation to times before they are made if that provision does not increase any person's liability to tax."

Definition of investment-regulated pension schemes

3 (1) In Schedule 29A to FA 2004 (taxable property etc), omit paragraph 2(1)(b) and the "or" before it.

(2) The amendment made by sub-paragraph (1) is treated as having come into force on 6 April 2006.

Benefit crystallisation event 3

4 Part 4 of FA 2004 (pension schemes etc) is amended as follows.

5 In the table in section 216(1) (benefit crystallisation events), in benefit crystallisation event 3 (becoming entitled to pension at increased annual rate), in column 1, after "rate which" insert "—

(a) exceeds the threshold annual rate, and

(b) ".

6 Schedule 32 (benefit crystallisation events: supplementary) is amended as follows.

7 (1) Paragraph 10 (benefit crystallisation event 3: excepted circumstances) is amended as follows.

(2) The existing provision becomes sub-paragraph (1).

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

"(b) that the individual is one of a class of at least 20 pensioner members of the pension scheme, and all the scheme pensions being paid under the pension scheme to pensioner members of that class are at that time increased at the same rate."

(4) After that sub-paragraph insert—

"(2) A class may consist of all the pensioner members of the pension scheme.

(3) Sub-paragraph (4) applies where—

(a) the annual rate of the individual's pension is increased in excepted circumstances ("the excepted increase"),

(b) before the end of the period of 12 months beginning with the date of the excepted increase, the annual rate of the individual's pension is increased in circumstances which would (apart from that sub-paragraph) be excepted circumstances ("the subsequent increase"), and

(c) the class by virtue of which sub-paragraph (1)(b) is satisfied on the subsequent increase ("the new class") is not the class by virtue of which it was satisfied on the excepted increase.

(4) If the purpose, or one of the main purposes, of the individual's being included in the new class is to increase the annual rate of the individual's pension without benefit crystallisation event 3 occurring, the subsequent increase is not in excepted circumstances."

8 After that paragraph insert—

"Benefit crystallisation event 3: threshold annual rate

10A (1) This paragraph applies for the purposes of benefit crystallisation event 3.

(2) The threshold annual rate is the annual rate of the pension on the date of which the increase date is the first anniversary, increased by the greatest of—

(a) the relevant percentage rate,

(b) the relevant indexation percentage, and

(c) £250,

and rounded up in accordance with sub-paragraph (8).

(3) But if the person became entitled to the pension after the date of which the increase date is the first anniversary, the threshold annual rate is the annual rate of the pension on the date on which the person became entitled to the pension, increased and rounded up as mentioned in sub-paragraph (2).

(4) The increase date is the date on which the individual becomes entitled to payment of the pension at the increased annual rate.

(5) The relevant percentage rate is—

(a) in a case where the pension is paid under a pension scheme, or an arrangement under a pension scheme, in relation to which the relevant valuation factor is a number greater than 20, the rate agreed by the Commissioners for Her Majesty's Revenue and Customs and the scheme administrator, and

(b) otherwise, 5%.

(6) The relevant indexation percentage means—

(a) if the retail prices index for the reference month is higher than the retail prices index for the same calendar month in the previous year, the percentage increase in the retail prices index, and

(b) if it is not, 0%.

(7) The scheme administrator may select as the reference month any month in the period of 12 months ending with the month in which the increase date falls.

(8) An amount is rounded up in accordance with this sub-paragraph if it is rounded up to the next greatest amount which—

(a) where the pension is payable monthly, gives an amount of whole pounds when divided by 12, or

(b) where the pension is payable weekly, gives an amount of whole pounds when divided by 52.

(9) If the pension is under a public service pension scheme, any abatement of the pension is to be left out of account in determining for the purposes of this paragraph the annual rate of the pension on the date of which the increase date is the first anniversary (or, where sub-paragraph (3) applies, the date on which the person became entitled to the pension).

(10) An individual who becomes entitled to payment of a scheme pension at an increased annual rate on 29 February in any year is to be treated for the purposes of this paragraph as having become so entitled on 28 February in that year.

(11) The Treasury may by order substitute for the amount for the time being specified in sub-paragraph (2)(c) a different amount (including an amount to be calculated as a percentage of the standard lifetime allowance)."

9 (1) Paragraph 11 (benefit crystallisation event 3: permitted margin) is amended as follows.

(2) In sub-paragraph (6)—

(a) for "month in which the individual becomes entitled to payment of the pension at the increased rate" substitute "reference month", and

(b) for "month in which the individual became entitled to the pension" substitute "base month".

(3) After sub-paragraph (7) insert—

"(7A) The scheme administrator may select as the reference month any month in the period of 12 months ending with the month in which the individual becomes entitled to payment of the pension at the increased rate.

(7B) The base month is the month which is the same number of months before the month in which the individual became entitled to the pension, as the reference month is before the month in which the individual becomes entitled to payment of the pension at the increased rate."

10 In paragraph 13 (benefit crystallisation event 3: meaning of XP), for sub-paragraph (2) substitute—

"(2) But if one or more benefit crystallisation events has or have previously occurred by reason of the individual having become entitled to payment of the pension at an increased rate, XP does not include the amount of XP on that event or the aggregate of the amounts of XP on those events.

(2A) For the purposes of sub-paragraph (2), the amount of XP on a previous benefit crystallisation event is to be increased by whichever of calculation A and calculation B gives the greater amount.

(2B) Calculation A involves increasing the amount of XP on the previous event at the relevant annual percentage rate for the whole of the period—

(a) beginning with the month in which the previous event occurred, and

(b) ending with the month in which the individual becomes entitled to payment of the pension at the increased rate.

(2C) The relevant annual percentage rate has the same meaning as in paragraph 11(4).

(2D) Calculation B involves increasing the amount of XP on the previous event by the relevant indexation percentage.

(2E) The relevant indexation percentage is—

(a) if the retail prices index for the reference month is higher than the retail prices index for the base month, the percentage increase in the retail prices index, and

(b) if it is not, 0%.

(2F) The scheme administrator may select as the reference month any month in the period of 12 months ending with the month in which the individual becomes entitled to payment of the pension at the increased rate.

(2G) The base month is the month which is the same number of months before the month in which the previous event occurred, as the reference month is before the month in which the individual becomes entitled to payment of the pension at the increased rate."

11 In consequence of the amendment made by paragraph 7(3), in Schedule 10 to FA 2005, omit paragraph 44.

12 (1) The amendments made by paragraphs 9(2) and (3) come into force on 6 April 2008.

(2) The amendment made by paragraph 10 has effect for the purposes of any benefit crystallisation event 3 occurring on or after 10 October 2007 (including the calculation, for the purposes of such an event, of the amount of XP on any benefit crystallisation event occurring before that date).

(3) Subject to that, the amendments made by paragraphs 4 to 11 are treated as having come into force on 6 April 2006.

Transitional protection of lump sums

13 (1) In paragraph 34 of Schedule 36 to FA 2004 (pension commencement lump sums), in the provisions of paragraph 2 of Schedule 29 substituted by sub-paragraph (2)—

(a) in sub-paragraph (5), omit the words from "and relevant" to "2006" and

(b) omit sub-paragraphs (6) and (7C).

(2) The amendments made by sub-paragraph (1) are treated as having come into force on 6 April 2006.

Miscellaneous provision about registered pension schemes

14 (1) FA 2004 is amended as follows.

(2) In section 197 (spreading of relief)—

(a) in subsection (2), for "section 196 (relief for employers in respect of contributions paid)" substitute "the relieving provisions",

(b) in subsection (4), for "section 196" substitute "the relieving provisions", and

(c) after subsection (9) insert—

"(9A) In this section "the relieving provisions" means the provisions mentioned in subsections (2) to (4) of section 196 (relief for employers in respect of contributions paid), as they have effect under that section."

(3) In section 199(2) (deemed contributions), for paragraphs (a) to (c) substitute "the relieving provisions (within the meaning of section 197) and sections 197 and 198".

(4) In consequence of the amendment made by sub-paragraph (3), in Schedule 1 to ITTOIA 2005 (consequential amendments), omit paragraph 648.

15 In section 215(4)(a) of FA 2004 (amount of lifetime allowance charge), after "first lifetime allowance" insert "charge".

16 In Schedule 34 to that Act (non-UK schemes: application of certain charges), in paragraph 7ZA for "Commissions" substitute "Commissioners".

Employer contributions under exempt approved schemes

17 (1) This paragraph applies in relation to section 592 of ICTA (which before its repeal made provision about exempt approved pension schemes), where that section had effect as amended by the 2004 Order.

(2) Section 592 is to be treated as having had effect as if after subsection (4) (as substituted by the 2004 Order) there had been inserted—

"(4A) No sums other than contributions made by the employer to the pension scheme in respect of an individual—

(a) are deductible in computing the amount of the profits of the employer for the purposes of Part 2 of ITTOIA 2005 or Case I or II of Schedule D,

(b) are expenses of management for the purposes of section 75, or

(c) are to be brought into account at Step 1 in section 76(7),

in connection with the cost of providing benefits under the pension scheme."

(3) But the words "Part 2 of ITTOIA 2005 or" in subsection (4A)(a) are to be treated as having had effect only in relation to times in relation to which (by virtue of paragraph 253(3) of Schedule 1 to ITTOIA 2005) they had effect in section 592(4)(a).

(4) In this paragraph "the 2004 Order" means the Finance Act 2004, Sections 38 to 45 and Schedule 6 (Consequential Amendment of Enactments No. 2) Order 2004 (S.I. 2004/3269).

Inheritance tax treatment of non-UK pension schemes

18 (1) IHTA 1984 is amended as follows.

(2) In section 12(2) (dispositions conferring benefits under pension scheme), for "or" substitute ", a qualifying non-UK pension scheme or a".

(3) In section 58 (meaning of relevant property)—

(a) in subsection (1)(d), for "or" substitute ", a qualifying non-UK pension scheme or a", and

(b) in subsection (2A)(b), after "member of" insert "a qualifying non-UK pension scheme or".

(4) In section 151(2), (4) and (5) (treatment of pension rights etc), for "or section" substitute ", a qualifying non-UK pension scheme or a section".

(5) In section 152 (cash options), for "or section" substitute ", a qualifying non-UK pension scheme or a section".

(6) After section 271 insert—

"271A Qualifying non-UK pension scheme

(1) For the purposes of this Act "qualifying non-UK pension scheme" means a pension scheme (other than a registered pension scheme) which—

(a) is established in a country or territory outside the United Kingdom, and

(b) satisfies any requirements prescribed for the purposes of this section by regulations made by the Commissioners for Her Majesty's Revenue and Customs.

(2) "Pension scheme" has the same meaning as in Part 4 of the Finance Act 2004 (see section 150 of that Act).

(3) Regulations under this section may include provision having effect in relation to times before the regulations are made if it does not increase any person's liability to tax.

(4) The power to make regulations under this section is exercisable by statutory instrument, which is subject to annulment in pursuance of a resolution of the House of Commons."

(7) In paragraph 56 of Schedule 36 to FA 2004 (pension schemes: transitional provision in relation to inheritance tax)—

(a) in sub-paragraph (1)(a), after "registered pension scheme" insert ", a qualifying non-UK pension scheme", and

(b) after sub-paragraph (3) insert—

"(4) In this paragraph "qualifying non-UK pension scheme" has the same meaning as in the Inheritance Tax Act 1984 (see section 271A of that Act)."

(8) The amendments made by this paragraph are treated as having come into force on 6 April 2006.

Application of charges to non-UK pension schemes

19 (1) Schedule 34 to FA 2004 (which applies certain charges to non-UK pension schemes) is amended as follows.

(2) In paragraph 10(2), in the definition of EI, after "tax year," insert "excluding any such income which is exempt income (within the meaning of section 8 of ITEPA 2003),".

(3) In paragraph 11(2), in the definition of EI, after "tax year," insert "excluding any such income which is exempt income (within the meaning of section 8 of ITEPA 2003),".

(4) The amendment made by sub-paragraph (2) has effect for the tax year 2008-09 and subsequent tax years.

(5) The amendment made by sub-paragraph (3) has effect—

(a) for the tax year 2007-08 in accordance with sub-paragraph (6), and

(b) for the tax year 2008-09 and subsequent tax years.

(6) For the tax year 2007-08, for the purposes of paragraph 11(1)(b) of Schedule 34 to FA 2004 the appropriate fraction of the contributions mentioned in that paragraph is the aggregate of—

(a) the appropriate fraction of so much of those contributions as are paid before 12 March 2008, calculated in accordance with paragraph 11(2) unamended by sub-paragraph (3), and

(b) the appropriate fraction of so much of those contributions as are paid on and after that date, calculated in accordance with paragraph 11(2) as amended by sub-paragraph (3).

SCHEDULE 30

Section 94

STAMP DUTY LAND TAX: NOTIFICATION ETC: CONSEQUENTIAL PROVISION

FA 2003

1 Part 4 of FA 2003 (stamp duty land tax) is amended as follows.

2 (1) Section 79 (registration of land transactions) is amended as follows.

(2) In subsection (3), omit the word "either", paragraph (b) and the word "or" before it.

(3) For subsection (5) substitute—

"(5) Part 2 of Schedule 11 imposes a duty to keep and preserve records in respect of transactions that are not notifiable."

(4) In subsection (6)(a), omit "or self-certificates".

3 In section 81B(1) (declaration by person authorised to act on behalf of individual), omit "or paragraph 2(1)(c) of Schedule 11" and "or self-certificate".

4 (1) Section 103 (joint purchasers) is amended as follows.

(2) In subsection (4), omit "or paragraph 2(1)(c) of Schedule 11" and "or self-certificate".

(3) In subsection (5), omit "or self-certificate".

5 (1) Section 122 (index of defined expressions) is amended as follows.

(2) In the entry for "closure notice", omit "Schedule 11, paragraph 16(1) (in relation to a self-certificate)".

(3) In the entry for "notice of enquiry", omit "Schedule 11, paragraph 7(1) (in relation to a self-certificate)".

(4) In the entry for "notifiable (in relation to a land transaction)", after "72A(7)" insert "and paragraph 30 of Schedule 15".

(5) Omit the entry for "self-certificate".

6 In Part 4 of Schedule 6 (SDLT: disadvantaged areas relief), in paragraph 13, for "section 77 (which specifies" substitute "sections 77 and 77A (which specify".

7 In paragraph 36 of Schedule 10 (notice of appeal), in sub-paragraph (5A)(d), for "one for which a self-certificate is due" substitute "not notifiable".

8 Omit Part 1 of Schedule 11 (SDLT: self-certificates).

9 (1) In Part 2 of that Schedule (duty to keep and preserve records), paragraph 4 is amended as follows.

(2) Before sub-paragraph (1) insert—

"(A1) This paragraph applies where a transaction is not notifiable, unless the transaction is a transaction treated as taking place under a provision listed in section 79(2)(a) to (d)."

(3) In sub-paragraph (1)—

(a) for "A purchaser who may be required to give a self-certificate" substitute "The purchaser", and

(b) in paragraph (a), for "to deliver a correct and complete certificate" substitute "to demonstrate that the transaction is not notifiable".

(4) In sub-paragraph (2), omit the words from "and" to the end.

10 Omit Part 3 of that Schedule (enquiry into self-certificate).

11 Accordingly, in the heading to Schedule 11, for "SELF-CERTIFICATES" substitute "RECORD-KEEPING WHERE TRANSACTION IS NOT NOTIFIABLE".

12 In Schedule 15 (SDLT: partnerships), in paragraph 8(2), omit "or paragraph 2(1)(c) of Schedule 11" and "or self-certificate".

13 (1) In Schedule 16 (SDLT: trusts and powers), paragraph 6 is amended as follows.

(2) In sub-paragraphs (1) and (3), omit "or self-certificate".

(3) In sub-paragraph (2), omit "or paragraph 2(1)(c) of Schedule 11" and "or self-certificate".

14 In Schedule 17A (SDLT: further provisions relating to leases), in paragraphs 3(2) and (5) and 4(1) and (4A), for "section 77" substitute "sections 77 and 77A".

FA 2007

15 In consequence of the preceding provisions of this Schedule, omit section 81 of FA 2007.

SCHEDULE 31

Section 97

STAMP DUTY LAND TAX: SPECIAL PROVISIONS FOR PROPERTY-INVESTMENT PARTNERSHIPS

PART 1

TRANSFER OF INTEREST IN PARTNERSHIP: "RELEVANT PARTNERSHIP PROPERTY"

Paragraph 14 of Schedule 15 to FA 2003

1 (1) Paragraph 14 of Schedule 15 to FA 2003 (transfer of interest in property-investment partnership) is amended as follows.

(2) After sub-paragraph (3) insert—

"(3A) A transfer to which this paragraph applies is a Type A transfer if it takes the form of arrangements entered into under which—

(a) the whole or part of a partner's interest as partner is acquired by another person (who may be an existing partner), and

(b) consideration in money or money's worth is given by or on behalf of the person acquiring the interest.

(3B) A transfer to which this paragraph applies is also a Type A transfer if it takes the form of arrangements entered into under which—

(a) a person becomes a partner,

(b) the interest of an existing partner in the partnership is reduced or an existing partner ceases to be a partner, and

(c) there is a withdrawal of money or money's worth from the partnership by the existing partner mentioned in paragraph (b) (other than money or money's worth paid from the resources available to the partnership prior to the transfer).

(3C) Any other transfer to which this paragraph applies is a Type B transfer."

(3) In sub-paragraph (5)—

(a) for "a transfer" substitute "a Type A transfer",

(b) in paragraph (a), after "any" insert "chargeable", and

(c) at the end insert ", and

(c) any chargeable interest that is not attributable economically to the interest in the partnership that is transferred."

(4) After that sub-paragraph insert—

"(5A) The "relevant partnership property", in relation to a Type B transfer of an interest in a partnership, is every chargeable interest held as partnership property immediately after the transfer, other than—

(a) any chargeable interest that was transferred to the partnership in connection with the transfer,

(b) a lease to which paragraph 15 (exclusion of market rent leases) applies,

(c) any chargeable interest that is not attributable economically to the interest in the partnership that is transferred,

(d) any chargeable interest that was transferred to the partnership on or before 22 July 2004,

(e) any chargeable interest in respect of whose transfer to the partnership an election has been made under paragraph 12A, and

(f) any other chargeable interest whose transfer to the partnership did not fall within paragraph 10(1)(a), (b) or (c)."

Consequential provision

2 In paragraph 15(1) of that Schedule (exclusion of market rent leases), after "14(5)" insert "or (5A)".

3 In paragraph 16(2) of that Schedule (application of provisions about exchanges etc), after "14(5)" insert "or (5A) (as appropriate)".

4 In paragraph 26(9) of that Schedule (application of disadvantaged areas relief), in the definition of "the relevant partnership property" in the sub-paragraph (1A) inserted by that sub-paragraph, after "14(5)" insert "or (5A) (as appropriate)".

PART 2

ELECTIONS IN RESPECT OF INTEREST TRANSFERRED TO PARTNERSHIP

Election when interest transferred to partnership

5 In paragraph 10 of Schedule 15 to FA 2003 (transfer of chargeable interest to partnership: general) insert at the end—

"(8) This paragraph has effect subject to any election under paragraph 12A."

6 After paragraph 12 insert—

"Election by property-investment partnership to disapply paragraph 10

12A (1) Paragraph 10 does not apply to a transfer of a chargeable interest to a property-investment partnership if the purchaser in relation to the transaction elects for that paragraph not to apply.

(2) Where an election under this paragraph is made in respect of a transaction—

(a) paragraph 18 (if relevant) is also disapplied,

(b) the chargeable consideration for the transaction shall be taken to be the market value of the chargeable interest transferred, and

(c) the transaction falls within Part 2 of this Schedule.

(3) An election under this paragraph must be included in the land transaction return made in respect of the transaction or in an amendment of that return.

(4) Such an election is irrevocable and a land transaction return may not be amended so as to withdraw the election.

(5) Where an election under this paragraph in respect of a transaction (the "main transaction") is made in an amendment of a land transaction return—

(a) the election has effect as if it had been made on the date on which the land transaction return was made, and

(b) any land transaction return in respect of an affected transaction may be amended (within the period allowed for amendment of that return) to take account of that election.

(6) In sub-paragraph (5) "affected transaction", in relation to the main transaction, means a transaction—

(a) to which paragraph 14 applied, and

(b) with an effective date on or after the effective date of the main transaction.

(7) In this paragraph "property-investment partnership" has the meaning given in paragraph 14(8)."

7 In paragraph 18 of that Schedule (transfer of chargeable interest from a partnership) insert at the end—

"(8) This paragraph has effect subject to any election under paragraph 12A."

Consequential provision

8 In paragraph 17A(1) of that Schedule (withdrawal of money etc from partnership after transfer of chargeable interest), after paragraph (c) insert—

"(d) at the time of the qualifying event, an election has not been made in respect of the land transfer under paragraph 12A."

9 In paragraph 26(8) of that Schedule (application of disadvantaged areas relief), in the substituted paragraph (10)—

(a) in sub-paragraph (2), insert at the end "(subject to any election under paragraph 12A)", and

(b) in sub-paragraph (4), insert at the end "(subject to any election under paragraph 12A)".

PART 3

TRANSITIONAL PROVISION

10 Omit section 72(14) of FA 2007 (saving relating to changes to Part 3 of Schedule 15 to FA 2003).

11 (1) This paragraph applies in the case of a transfer of a chargeable interest to a partnership falling within paragraph 10(1)(a), (b) or (c) of Schedule 15 to FA 2003 where the effective date of the transaction is before the day on which this Act is passed.

(2) The purchaser in relation to the transaction may at any time before the end of the period of 12 months beginning with that day amend the land transaction return in respect of that transaction so as to make an election under paragraph 12A of Schedule 15 to FA 2003 (inserted by this Schedule).

(3) An election made in reliance on sub-paragraph (2) has effect as if it had been made on the date on which the land transaction return was made, even though paragraph 12A of Schedule 15 to FA 2003 was not in force at that time.

(4) Where an election is made in reliance on sub-paragraph (2), the power under paragraph 12A(5)(b) of Schedule 15 to FA 2003 to amend a land transaction return in respect of an affected transaction to take account of that election may be exercised at any time before the end of the period of 12 months beginning with the day on which this Act is passed.

SCHEDULE 32

Section 99

STAMP DUTY: ABOLITION OF FIXED DUTY ON CERTAIN INSTRUMENTS

PART 1

ABOLITION OF FIXED DUTY

FA 1985

1 Part 3 of FA 1985 (stamp duty) is amended as follows.

2 In section 83 (transfers in connection with divorce, dissolution of civil partnership, etc), omit subsection (2) (fixed duty).

3 In section 84 (death: varying dispositions, and appropriations)—

(a) omit subsections (8) and (9) (fixed duty and adjudication), and

(b) in subsection (11) (commencement), omit the words from "and," to "subsection (8) above".

FA 1986

4 Part 3 of FA 1986 (stamp duty) is amended as follows.

5 In section 66 (company's purchase of own shares), omit subsection (2A) (fixed duty).

6 In section 67(9) (transfer of securities between depositary receipt systems), for "the stamp duty chargeable on the instrument is £5" substitute "stamp duty is not chargeable on the instrument".

7 In section 70(9) (transfer of securities between clearance systems), for "the stamp duty chargeable on the instrument is £5" substitute "stamp duty is not chargeable on the instrument".

8 In section 72A(1) (transfer of securities between depositary receipt system and clearance system), for paragraph (b) substitute—

"(b) stamp duty is not chargeable on the instrument."

FA 1999

9 FA 1999 is amended as follows.

10 (1) Schedule 13 (instruments chargeable to stamp duty and rates of duty) is amended as follows.

(2) In paragraph 1(5) (treasury shares), for the words from "any instrument" to the end substitute "sub-paragraph (1) does not apply to any instrument to which sub-paragraph (6) applies."

(3) In Part 3 (other instruments chargeable to stamp duty and rates of duty) omit—

(a) paragraph 16 (fixed duty on transfer otherwise than on sale) and the heading before it,

(b) paragraph 17 (fixed duty on declaration of use or trust) and the heading before it,

(c) paragraph 18(2) (fixed duty on disposition of certain property in Scotland),
(d) paragraph 19(1) (fixed duty on duplicate or counterpart),
(e) paragraph 21(3) (fixed duty on partition or division),
(f) paragraph 22 (fixed duty on release or renunciation) and the heading before it, and
(g) paragraph 23 (fixed duty on surrender) and the heading before it.

11 (1) Schedule 15 (stamp duty: bearer instruments) is amended as follows.

(2) Omit paragraph 6 (fixed duty on instrument given in substitution for a like instrument stamped *ad valorem*).

(3) At the beginning of Part 2 (exemptions) insert—

"Substitute instruments

12A (1) Stamp duty is not chargeable on a substitute instrument.

(2) A substitute instrument is a bearer instrument given in substitution for a like instrument stamped *ad valorem* (whether under this Schedule or otherwise) ("the original instrument").

(3) The substitute instrument shall not be treated as duly stamped unless it appears by some stamp impressed on it that the full and proper duty has been paid on the original instrument."

(4) In paragraph 20 (variation of original terms or conditions), for paragraph (b) substitute—

"(b) has been stamped in accordance with paragraph 12A, or".

(5) In paragraph 26 (instruments treated as duly stamped), omit paragraph (b) (and the "or" before it).

PART 2

CONSEQUENTIAL PROVISIONS AND SAVING

FA 1982

12 In section 129(1) of FA 1982 (exemption from duty on grants, transfers to charities etc), omit ", or paragraph 16,".

FA 1986

13 Part 3 of FA 1986 (stamp duty) is amended as follows.

14 (1) Section 67 (stamp duty on certain transfers to depositary receipt systems) is amended as follows.

(2) In subsection (1), after "instrument" insert "(other than a bearer instrument)".

(3) In subsection (3), for the words from the beginning to "then," substitute "In any other case—

(a) stamp duty is chargeable on the instrument under this subsection, and
(b) ".

(4) After subsection (9) insert—

"(9A) In this section "bearer instrument" has the meaning given in paragraph 3 of Schedule 15 to the Finance Act 1999."

15 (1) Section 70 (stamp duty on certain transfers to a clearance system) is amended as follows.

(2) In subsection (1), after "instrument" insert "(other than a bearer instrument)".

(3) In subsection (3), for the words from the beginning to "then," substitute "In any other case—

(a) stamp duty is chargeable on the instrument under this subsection, and

(b) ".

(4) After subsection (9) insert—

"(9A) In this section "bearer instrument" has the meaning given in paragraph 3 of Schedule 15 to the Finance Act 1999."

FA 1987

16 Part 3 of FA 1987 (stamp duty and stamp duty reserve tax) is amended as follows.

17 In section 50(1) (warrants to purchase Government stock, etc), omit ", or paragraph 16".

18 In section 55(1) (Crown exemption), omit ", or paragraph 16".

FA 1990

19 In section 108(1) of FA 1990 (abolition of stamp duty on transfer of securities), insert at the end "or section 67(3) or 70(3) of the Finance Act 1986 (stamp duty on certain transfers to depositary receipt systems and clearance systems)".

FA 1999

20 In Schedule 14 to FA 1999, omit paragraphs 10(b), 11(b), 12(3) and 13(3).

FA 2003

21 In Schedule 40 to FA 2003, omit paragraph 2(b).

Saving for certain land transactions

22 (1) The following provisions of this Schedule do not have effect in relation to an instrument effecting a land transaction or a duplicate or counterpart of such an instrument—

(a) paragraphs 1 to 3,

(b) paragraph 10,

(c) paragraph 12,

(d) paragraph 18, and

(e) the repeal of paragraphs 10(b) and 11(b) of Schedule 14 to FA 1999.

(2) In sub-paragraph (1) "land transaction" has the same meaning as in Part 4 of FA 2003, except that it does not include a transfer of an interest in a property-investment partnership (within the meaning of Schedule 15 of that Act).

Repeals on abolition day

23 If a day is appointed under section 111 of FA 1990 (abolition day), paragraphs 14 and 15 of this Schedule cease to have effect in accordance with section 108 of that Act.

SCHEDULE 33

Section 107

PRT: ELECTIONS FOR OIL FIELDS TO BECOME NON-TAXABLE

PART 1

NEW SCHEDULE 20A TO FA 1993

1 This is Schedule 20A to be inserted before Schedule 21 to FA 1993—

"SCHEDULE 20A

PRT: ELECTIONS FOR OIL FIELDS TO BECOME NON-TAXABLE

Election by responsible person

1 (1) The responsible person for a taxable field may make an election that the field is to be non-taxable.

(2) An election is irrevocable.

(3) The responsible person may not make an election unless each person who is a participator at the time the election is made agrees to the election being made.

(4) If the responsible person makes an election, the Commissioners may assume that each participator agrees to the election being made (unless it appears to the Commissioners that a participator does not agree).

Decision by Commissioners

2 (1) If an election is made, the Commissioners must decide whether or not the field is no longer taxable.

(2) For the purposes of this paragraph, the field is no longer taxable if it appears to the Commissioners that one or other of the following conditions is met in relation to each future chargeable period.

(3) Condition A is that no assessable profit will accrue to any participator in the field in that period.

(4) Condition B is that the assessable profit accruing to each participator in the field in that period will be equal to, or smaller

than, the cash equivalent of that participator's share of the oil allowance for the field in that period.

(5) The responsible person must give the Commissioners such information as the Commissioners may reasonably require in connection with their making a decision under sub-paragraph (1).

(6) The Commissioners may make such assumptions as they think appropriate for the purposes of making a decision under this paragraph (including assumptions about what, if any, participators there will be in the field in future chargeable periods).

(7) In this paragraph—

"assessable profit" means assessable profit before any reduction under section 7 of OTA 1975 (relief for allowable losses);

"future chargeable period", in relation to a decision by the Commissioners under this paragraph, means a chargeable period that falls at any time after the chargeable period in which the Commissioners make that decision.

3 (1) The Commissioners must give the responsible person notice of their decision under paragraph 2(1).

(2) Within one month of being given notice by the Commissioners of their decision, the responsible person must give copies of the notice to each person who is a participator, or a former participator, at the time the Commissioners' notice is given.

(3) But the responsible person is not required to give notice to any person to whom it would be impracticable to give notice.

When election has effect

4 (1) An election does not have effect unless the Commissioners decide under paragraph 2(1) that the field is no longer taxable.

(2) In such a case, the election has effect from the start of the first chargeable period to begin after the Commissioners give notice under paragraph 3.

(3) The election then continues to have effect indefinitely (unless cancelled in accordance with paragraph 6).

No unrelievable field losses from field

5 For as long as the election has effect, no allowable loss that accrues from the oil field is an allowable unrelievable field loss for the purposes of petroleum revenue tax.

Cancellation of election by Commissioners

6 (1) The Commissioners may cancel an election if, within 3 years of their giving notice under paragraph 3, it appears to them that—

(a) information that the responsible person gave the Commissioners in connection with the election was inaccurate or incomplete at the time it was given, and

(b) if the information had not been inaccurate or incomplete, the Commissioners would not have made the decision that they made under paragraph 2.

(2) For the purposes of sub-paragraph (1) it does not matter whether or not the Commissioners required the information to be given.

7 (1) If the Commissioners cancel an election, they must give notice of the cancellation—

(a) to the person who made the election, or

(b) if it is impracticable to give notice to that person, to a person who is a participator at the time the election is cancelled, or

(c) if it is impracticable to give notice to any such person, to a person who is a former participator at the time the election is cancelled;

but the Commissioners are not required to give notice to a person falling within paragraph (c) if it would be impracticable to give notice to any such person.

(2) Within one month of being given notice by the Commissioners under sub-paragraph (1), the person must give copies of the notice to each person who is a participator, or a former participator, at the time the Commissioners' notice is given.

(3) But that person is not required to give notice to any person to whom it would be impracticable to give notice.

Effect of cancellation

8 (1) If the Commissioners cancel an election under paragraph 6, the election is to be treated as though it had never had effect.

(2) But that does not make a person liable for anything that the person did, or did not do, in consequence of the election having effect before its cancellation.

(3) If the Commissioners cancel an election, the enactments relating to petroleum revenue tax apply to the oil field subject to sub-paragraphs (4) to (7).

(4) The Commissioners may specify the periods within which PRT returns for the relevant chargeable periods must be delivered.

(5) If the Commissioners specify the period within which a PRT return must be delivered, the provisions of OTA 1975 set out in sub-paragraph (6) apply to the specified period as if it were a period for the delivery of a PRT return that has been extended under paragraph 2 or 5 of Schedule 2 to OTA 1975.

(6) The provisions of OTA 1975 referred to in sub-paragraph (5) are—

(a) paragraph 12A of Schedule 2, and

(b) paragraph 2(7) and (8) of Schedule 5 (including those provisions as applied to Schedule 6 to OTA 1975 by paragraph 2 of Schedule 6).

(7) For the purposes of paragraph 4 of Schedule 2 to OTA 1975, the "initial period" is the period of thirty days beginning with the date on which the Commissioners give notice in accordance with paragraph 6 of this Schedule.

(8) The Commissioners may by regulations make transitional provision (including provision modifying enactments) applicable to cases where elections are made and subsequently cancelled under this Schedule.

(9) Regulations under sub-paragraph (8)—

(a) are to be made by statutory instrument, and

(b) are subject to annulment in pursuance of a resolution of the House of Commons.

(10) In this paragraph—

"PRT return" means a return under paragraph 2 or 5 of Schedule 2 to OTA 1975;

"relevant chargeable periods", in relation to a cancelled election, means the series of consecutive chargeable periods that—

(a) begins with the chargeable period from the start of which the election had effect, and

(b) ends with the chargeable period during which the election is cancelled.

Appeals

9 (1) The responsible person may appeal against a decision of the Commissioners under paragraph 2(1).

(2) Any such appeal must be made within 3 months of the Commissioners giving notice under paragraph 3 of their decision to the responsible person.

10 (1) A person who is a participator, or a former participator, at the time the Commissioners cancel an election under paragraph 6 may appeal against the cancellation.

(2) Any such appeal must be made within 3 months of the Commissioners giving notice under paragraph 7 of the cancellation (whether or not the notice was given to the person making the appeal).

11 (1) Any appeal under paragraph 9 or 10 must be made to the Commissioners—

(a) by notice in writing, or

(b) in any other form authorised by direction of the Commissioners.

(2) Any appeal under paragraph 9 or 10 is to be determined by the Special Commissioners.

Interpretation

12 (1) In this Schedule—

"Commissioners" means the Commissioners for Her Majesty's Revenue and Customs (except in the expression "Special Commissioners");

"election" means an election in writing, or in any other form authorised by direction of the Commissioners, made to the Commissioners;

"former participator", in relation to a particular time, means a person who—

(a) is not a participator in the chargeable period which includes that time, but

(b) was a participator in any earlier chargeable period;

"OTA 1975" means the Oil Taxation Act 1975;

"participator", in relation to a particular time, means a person who is a participator in the chargeable period which includes that time.

(2) Expressions used in this Schedule and in Part 1 of OTA 1975 have the same meaning in this Schedule as in that Part of OTA 1975."

PART 2

OTHER AMENDMENTS

OTA 1975

2 In section 6 of OTA 1975 (allowances of unrelievable loss from abandoned field), in subsection (1A), after "this Act" insert "and paragraph 5 of Schedule 20A to the Finance Act 1993".

FA 1980

3 In Schedule 17 to FA 1980 (transfers of interests in oil fields), in paragraph 15 (terminal losses), after sub-paragraph (9) insert—

"(9A) This paragraph is subject to paragraph 5 of Schedule 20A to the Finance Act 1993."

Oil Taxation Act 1983

4 In section 9 of the Oil Taxation Act 1983 (c. 56) (tariff receipts allowance), in subsection (5)(a), for the words from "other than" to the end substitute "other than—

(i) the principal field, or

(ii) an oil field that is a non-taxable field by virtue of section 185(1) or (1A) of the Finance Act 1993."

SCHEDULE 34

Section 109

OIL DECOMMISSIONING EXPENDITURE: CONSEQUENTIAL AMENDMENTS

ICTA

1 In section 393A of ICTA (losses: set off against profits), in subsections (2C)(b) and (11)(a), for "abandonment expenditure" substitute "general decommissioning expenditure".

CAA 2001

2 CAA 2001 is amended as follows.

3 In section 26 (demolition costs), in subsection (5), for "abandonment expenditure" substitute "general decommissioning expenditure".

4 In section 57 (available qualifying expenditure), in the entry in subsection (2) relating to section 165(3) of CAA 2001, for "abandonment expenditure" substitute "general decommissioning expenditure".

5 (1) Section 164 (abandonment expenditure incurred before cessation of ring fence trade) is amended as follows.

(2) In the heading, for "**abandonment expenditure**" substitute "**general decommissioning expenditure**".

(3) In subsections (1), (2)(a), (3)(a), (4)(a) and (5), for "abandonment expenditure" substitute "general decommissioning expenditure".

6 (1) Section 165 (abandonment expenditure within 3 years of ceasing ring fence trade) is amended as follows.

(2) In the heading, for "**abandonment expenditure**" substitute "general decommissioning expenditure".

(3) In subsection (1)(b) and (c), for "abandonment expenditure" substitute "general decommissioning expenditure".

(4) In subsection (3)—

(a) in paragraph (a), for "relevant abandonment cost" substitute "relevant decommissioning cost", and

(b) in paragraph (b), for "abandonment expenditure" substitute "general decommissioning expenditure".

(5) In subsection (4), in the definition of "the relevant abandonment cost"—

(a) for "relevant abandonment cost" substitute "relevant decommissioning cost", and

(b) for "abandonment expenditure", in each place, substitute "general decommissioning expenditure".

SCHEDULE 35

Section 111

SET OFF AGAINST OIL PROFITS: MINOR AND CONSEQUENTIAL AMENDMENTS

TMA 1970

1 In section 87A of TMA 1970 (interest on overdue corporation tax), in subsection (6)(a), after "set off" insert "(whether under section 393A(1) or 393B(3))".

ICTA

2 ICTA is amended as follows.

3 In section 343 (company reconstructions without change of ownership), in subsection (3), after "section 393A(1)" insert "(including a case where section 393B applies)".

4 In section 393 (losses other than terminal losses), in subsection (1), for the words after "cannot" substitute "be relieved under this subsection, or (if a claim is made under section 393A(1)) under section 393A(1) or 393B(3), against income or profits of an earlier accounting period."

5 In section 393A (losses: set off against profits of the same, or an earlier, accounting period), after subsection (2C) insert—

"(2D) Section 393B makes further provision about setting off losses in cases where subsection (2C) applies."

6 In section 768A (change in ownership: disallowance of carry back of trading losses), in subsection (1), after "section 393A(1)" insert "or 393B(3)".

7 In section 826 (interest on tax overpaid), in subsection (7A)(b), after "set off" insert "(whether under section 393A(1) or 393B(3))".

8 (1) Schedule 19B (petroleum extraction activities: exploration expenditure supplement) is amended as follows.

(2) In paragraph 1 (provision about the Schedule), in sub-paragraph (7)(b), after "section 393A" insert "or 393B".

(3) In paragraph 17 (ring fence losses and qualifying E&A losses), in sub-paragraph (2)—

(a) the words after "assumed" become sub-paragraph (a), and

(b) at the end of that sub-paragraph insert "and—

(b) that (where appropriate) section 393B applies in relation to every such claim."

9 (1) Schedule 19C (petroleum extraction activities: ring fence expenditure supplement) is amended as follows.

(2) In paragraph 1 (provision about the Schedule), in sub-paragraph (6)(b), after "section 393A" insert "or 393B".

(3) In paragraph 17 (ring fence losses)—

(a) in sub-paragraph (2), for "assumption is" substitute "assumptions are",

(b) in sub-paragraph (3), for "The assumption" substitute "The first assumption", and

(c) after that sub-paragraph insert—

"(3A) The second assumption is that (where appropriate) section 393B applies in relation to every such claim under section 393A."

FA 2000

10 (1) Schedule 20 to FA 2000 (tax relief for expenditure on research and development) is amended as follows.

(2) In paragraph 15 (entitlement to R&D tax credit)—

(a) in sub-paragraph (4)(b), after "section 393A(1)(b)" insert "or 393B(3)", and

(b) in sub-paragraph (5)(b), after "section 393A(1)(b)" insert "or 393B(3)".

(3) In paragraph 23 (treatment of deemed trading loss), in sub-paragraph (2), after "section 393A(1)(b)" insert "or 393B(3)".

SCHEDULE 36

Section 113

INFORMATION AND INSPECTION POWERS

PART 1

POWERS TO OBTAIN INFORMATION AND DOCUMENTS

Power to obtain information and documents from taxpayer

1 (1) An officer of Revenue and Customs may by notice in writing require a person ("the taxpayer")—

(a) to provide information, or

(b) to produce a document,

if the information or document is reasonably required by the officer for the purpose of checking the taxpayer's tax position.

(2) In this Schedule, "taxpayer notice" means a notice under this paragraph.

Power to obtain information and documents from third party

2 (1) An officer of Revenue and Customs may by notice in writing require a person—

(a) to provide information, or

(b) to produce a document,

if the information or document is reasonably required by the officer for the purpose of checking the tax position of another person whose identity is known to the officer ("the taxpayer").

(2) A third party notice must name the taxpayer to whom it relates, unless the First-tier Tribunal has approved the giving of the notice and disapplied this requirement under paragraph 3.

(3) In this Schedule, "third party notice" means a notice under this paragraph.

Approval etc of taxpayer notices and third party notices

3 (1) An officer of Revenue and Customs may not give a third party notice without—

(a) the agreement of the taxpayer, or

(b) the approval of the First-tier Tribunal.

(2) An officer of Revenue and Customs may ask for the approval of the First-tier Tribunal to the giving of any taxpayer notice or third party notice (and for the effect of obtaining such approval see paragraphs 29, 30 and 53 (appeals against notices and offence)).

(3) The First-tier Tribunal may not approve the giving of a taxpayer notice or third party notice unless—

(a) an application for approval is made by, or with the agreement of, an authorised officer of Revenue and Customs,

(b) the Tribunal is satisfied that, in the circumstances, the officer giving the notice is justified in doing so,

(c) the person to whom the notice is addressed has been told that the information or documents referred to in the notice are required and given a reasonable opportunity to make representations to an officer of Revenue and Customs,

(d) the First-tier Tribunal has been given a summary of any representations made by that person, and

(e) in the case of a third party notice, the taxpayer has been given a summary of the reasons why an officer of Revenue and Customs requires the information and documents.

(4) Paragraphs (c) to (e) of sub-paragraph (3) do not apply to the extent that the First-tier Tribunal is satisfied that taking the action specified in those paragraphs might prejudice the assessment or collection of tax.

(5) Where the First-tier Tribunal approves the giving of a third party notice under this paragraph, it may also disapply the requirement to name the taxpayer in the notice if it is satisfied that the officer has reasonable grounds for believing that naming the taxpayer might seriously prejudice the assessment or collection of tax.

Copying third party notice to taxpayer

4 (1) An officer of Revenue and Customs who gives a third party notice must give a copy of the notice to the taxpayer to whom it relates, unless the First-tier Tribunal has disapplied this requirement.

(2) The First-tier Tribunal may not disapply that requirement unless—

(a) an application for approval is made by, or with the agreement of, an authorised officer of Revenue and Customs, and

(b) the Tribunal is satisfied that the officer has reasonable grounds for believing that giving a copy of the notice to the taxpayer might prejudice the assessment or collection of tax.

Power to obtain information and documents about persons whose identity is not known

5 (1) An authorised officer of Revenue and Customs may by notice in writing require a person—

(a) to provide information, or

(b) to produce a document,

if the condition in sub-paragraph (2) is met.

(2) That condition is that the information or document is reasonably required by the officer for the purpose of checking the UK tax position of—

(a) a person whose identity is not known to the officer, or

(b) a class of persons whose individual identities are not known to the officer.

(3) An officer of Revenue and Customs may not give a notice under this paragraph without the approval of the First-tier Tribunal.

(4) The First-tier Tribunal may not give its approval for the purpose of this paragraph unless it is satisfied that—

(a) the notice would meet the condition in sub-paragraph (2),

(b) there are reasonable grounds for believing that the person or any of the class of persons to whom the notice relates may have failed or may fail to comply with any provision of the Taxes Acts, VATA 1994 or any other enactment relating to value added tax charged in accordance with that Act,

(c) any such failure is likely to have led or to lead to serious prejudice to the assessment or collection of UK tax, and

(d) the information or document to which the notice relates is not readily available from another source.

(5) In this paragraph "UK tax" means any tax other than relevant foreign tax and value added tax charged in accordance with the law of another member State.

Notices

6 (1) In this Schedule, "information notice" means a notice under paragraph 1, 2 or 5.

(2) An information notice may specify or describe the information or documents to be provided or produced.

(3) If an information notice is given with the approval of the First-tier Tribunal, it must state that it is given with that approval.

Complying with notices

7 (1) Where a person is required by an information notice to provide information or produce a document, the person must do so—

(a) within such period, and

(b) at such time, by such means and in such form (if any),

as is reasonably specified or described in the notice.

(2) Where an information notice requires a person to produce a document, it must be produced for inspection—

(a) at a place agreed to by that person and an officer of Revenue and Customs, or

(b) at such place as an officer of Revenue and Customs may reasonably specify.

(3) An officer of Revenue and Customs must not specify a place that is used solely as a dwelling.

(4) The production of a document in compliance with an information notice is not to be regarded as breaking any lien claimed on the document.

Producing copies of documents

8 (1) Where an information notice requires a person to produce a document, the person may comply with the notice by producing a copy of the document, subject to any conditions or exceptions set out in regulations made by the Commissioners.

(2) Sub-paragraph (1) does not apply where—

(a) the notice requires the person to produce the original document, or

(b) an officer of Revenue and Customs subsequently makes a request in writing to the person for the original document.

(3) Where an officer of Revenue and Customs requests a document under sub-paragraph (2)(b), the person to whom the request is made must produce the document—

(a) within such period, and

(b) at such time and by such means (if any),

as is reasonably requested by the officer.

Restrictions and special cases

9 This Part of this Schedule has effect subject to Parts 4 and 6 of this Schedule.

PART 2

POWERS TO INSPECT BUSINESSES ETC

Power to inspect business premises etc

10 (1) An officer of Revenue and Customs may enter a person's business premises and inspect—

(a) the premises,

(b) business assets that are on the premises, and

(c) business documents that are on the premises,

if the inspection is reasonably required for the purpose of checking that person's tax position.

(2) The powers under this paragraph do not include power to enter or inspect any part of the premises that is used solely as a dwelling.

(3) In this Schedule—

"business assets" means assets that an officer of Revenue and Customs has reason to believe are owned, leased or used in connection with the carrying on of a business by any person, excluding documents,

"business documents" means documents (or copies of documents)—

(a) that relate to the carrying on of a business by any person, and

(b) that form part of any person's statutory records, and

"business premises", in relation to a person, means premises (or any part of premises) that an officer of Revenue and Customs has reason to believe are (or is) used in connection with the carrying on of a business by or on behalf of the person.

Power to inspect premises used in connection with taxable supplies etc

11 (1) This paragraph applies where an officer of Revenue and Customs has reason to believe that—

(a) premises are used in connection with the supply of goods under taxable supplies and goods to be so supplied are on those premises,

(b) premises are used in connection with the acquisition of goods from other member States under taxable acquisitions and goods to be so acquired are on those premises, or

(c) premises are used as a fiscal warehouse.

(2) An officer of Revenue and Customs may enter the premises and inspect—

(a) the premises,

(b) any goods that are on the premises, and

(c) any documents on the premises that appear to the officer to relate to such goods.

(3) The powers under this paragraph do not include power to enter or inspect any part of the premises that is used solely as a dwelling.

(4) Terms used both in sub-paragraph (1) and in VATA 1994 have the same meaning in that sub-paragraph as they have in that Act.

Carrying out inspections

12 (1) An inspection under this Part of this Schedule may be carried out only—

(a) at a time agreed to by the occupier of the premises, or

(b) if sub-paragraph (2) is satisfied, at any reasonable time.

(2) This sub-paragraph is satisfied if—

(a) the occupier of the premises has been given at least 7 days' notice of the time of the inspection (whether in writing or otherwise), or

(b) the inspection is carried out by, or with the agreement of, an authorised officer of Revenue and Customs.

(3) An officer of Revenue and Customs seeking to carry out an inspection under sub-paragraph (2)(b) must provide a notice in writing as follows—

(a) if the occupier of the premises is present at the time the inspection is to begin, the notice must be provided to the occupier,

(b) if the occupier of the premises is not present but a person who appears to the officer to be in charge of the premises is present, the notice must be provided to that person, and

(c) in any other case, the notice must be left in a prominent place on the premises.

(4) The notice referred to in sub-paragraph (3) must state the possible consequences of obstructing the officer in the exercise of the power.

(5) If a notice referred to in sub-paragraph (3) is given with the approval of the First-tier Tribunal (see paragraph 13), it must state that it is given with that approval.

Approval of First-tier Tribunal

13 (1) An officer of Revenue and Customs may ask the First-tier Tribunal to approve an inspection under this Part of this Schedule.

(2) The First-tier Tribunal may not approve an inspection unless—

(a) an application for approval is made by, or with the agreement of, an authorised officer of Revenue and Customs, and

(b) the Tribunal is satisfied that, in the circumstances, the inspection is justified.

Restrictions and special cases

14 This Part of this Schedule has effect subject to Parts 4 and 6 of this Schedule.

PART 3

FURTHER POWERS

Power to copy documents

15 Where a document (or a copy of a document) is produced to, or inspected by, an officer of Revenue and Customs, such an officer may take copies of, or make extracts from, the document.

Power to remove documents

16 (1) Where a document is produced to, or inspected by, an officer of Revenue and Customs, such an officer may—

(a) remove the document at a reasonable time, and

(b) retain it for a reasonable period,

if it appears to the officer to be necessary to do so.

(2) Where a document is removed in accordance with sub-paragraph (1), the person who produced the document may request—

(a) a receipt for the document, and

(b) if the document is reasonably required for any purpose, a copy of the document,

and an officer of Revenue and Customs must comply with such a request without charge.

(3) The removal of a document under this paragraph is not to be regarded as breaking any lien claimed on the document.

(4) Where a document removed under this paragraph is lost or damaged, the Commissioners are liable to compensate the owner of the document for any expenses reasonably incurred in replacing or repairing the document.

(5) In this paragraph references to a document include a copy of a document.

Power to mark assets and to record information

17 The powers under Part 2 of this Schedule include—

(a) power to mark business assets, and anything containing business assets, for the purpose of indicating that they have been inspected, and

(b) power to obtain and record information (whether electronically or otherwise) relating to the premises, assets and documents that have been inspected.

PART 4

RESTRICTIONS ON POWERS

Documents not in person's possession or power

18 An information notice only requires a person to produce a document if it is in the person's possession or power.

Types of information

19 (1) An information notice does not require a person to provide or produce—

(a) information that relates to the conduct of a pending appeal relating to tax or any part of a document containing such information, or

(b) journalistic material (as defined in section 13 of the Police and Criminal Evidence Act 1984 (c. 60)) or information contained in such material.

(2) An information notice does not require a person to provide or produce personal records (as defined in section 12 of the Police and Criminal Evidence Act 1984) or information contained in such records, subject to sub-paragraph (3).

(3) An information notice may require a person—

(a) to produce documents, or copies of documents, that are personal records, omitting any information whose inclusion (whether alone or with other information) makes the original documents personal records ("personal information"), and

(b) to provide any information contained in such records that is not personal information.

Old documents

20 An information notice may not require a person to produce a document if the whole of the document originates more than 6 years before the date of the notice, unless the notice is given by, or with the agreement of, an authorised officer.

Taxpayer notices

21 (1) Where a person has made a tax return in respect of a chargeable period under section 8, 8A or 12AA of TMA 1970 (returns for purpose of income tax and capital gains tax), a taxpayer notice may not be given for the purpose of checking that person's income tax position or capital gains tax position in relation to the chargeable period.

(2) Where a person has made a tax return in respect of a chargeable period under paragraph 3 of Schedule 18 to FA 1998 (company tax returns), a taxpayer notice may not be given for the purpose of checking that person's corporation tax position in relation to the chargeable period.

(3) Sub-paragraphs (1) and (2) do not apply where, or to the extent that, any of conditions A to D is met.

(4) Condition A is that a notice of enquiry has been given in respect of—

(a) the return, or

(b) a claim or election (or an amendment of a claim or election) made by the person in relation to the chargeable period in respect of the tax (or one of the taxes) to which the return relates ("relevant tax"),

and the enquiry has not been completed.

(5) In sub-paragraph (4), "notice of enquiry" means a notice under—

(a) section 9A or 12AC of, or paragraph 5 of Schedule 1A to, TMA 1970, or

(b) paragraph 24 of Schedule 18 to FA 1998.

(6) Condition B is that an officer of Revenue and Customs has reason to suspect that—

(a) an amount that ought to have been assessed to relevant tax for the chargeable period may not have been assessed,

(b) an assessment to relevant tax for the chargeable period may be or have become insufficient, or

(c) relief from relevant tax given for the chargeable period may be or have become excessive.

(7) Condition C is that the notice is given for the purpose of obtaining any information or document that is also required for the purpose of checking that person's VAT position.

(8) Condition D is that the notice is given for the purpose of obtaining any information or document that is required (or also required) for the purpose of checking the person's position as regards any deductions or repayments referred to in paragraph 64(2) (PAYE etc).

Deceased persons

22 An information notice given for the purpose of checking the tax position of a person who has died may not be given more than 4 years after the person's death.

Privileged communications between professional legal advisers and clients

23 (1) An information notice does not require a person—

(a) to provide privileged information, or

(b) to produce any part of a document that is privileged.

(2) For the purpose of this Schedule, information or a document is privileged if it is information or a document in respect of which a claim to legal professional privilege, or (in Scotland) to confidentiality of communications as between client and professional legal adviser, could be maintained in legal proceedings.

(3) The Commissioners may by regulations make provision for the resolution by the First-tier Tribunal of disputes as to whether any information or document is privileged.

(4) The regulations may, in particular, make provision as to—

(a) the custody of a document while its status is being decided, and

(b) the procedures to be followed.

Auditors

24 (1) An information notice does not require a person who has been appointed as an auditor for the purpose of an enactment—

(a) to provide information held in connection with the performance of the person's functions under that enactment, or

(b) to produce documents which are that person's property and which were created by that person or on that person's behalf for or in connection with the performance of those functions.

(2) Sub-paragraph (1) has effect subject to paragraph 26.

Tax advisers

25 (1) An information notice does not require a tax adviser—

(a) to provide information about relevant communications, or

(b) to produce documents which are the tax adviser's property and consist of relevant communications.

(2) Sub-paragraph (1) has effect subject to paragraph 26.

(3) In this paragraph—

"relevant communications" means communications between the tax adviser and—

(a) a person in relation to whose tax affairs he has been appointed, or

(b) any other tax adviser of such a person,

the purpose of which is the giving or obtaining of advice about any of those tax affairs, and

"tax adviser" means a person appointed to give advice about the tax affairs of another person (whether appointed directly by that person or by another tax adviser of that person).

Auditors and tax advisers: supplementary

26 (1) Paragraphs 24(1) and 25(1) do not have effect in relation to—

(a) information explaining any information or document which the person to whom the notice is given has, as tax accountant, assisted any client in preparing for, or delivering to, HMRC, or

(b) a document which contains such information.

(2) In the case of a notice given under paragraph 5, paragraphs 24(1) and 25(1) do not have effect in relation to—

(a) any information giving the identity or address of a person to whom the notice relates or of a person who has acted on behalf of such a person, or

(b) a document which contains such information.

(3) Paragraphs 24(1) and 25(1) are not disapplied by sub-paragraph (1) or (2) if the information in question has already been provided, or a document containing the information in question has already been produced, to an officer of Revenue and Customs.

27 (1) This paragraph applies where paragraph 24(1) or 25(1) is disapplied in relation to a document by paragraph 26(1) or (2).

(2) An information notice that requires the document to be produced has effect as if it required any part or parts of the document containing the information mentioned in paragraph 26(1) or (2) to be produced.

Corresponding restrictions on inspection of business documents

28 An officer of Revenue and Customs may not inspect a business document under Part 2 of this Schedule if or to the extent that, by virtue of this Part of this Schedule, an information notice given at the time of the inspection to the occupier of the premises could not require the occupier to produce the document.

PART 5

APPEALS AGAINST INFORMATION NOTICES

Right to appeal against taxpayer notice

29 (1) Where a taxpayer is given a taxpayer notice, the taxpayer may appeal to the First-tier Tribunal against the notice or any requirement in the notice.

(2) Sub-paragraph (1) does not apply to a requirement in a taxpayer notice to provide any information, or produce any document, that forms part of the taxpayer's statutory records.

(3) Sub-paragraph (1) does not apply if the First-tier Tribunal approved the giving of the notice in accordance with paragraph 3.

Right to appeal against third party notice

30 (1) Where a person is given a third party notice, the person may appeal to the First-tier Tribunal against the notice or any requirement in the notice on the ground that it would be unduly onerous to comply with the notice or requirement.

(2) Sub-paragraph (1) does not apply to a requirement in a third party notice to provide any information, or produce any document, that forms part of the taxpayer's statutory records.

(3) Sub-paragraph (1) does not apply if the First-tier Tribunal approved the giving of the notice in accordance with paragraph 3.

Right to appeal against notice given under paragraph 5

31 Where a person is given a notice under paragraph 5, the person may appeal to the First-tier Tribunal against the notice or any requirement in the notice

on the ground that it would be unduly onerous to comply with the notice or requirement.

Procedure

32 (1) Notice of an appeal under this Part of this Schedule must be given—
(a) in writing,
(b) before the end of the period of 30 days beginning with the date on which the information notice is given, and
(c) to the officer of Revenue and Customs by whom the information notice was given.

(2) Notice of an appeal under this Part of this Schedule must state the grounds of appeal.

(3) On an appeal the First-tier Tribunal may—
(a) confirm the information notice or a requirement in the information notice,
(b) vary the information notice or such a requirement, or
(c) set aside the information notice or such a requirement.

(4) Where the First-tier Tribunal confirms or varies the information notice or a requirement, the person to whom the information notice was given must comply with the notice or requirement—
(a) within such period as is specified by the Tribunal, or
(b) if the Tribunal does not specify a period, within such period as is reasonably specified in writing by an officer of Revenue and Customs following the Tribunal's decision.

(5) A decision by the First-tier Tribunal on an appeal under this Part of this Schedule is final.

(6) Subject to this paragraph, the provisions of Part 5 of TMA 1970 relating to appeals have effect in relation to appeals under this Part of this Schedule as they have effect in relation to an appeal against an assessment to income tax.

Special cases

33 This Part of this Schedule has effect subject to Part 6 of this Schedule.

PART 6

SPECIAL CASES

Supply of goods or services etc

34 (1) This paragraph applies to a taxpayer notice or third party notice that refers only to information or documents that form part of any person's statutory records and relate to—
(a) the supply of goods or services,
(b) the acquisition of goods from another member State, or
(c) the importation of goods from a place outside the member States in the course of carrying on a business.

(2) Paragraph 3(1) (requirement for consent to, or approval of, third party notice) does not apply to such a notice.

(3) Where a person is given such a notice, the person may not appeal to the First-tier Tribunal against the notice or any requirement in the notice.

(4) Sections 5, 11 and 15 of, and Schedule 4 to, VATA 1994, and any orders made under those provisions, apply for the purposes of this paragraph as if it were part of that Act.

Groups of undertakings

35 (1) This paragraph applies where an undertaking is a parent undertaking in relation to another undertaking (a subsidiary undertaking).

(2) Where a third party notice is given to any person for the purpose of checking the tax position of the parent undertaking and any of its subsidiary undertakings, paragraph 2 only requires the notice to state this and name the parent undertaking.

(3) In relation to such a notice—

(a) in paragraphs 3 and 4 (approval etc of notices and copying third party notices to taxpayer), the references to the taxpayer have effect as if they were references to the parent undertaking, but

(b) in paragraph 30(2) (no appeal in relation to taxpayer's statutory records), the reference to the taxpayer has effect as if it were a reference to the parent undertaking and each of its subsidiary undertakings.

(4) Where a third party notice is given to the parent undertaking for the purpose of checking the tax position of one or more subsidiary undertakings—

(a) paragraphs 3(1) and 4(1) (approval etc of notices and copying third party notices to taxpayer) do not apply to the notice, but

(b) paragraph 21 (restrictions on giving taxpayer notice where taxpayer has made tax return) applies as if the notice was a taxpayer notice or taxpayer notices given to the subsidiary undertaking or each of the subsidiary undertakings.

(5) Where a notice is given under paragraph 5 to the parent undertaking for the purpose of checking the tax position of one or more subsidiary undertakings whose identities are not known to the officer giving the notice, sub-paragraph (3) of that paragraph (approval of First-tier Tribunal) does not apply.

(6) Where a third party notice or a notice under paragraph 5 is given to the parent undertaking for the purpose of checking the tax position of one or more subsidiary undertakings, the parent undertaking may not appeal against a requirement in the notice to produce any document that forms part of the statutory records of the parent undertaking or any of its subsidiary undertakings.

(7) In this paragraph "parent undertaking", "subsidiary undertaking" and "undertaking" have the same meaning as in the Companies Acts (see sections 1161 and 1162 of, and Schedule 7 to, the Companies Act 2006 (c. 46)).

Change of ownership of companies

36 (1) Sub-paragraph (2) applies where it appears to the Commissioners that—

(a) there has been a change in the ownership of a company, and

(b) in connection with that change a person ("the seller") may be or become liable to be assessed and charged to corporation tax under section 767A or 767AA of ICTA.

(2) Paragraph 21 (restrictions on giving taxpayer notice where taxpayer has made tax return) does not apply in relation to a taxpayer notice given to the seller.

(3) Section 769 of ICTA applies for the purposes of determining when there has been a change in the ownership of a company.

Partnerships

37 (1) This paragraph applies where a business is carried on by two or more persons in partnership.

(2) If a tax return has been made by any of the partners under section 12AA of TMA 1970 (partnership returns) in respect of a chargeable period—

(a) paragraph 21 (restrictions where taxpayer has made tax return) has effect as if that return had been made by each of the partners in respect of that chargeable period, and

(b) for the purpose of that paragraph, Condition A is met in relation to a partner if a notice of enquiry has been given, and an enquiry has not been completed, in respect of that return or any other return mentioned in paragraph 21(1) or (2) made by the partner in respect of the chargeable period in question.

(3) Where a third party notice is given to any person (other than one of the partners) for the purpose of checking the tax position of more than one of the partners (in their capacity as such), paragraph 2 only requires the notice to state this and give a name in which the partnership is registered for any purpose.

(4) In relation to such a notice—

(a) in paragraphs 3 and 4 (approval etc of notices and copying third party notices to taxpayer), the references to the taxpayer have effect as if they were references to at least one of the partners, and

(b) in paragraph 30(2) (no appeal in relation to taxpayer's statutory records), the reference to the taxpayer has effect as if it were a reference to each of the partners.

(5) Where a third party notice is given to one of the partners for the purpose of checking the tax position of one or more of the other partners (in their capacity as such), paragraphs 3(1) and 4(1) (approval etc of notices and copying third party notices to taxpayer) do not apply.

(6) Where a notice is given under paragraph 5 to one of the partners for the purpose of checking the tax position of one or more of the other partners whose identities are not known to the officer giving the notice, sub-paragraph (3) of that paragraph (approval of First-tier Tribunal) does not apply.

(7) Where a third party notice or a notice under paragraph 5 is given to one of the partners for the purpose of checking the tax position of one or more of the other partners, that partner may not appeal against a requirement in the notice to produce any document that forms part of that partner's statutory records.

Application to the Crown

38 This Schedule (other than Part 8) applies to the Crown, but not to Her Majesty in Her private capacity (within the meaning of the Crown Proceedings Act 1947 (c. 44)).

PART 7

PENALTIES

Standard penalties

39 (1) This paragraph applies to a person who—

(a) fails to comply with an information notice, or

(b) deliberately obstructs an officer of Revenue and Customs in the course of an inspection under Part 2 of this Schedule that has been approved by the First-tier Tribunal.

(2) A person to whom this paragraph applies is liable to a penalty of £300.

(3) The reference in this paragraph to a person who fails to comply with an information notice includes a person who conceals, destroys or otherwise disposes of, or arranges for the concealment, destruction or disposal of, a document in breach of paragraph 42 or 43.

Daily default penalties

40 (1) This paragraph applies if the failure or obstruction mentioned in paragraph 39(1) continues after the date on which a penalty is imposed under that paragraph in respect of the failure or obstruction.

(2) The person is liable to a further penalty or penalties not exceeding £60 for each subsequent day on which the failure or obstruction continues.

Power to change amount of standard and daily default penalties

41 (1) If it appears to the Treasury that there has been a change in the value of money since the last relevant date, they may by regulations substitute for the sums for the time being specified in paragraphs 39(2) and 40(2) such other sums as appear to them to be justified by the change.

(2) In sub-paragraph (1) "relevant date" means—

(a) the date on which this Act is passed, and

(b) each date on which the power conferred by that sub-paragraph has been exercised.

(3) Regulations under this paragraph do not apply to any failure or obstruction which began before the date on which they come into force.

Concealing, destroying etc documents following information notice

42 (1) A person must not conceal, destroy or otherwise dispose of, or arrange for the concealment, destruction or disposal of, a document that is the subject of an information notice addressed to the person (subject to sub-paragraphs (2) and (3)).

(2) Sub-paragraph (1) does not apply if the person acts after the document has been produced to an officer of Revenue and Customs in accordance with the information notice, unless an officer of Revenue and Customs has notified the person in writing that the document must continue to be available for inspection (and has not withdrawn the notification).

(3) Sub-paragraph (1) does not apply, in a case to which paragraph 8(1) applies, if the person acts after the expiry of the period of 6 months beginning with the day on which a copy of the document was produced in accordance with that paragraph unless, before the expiry of that period, an officer of Revenue and Customs made a request for the original document under paragraph 8(2)(b).

Concealing, destroying etc documents following informal notification

43 (1) A person must not conceal, destroy or otherwise dispose of, or arrange for the concealment, destruction or disposal of, a document if an officer of Revenue and Customs has informed the person that the document is, or is likely, to be the subject of an information notice addressed to that person (subject to sub-paragraph (2)).

(2) Sub-paragraph (1) does not apply if the person acts after—

(a) at least 6 months has expired since the person was, or was last, so informed, or

(b) an information notice has been given to the person requiring the document to be produced.

Failure to comply with time limit

44 A failure by a person to do anything required to be done within a limited period of time does not give rise to liability to a penalty under paragraph 39 or 40 if the person did it within such further time, if any, as an officer of Revenue and Customs may have allowed.

Reasonable excuse

45 (1) Liability to a penalty under paragraph 39 or 40 does not arise if the person satisfies HMRC or (on appeal) the First-tier Tribunal that there is a reasonable excuse for the failure or the obstruction of an officer of Revenue and Customs.

(2) For the purposes of this paragraph—

(a) an insufficiency of funds is not a reasonable excuse unless attributable to events outside the person's control,

(b) where the person relies on any other person to do anything, that is not a reasonable excuse unless the first person took reasonable care to avoid the failure or obstruction, and

(c) where the person had a reasonable excuse for the failure or obstruction but the excuse has ceased, the person is to be treated as

having continued to have the excuse if the failure is remedied, or the obstruction stops, without unreasonable delay after the excuse ceased.

Assessment of standard penalty or daily default penalty

46 (1) Where a person becomes liable for a penalty under paragraph 39 or 40, HMRC may—

(a) assess the penalty, and

(b) notify the person.

(2) An assessment of a penalty under paragraph 39 or 40 must be made within 12 months of the relevant date.

(3) In sub-paragraph (2) "the relevant date" means—

(a) in a case involving an information notice against which a person may appeal, the later of—

(i) the end of the period in which notice of an appeal against the information notice could have been given, and

(ii) if notice of an appeal against the information notice is given, the date on which the appeal is determined or withdrawn, and

(b) in any other case, the date on which the person became liable to the penalty.

Right to appeal against standard penalty or daily default penalty

47 A person may appeal to the First-tier Tribunal against any of the following decisions of an officer of Revenue and Customs—

(a) a decision that a penalty is payable by that person under paragraph 39 or 40, or

(b) a decision as to the amount of such a penalty.

Procedure on appeal against standard penalty or daily default penalty

48 (1) Notice of an appeal under paragraph 47 must be given—

(a) in writing,

(b) before the end of the period of 30 days beginning with the date on which the notification under paragraph 46 was issued, and

(c) to HMRC.

(2) Notice of an appeal under paragraph 47 must state the grounds of appeal.

(3) On an appeal under paragraph 47(a), the First-tier Tribunal may confirm or cancel the decision.

(4) On an appeal under paragraph 47(b), the First-tier Tribunal may—

(a) confirm the decision, or

(b) substitute for the decision another decision that the officer of Revenue and Customs had power to make.

(5) Subject to this paragraph and paragraph 49, the provisions of Part 5 of TMA 1970 relating to appeals have effect in relation to appeals under this Part of this Schedule as they have effect in relation to an appeal against an assessment to income tax.

Enforcement of standard penalty or daily default penalty

49 (1) A penalty under paragraph 39 or 40 must be paid—

(a) before the end of the period of 30 days beginning with the date on which the notification under paragraph 46 was issued, or

(b) if a notice of an appeal against the penalty is given, before the end of the period of 30 days beginning with the date on which the appeal is determined or withdrawn.

(2) A penalty under paragraph 39 or 40 may be enforced as if it were income tax charged in an assessment and due and payable.

Tax-related penalty

50 (1) This paragraph applies where—

(a) a person becomes liable to a penalty under paragraph 39,

(b) the failure or obstruction continues after a penalty is imposed under that paragraph,

(c) an officer of Revenue and Customs has reason to believe that, as a result of the failure or obstruction, the amount of tax that the person has paid, or is likely to pay, is significantly less than it would otherwise have been,

(d) before the end of the period of 12 months beginning with the relevant date (within the meaning of paragraph 46), an officer of Revenue and Customs makes an application to the Upper Tribunal for an additional penalty to be imposed on the person, and

(e) the Upper Tribunal decides that it is appropriate for an additional penalty to be imposed.

(2) The person is liable to a penalty of an amount decided by the Upper Tribunal.

(3) In deciding the amount of the penalty, the Upper Tribunal must have regard to the amount of tax which has not been, or is not likely to be, paid by the person.

(4) Where a person becomes liable to a penalty under this paragraph, HMRC must notify the person.

(5) Any penalty under this paragraph is in addition to the penalty or penalties under paragraph 39 or 40.

(6) In the application of the following provisions, no account shall be taken of a penalty under this paragraph—

(a) section 97A of TMA 1970 (multiple penalties),

(b) paragraph 12(2) of Schedule 24 to FA 2007 (interaction with other penalties), and

(c) paragraph 15(1) of Schedule 41 (interaction with other penalties).

Enforcement of tax-related penalty

51 (1) A penalty under paragraph 50 must be paid before the end of the period of 30 days beginning with the date on which the notification of the penalty is issued.

(2) A penalty under paragraph 50 may be enforced as if it were income tax charged in an assessment and due and payable.

Double jeopardy

52 A person is not liable to a penalty under this Schedule in respect of anything in respect of which the person has been convicted of an offence.

PART 8

OFFENCE

Concealing etc documents following information notice

53 (1) A person is guilty of an offence (subject to sub-paragraphs (2) and (3)) if—

(a) the person is required to produce a document by an information notice,

(b) the First-tier Tribunal approved the giving of the notice in accordance with paragraph 3 or 5, and

(c) the person conceals, destroys or otherwise disposes of, or arranges for the concealment, destruction or disposal of, that document.

(2) Sub-paragraph (1) does not apply if the person acts after the document has been produced to an officer of Revenue and Customs in accordance with the information notice, unless an officer of Revenue and Customs has notified the person in writing that the document must continue to be available for inspection (and has not withdrawn the notification).

(3) Sub-paragraph (1) does not apply, in a case to which paragraph 8(1) applies, if the person acts after the expiry of the period of 6 months beginning with the day on which a copy of the document was so produced unless, before the expiry of that period, an officer of Revenue and Customs made a request for the original document under paragraph 8(2)(b).

Concealing etc documents following informal notification

54 (1) A person is also guilty of an offence (subject to sub-paragraph (2)) if the person conceals, destroys or otherwise disposes of, or arranges for the concealment, destruction or disposal of a document after the person has been informed by an officer of Revenue and Customs in writing that—

(a) the document is, or is likely, to be the subject of an information notice addressed to that person, and

(b) an officer of Revenue and Customs intends to seek the approval of the First-tier Tribunal to the giving of the notice under paragraph 3 or 5 in respect of the document.

(2) A person is not guilty of an offence under this paragraph if the person acts after—

(a) at least 6 months has expired since the person was, or was last, so informed, or

(b) an information notice has been given to the person requiring the document to be produced.

Fine or imprisonment

55 A person who is guilty of an offence under this Part of this Schedule is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum, and

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or both.

PART 9

MISCELLANEOUS PROVISIONS AND INTERPRETATION

Application of provisions of TMA 1970

56 Subject to the provisions of this Schedule, the following provisions of TMA 1970 apply for the purposes of this Schedule as they apply for the purposes of the Taxes Acts—

(a) section 108 (responsibility of company officers),

(b) section 114 (want of form), and

(c) section 115 (delivery and service of documents).

Regulations under this Schedule

57 (1) Regulations made by the Commissioners or the Treasury under this Schedule are to be made by statutory instrument.

(2) A statutory instrument containing regulations under this Schedule is subject to annulment in pursuance of a resolution of the House of Commons.

General interpretation

58 In this Schedule—

"checking" includes carrying out an investigation or enquiry of any kind,

"the Commissioners" means the Commissioners for Her Majesty's Revenue and Customs,

"document" includes a part of a document (except where the context otherwise requires),

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

"HMRC" means Her Majesty's Revenue and Customs,

"premises" includes—

(a) any building or structure,

(b) any land, and

(c) any means of transport,

"the Taxes Acts" means—

(a) TMA 1970,

(b) the Tax Acts, and

(c) TCGA 1992 and all other enactments relating to capital gains tax, and

"taxpayer", in relation to a taxpayer notice or a third party notice, has the meaning given in paragraph 1(1) or 2(1) (as appropriate).

Authorised officer of Revenue and Customs

59 A reference in a provision of this Schedule to an authorised officer of Revenue and Customs is a reference to an officer of Revenue and Customs who is, or is a member of a class of officers who are, authorised by the Commissioners for the purpose of that provision.

Business

60 (1) In this Schedule (subject to regulations under this paragraph), references to carrying on a business include—

(a) the letting of property,

(b) the activities of a charity, and

(c) the activities of a government department, a local authority, a local authority association and any other public authority.

(2) In sub-paragraph (1)—

"charity" means a body of persons or trust established for charitable purposes only,

"local authority" has the meaning given in section 999 of ITA 2007, and

"local authority association" has the meaning given in section 1000 of that Act.

(3) The Commissioners may by regulations provide that for the purposes of this Schedule—

(a) the carrying on of an activity specified in the regulations, or

(b) the carrying on of such an activity (or any activity) by a person specified in the regulations,

is or is not to be treated as the carrying on of a business.

Chargeable period

61 In this Schedule "chargeable period" means—

(a) in relation to income tax or capital gains tax, a tax year, and

(b) in relation to corporation tax, an accounting period.

Statutory records

62 (1) For the purposes of this Schedule, information or a document forms part of a person's statutory records if it is information or a document which the person is required to keep and preserve under or by virtue of—

(a) the Taxes Acts, or

(b) VATA 1994 or any other enactment relating to value added tax charged in accordance with that Act,

subject to the following provisions of this paragraph.

(2) To the extent that any information or document that is required to be kept and preserved under or by virtue of the Taxes Acts—

(a) does not relate to the carrying on of a business, and

(b) is not also required to be kept or preserved under or by virtue of VATA 1994 or any other enactment relating to value added tax,

it only forms part of a person's statutory records to the extent that the chargeable period or periods to which it relates has or have ended.

(3) Information and documents cease to form part of a person's statutory records when the period for which they are required to be preserved by the enactments mentioned in sub-paragraph (1) has expired.

Tax

63 (1) In this Schedule, except where the context otherwise requires, "tax" means all or any of the following—

(a) income tax,
(b) capital gains tax,
(c) corporation tax,
(d) VAT, and
(e) relevant foreign tax,

and references to "a tax" are to be interpreted accordingly.

(2) In this Schedule "corporation tax" includes any amount assessable or chargeable as if it were corporation tax.

(3) In this Schedule "VAT" means—

(a) value added tax charged in accordance with VATA 1994, and
(b) value added tax charged in accordance with the law of another member State,

and includes any amount that is recoverable under paragraph 5(2) of Schedule 11 to VATA 1994 (amounts shown on invoices as VAT).

(4) In this Schedule "relevant foreign tax" means—

(a) a tax of a member State, other than the United Kingdom, which is covered by the provisions for the exchange of information under the Directive of the Council of the European Communities dated 19 December 1977 No. 77/799/EEC (as amended from time to time), and
(b) any tax or duty which is imposed under the law of a territory in relation to which arrangements having effect by virtue of section 173 of FA 2006 (international tax enforcement arrangements) have been made and which is covered by the arrangements.

Tax position

64 (1) In this Schedule, except as otherwise provided, "tax position", in relation to a person, means the person's position as regards any tax, including the person's position as regards—

(a) past, present and future liability to pay any tax,
(b) penalties and other amounts that have been paid, or are or may be payable, by or to the person in connection with any tax, and
(c) claims, elections, applications and notices that have been or may be made or given in connection with any tax,

and references to a person's position as regards a particular tax (however expressed) are to be interpreted accordingly.

(2) References in this Schedule to a person's tax position include, where appropriate, a reference to the person's position as regards any deductions or repayments of tax, or of sums representing tax, that the person is required to make—

(a) under PAYE regulations,

(b) under Chapter 3 of Part 3 of FA 2004 or regulations made under that Chapter (construction industry scheme), or

(c) by or under any other provision of the Taxes Acts.

(3) References in this Schedule to the tax position of a person include the tax position of—

(a) a company that has ceased to exist, and

(b) an individual who has died.

(4) References in this Schedule to a person's tax position are to the person's tax position at any time or in relation to any period, unless otherwise stated.

PART 10

CONSEQUENTIAL PROVISIONS

TMA 1970

65 TMA 1970 is amended as follows.

66 Omit section 19A (power to call for documents for purposes of enquiries).

67 Omit section 20 (power to call for documents of taxpayer and others).

68 (1) Section 20B (restrictions on powers to call for documents under ss20 and 20A) is amended as follows.

(2) In the heading, for "**ss 20 and**" substitute "**section**".

(3) In subsection (1)—

(a) omit "under section 20(1), (3) or (8A), or",

(b) omit "(or, in the case of section 20(3), to deliver or make available)",

(c) omit ", or to furnish the particulars in question", and

(d) omit "section 20(7) or (8A) or, as the case may be,".

(4) Omit subsections (1A) and (1B).

(5) In subsection (2), omit from the beginning to "taxpayer; and".

(6) In subsection (3)—

(a) omit "under section 20(1) or (3) or", and

(b) omit "section 20(3) and (4) and".

(7) In subsection (4)—

(a) omit "section 20(1) or", and

(b) omit ", and as an alternative to delivering documents to comply with a notice under section 20(3) or (8A)".

(8) Omit subsections (5), (6) and (7).

(9) In subsection (8), omit "section 20(3) or (8A) or".

(10) Omit subsections (9) to (14).

69 (1) Section 20BB (falsification etc. of documents) is amended as follows.

(2) In subsection (1)(a), omit "20 or".

(3) In subsection (2)(b), omit "or, in a case within section 20(3) or (8A) above, inspected".

70 (1) Section 20D (interpretation) is amended as follows.

(2) In subsection (2), for "sections 20 and" substitute "section".

(3) Omit subsection (3).

71 In section 29(6)(c) (assessment where loss of tax discovered), omit ", whether in pursuance of a notice under section 19A of this Act or otherwise".

72 Omit section 97AA (failure to produce documents under section 19A).

73 In section 98 (penalties), in the Table—

(a) in the first column, omit the entry for section 767C of ICTA, and

(b) in the second column, omit the entry for section 28(2) of F(No.2)A 1992.

74 In section 100(2) (exclusions from provisions relating to determination of penalties under the Taxes Acts), insert at the end "or

(g) Schedule 36 to the Finance Act 2008."

75 (1) Section 107A (relevant trustees) is amended as follows.

(2) In subsection (2)(a), for ", 95 or 97AA" substitute 'or 95'.

(3) In subsection (3)(a), omit "or 97AA(1)(b)".

76 In section 118 (interpretation), in the definition of "tax", omit "20,".

77 In Schedule 1A (claims etc. not included in returns), omit paragraphs 6 and 6A (power to call for documents for purposes of enquiries and power to appeal against notice to produce documents).

National Savings Bank Act 1971 (c. 29)

78 In section 12(3) (secrecy), for the words from "and of section 20(3)" to the end substitute "and of Schedule 36 to the Finance Act 2008 (powers of officers of Revenue and Customs to obtain information and documents and inspect business premises)".

ICTA

79 ICTA is amended as follows.

80 In section 767B (change of company ownership: supplementary), in subsection (4), for ", 767AA and 767C" substitute "and 767AA".

81 Omit section 767C (change in company ownership: information).

82 In section 769 (rules for ascertaining change in ownership of company)—

(a) in subsections (1) and (5), omit ", 767C", and

(b) in subsections (2A) and (9), for ", 767AA or 767C" substitute "or 767AA".

FA 1990

83 In section 125 of FA 1990 (information for tax authorities in other member States)—

(a) omit subsections (1) and (2),

(b) in subsection (3), for "the Directive mentioned in subsection (1) above" substitute "the Directive of the Council of the European Communities dated 19 December 1977 No. 77/799/EEC (the "1977 Directive")",

(c) in subsection (4), for "such as is mentioned in subsection (1) above" substitute "which is covered by the provisions for the exchange of information under the 1977 Directive", and

(d) in subsection (6), omit the words from the beginning to "passed,".

Social Security Administration Act 1992 (c. 5)

84 In section 110ZA of the Social Security Administration Act 1992 (Class 1, 1A, 1B or 2 contributions: powers to call for documents etc), for subsections (1) and (2) substitute—

"(1) Schedule 36 to the Finance Act 2008 (information and inspection powers) applies for the purpose of checking a person's position as regards relevant contributions as it applies for the purpose of checking a person's tax position, subject to the modifications in subsection (2).

(2) That Schedule applies as if—

(a) references to any provision of the Taxes Acts were to any provision of this Act or the Contributions and Benefits Act relating to relevant contributions,

(b) references to prejudice to the assessment or collection of tax were to prejudice to the assessment of liability for, and payment of, relevant contributions,

(c) the reference to information relating to the conduct of a pending appeal relating to tax were a reference to information relating to the conduct of a pending appeal relating to relevant contributions, and

(d) paragraphs 21, 35(4)(b), 36 and 37(2) of that Schedule (restrictions on giving taxpayer notice where taxpayer has made tax return) were omitted."

Social Security Administration (Northern Ireland) Act 1992 (c. 8)

85 In section 104ZA of the Social Security Administration (Northern Ireland) Act 1992 (Class 1, 1A, 1B or 2 contributions: powers to call for documents etc), for subsections (1) and (2) substitute—

"(1) Schedule 36 to the Finance Act 2008 (information and inspection powers) applies for the purpose of checking a person's position as regards relevant contributions as it applies for the purpose of checking a person's tax position, subject to the modifications in subsection (2).

(2) That Schedule applies as if—

(a) references to any provision of the Taxes Acts were to any provision of this Act or the Contributions and Benefits Act relating to relevant contributions,

(b) references to prejudice to the assessment or collection of tax were to prejudice to the assessment of liability for, and payment of, relevant contributions,

(c) the reference to information relating to the conduct of a pending appeal relating to tax were a reference to information relating to the conduct of a pending appeal relating to relevant contributions, and

(d) paragraphs 21, 35(4)(b), 36 and 37(2) of that Schedule (restrictions on giving taxpayer notice where taxpayer has made tax return) were omitted."

F(No.2)A 1992

86 Omit section 28(1) to (3) (powers of inspection).

VATA 1994

87 (1) Schedule 11 to VATA 1994 is amended as follows.

(2) In paragraph 7 (furnishing information and producing documents), omit sub-paragraphs (2) to (9).

(3) In paragraph 10 (entry and search of premises and persons), omit sub-paragraphs (1) to (2A).

FA 1998

88 In Schedule 18 to FA 1998 (company tax returns), omit paragraphs 27, 28 and 29 (notice to produce documents etc. for purposes of enquiry into company tax return, power to appeal against such notices and penalty for failure to produce documents etc).

FA 1999

89 In section 13(5) (gold), omit paragraph (c).

Tax Credits Act 2002 (c. 21)

90 In section 25 of the Tax Credits Act 2002 (payments of working tax credit by employers), omit subsections (3) and (4).

FA 2006

91 Omit section 174 of FA 2006 (international tax enforcement arrangements: information powers).

Other repeals

92 In consequence of the preceding provisions of this Part of this Schedule, omit the following—

(a) section 126 of FA 1988,

(b) sections 142(2), (3), (4), (6)(a), (7), (8) and (9) and 144(3), (5) and (7) of FA 1989,
(c) sections 187 and 255 of, and paragraph 29 of Schedule 19 to, FA 1994,
(d) paragraph 6 of Schedule 1 to the Civil Evidence Act 1995 (c. 38),
(e) paragraph 17 of Schedule 3, paragraph 3 of Schedule 19 and paragraph 2 of Schedule 22 to FA 1996,
(f) section 115 of, and paragraphs 36 and 42(6) and (7) of Schedule 19 to, FA 1998,
(g) section 15(3) of FA 1999,
(h) paragraphs 21 and 38(4) of Schedule 29 to FA 2001,
(i) section 20 of FA 2006, and
(j) paragraph 350 of Schedule 1 to ITA 2007.

SCHEDULE 37

Section 115

RECORD-KEEPING

TMA 1970

1 TMA 1970 is amended as follows.

2 (1) Section 12B (records to be kept for purposes of income tax and capital gains tax returns) is amended as follows.

(2) In subsection (2)—
(a) in paragraph (b), for "in any other case" substitute "otherwise", and
(b) after that paragraph insert—
"or (in either case) such earlier day as may be specified in writing by the Commissioners for Her Majesty's Revenue and Customs (and different days may be specified for different cases)."

(3) In subsection (3), omit paragraph (b) and the "and" before it.

(4) After that subsection insert—

"(3A) The Commissioners for Her Majesty's Revenue and Customs may by regulations—
(a) provide that the records required to be kept and preserved under this section include, or do not include, records specified in the regulations, and
(b) provide that those records include supporting documents so specified."

(5) For subsection (4) substitute—

"(4) The duty under subsection (1) or (2A) to preserve records may be discharged—
(a) by preserving them in any form and by any means, or
(b) by preserving the information contained in them in any form and by any means,

subject to subsection (4A) and any conditions or further exceptions specified in writing by the Commissioners for Her Majesty's Revenue and Customs."

(6) In subsection (4A), for "The records which fall within this subsection are" substitute "Subsection (4)(b) does not apply in the case of the following kinds of records".

(7) After subsection (5B) insert—

"(5C) Regulations under this section may—

(a) make different provision for different cases, and

(b) make provision by reference to things specified in a notice published by the Commissioners for Her Majesty's Revenue and Customs in accordance with the regulations (and not withdrawn by a subsequent notice)."

3 (1) Paragraph 2A of Schedule 1A (records to be kept for the purposes of claims) is amended as follows.

(2) After sub-paragraph (2) insert—

"(2A) The Commissioners for Her Majesty's Revenue and Customs may by regulations—

(a) provide that the records required to be kept and preserved under sub-paragraph (1) include, or do not include, records specified in the regulations, and

(b) provide that those records include supporting documents so specified."

(3) For sub-paragraph (3) substitute—

"(3) The duty under sub-paragraph (1) to preserve records may be discharged—

(a) by preserving them in any form and by any means, or

(b) by preserving the information contained in them in any form and by any means,

subject to sub-paragraph (3A) and any conditions or further exceptions specified in writing by the Commissioners for Her Majesty's Revenue and Customs.

(3A) Sub-paragraph (3)(b) does not apply in the case of records of the kinds specified in section 12B(4A) or paragraph 22(3) of Schedule 18 to the Finance Act 1998."

(4) Insert at the end—

"(6) Regulations under this paragraph may—

(a) make different provision for different cases, and

(b) make provision by reference to things specified in a notice published by the Commissioners for Her Majesty's Revenue and Customs in accordance with the regulations (and not withdrawn by a subsequent notice).

(7) In this paragraph "supporting documents" includes accounts, books, deeds, contracts, vouchers and receipts."

VATA 1994

4 Schedule 11 to VATA 1994 (administration, collection and enforcement) is amended as follows.

5 (1) Paragraph 6 (duty to keep records) is amended as follows.

(2) In sub-paragraph (3), for "require", in the second place, substitute "specify in writing (and different periods may be specified for different cases)".

(3) For sub-paragraphs (4) to (6) substitute—

"(4) The duty under this paragraph to preserve records may be discharged—

(a) by preserving them in any form and by any means, or

(b) by preserving the information contained in them in any form and by any means,

subject to any conditions or exceptions specified in writing by the Commissioners for Her Majesty's Revenue and Customs."

6 In paragraph 6A(7) (application of provisions of paragraph 6 where directions under paragraph 6A require records to be kept)—

(a) for "Sub-paragraphs (4) to (6) of paragraph 6 (preservation of information by means approved by the Commissioners) apply" substitute "Sub-paragraph (4) of paragraph 6 (preservation of information) applies", and

(b) for "they apply" substitute "it applies".

FA 1998

7 Schedule 18 to FA 1998 (company tax returns) is amended as follows.

8 (1) Paragraph 21 (duty to keep and preserve records) is amended as follows.

(2) In sub-paragraph (2), for the words from "for six years" to the end substitute "until the end of the relevant day."

(3) After that sub-paragraph insert—

"(2A) In this paragraph "relevant day" means—

(a) the sixth anniversary of the end of the period for which the company may be required to deliver a company tax return, or

(b) such earlier day as may be specified in writing by the Commissioners for Her Majesty's Revenue and Customs (and different days may be specified for different cases)."

(4) In sub-paragraph (3), for "that six year period" substitute "the relevant day".

(5) In sub-paragraph (4), for "that six year period" substitute "the relevant day".

(6) After sub-paragraph (5) insert—

"(5A) The Commissioners for Her Majesty's Revenue and Customs may by regulations—

(a) provide that the records required to be kept and preserved under this paragraph include, or do not include, records specified in the regulations, and

(b) provide that those records include supporting documents so specified.

(5B) Regulations under this paragraph may—

(a) make different provision for different cases, and

(b) make provision by reference to things specified in a notice published by the Commissioners for Her Majesty's Revenue and Customs in accordance with the regulations (and not withdrawn by a subsequent notice)."

(7) In sub-paragraph (6), omit the first sentence.

9 (1) Paragraph 22 (preservation of information instead of original records) is amended as follows.

(2) For sub-paragraph (1) substitute—

"(1) The duty under paragraph 21 to preserve records may be discharged—

(a) by preserving them in any form and by any means, or

(b) by preserving the information contained in them in any form and by any means,

subject to sub-paragraph (3) and any conditions or exceptions specified in writing by the Commissioners for Her Majesty's Revenue and Customs."

(3) Omit sub-paragraph (2).

(4) In sub-paragraph (3), for "The records excluded from sub-paragraph (1) are" substitute "Sub-paragraph (1)(b) does not apply in the case of the following kinds of records".

(5) Accordingly, in the heading before that paragraph, for "*instead of original records*" substitute "*etc*".

Consequential provisions

10 In section 13(6) of FA 1999 (VAT and gold)—

(a) for "(6)" substitute "(4)",

(b) after "above" insert ", and to records kept in pursuance of such regulations,", and

(c) insert at the end "and to records kept in pursuance of that paragraph".

11 In consequence of the amendments made by paragraph 2 omit—

(a) section 105(4)(b) of FA 1995, and

(b) section 124(2) and (6) of FA 1996.

SCHEDULE 38

Section 116

DISCLOSURE OF TAX AVOIDANCE SCHEMES

Amendments of Part 7 of FA 2004

1 Part 7 of FA 2004 (disclosure of tax avoidance schemes) is amended as follows.

2 (1) Section 308 (duties of promoter) is amended as follows.

(2) In subsection (1)—

(a) for "The promoter" substitute "A person who is a promoter in relation to a notifiable proposal", and

(b) for "any" substitute "the".

(3) In subsection (2)(a), for "a" substitute "the".

(4) In subsection (3)—

(a) for "The promoter" substitute "A person who is a promoter in relation to notifiable arrangements", and

(b) for "any notifiable" substitute "the notifiable".

(5) For subsection (4) substitute—

"(4) Subsection (4A) applies where a person complies with subsection (1) in relation to a notifiable proposal for arrangements and another person is—

(a) also a promoter in relation to the notifiable proposal or is a promoter in relation to a notifiable proposal for arrangements which are substantially the same as the proposed arrangements (whether they relate to the same or different parties), or

(b) a promoter in relation to notifiable arrangements implementing the notifiable proposal or notifiable arrangements which are substantially the same as notifiable arrangements implementing the notifiable proposal (whether they relate to the same or different parties).

(4A) Any duty of the other person under subsection (1) or (3) in relation to the notifiable proposal or notifiable arrangements is discharged if—

(a) the person who complied with subsection (1) has notified the identity and address of the other person to HMRC or the other person holds the reference number allocated to the proposed notifiable arrangements under section 311, and

(b) the other person holds the information provided to HMRC in compliance with subsection (1).

(4B) Subsection (4C) applies where a person complies with subsection (3) in relation to notifiable arrangements and another person is—

(a) a promoter in relation to a notifiable proposal for arrangements which are substantially the same as the notifiable arrangements (whether they relate to the same or different parties), or

(b) also a promoter in relation to the notifiable arrangements or notifiable arrangements which are substantially the same (whether they relate to the same or different parties).

(4C) Any duty of the other person under subsection (1) or (3) in relation to the notifiable proposal or notifiable arrangements is discharged if—

(a) the person who complied with subsection (3) has notified the identity and address of the other person to HMRC or the other person holds the reference number allocated to the notifiable arrangements under section 311, and

(b) the other person holds the information provided to HMRC in compliance with subsection (3)."

3 In section 311(1) (arrangements to be given reference number)—

(a) after "complies" insert "or purports to comply",

(b) omit "may within 30 days",

(c) before "allocate" insert "may within 30 days", and

(d) for "notify the person of that number" substitute "must notify that number to the person and (where the person is one who has complied or purported to comply with section 308(1) or (3)) to any other person—

(i) who is a promoter in relation to the notifiable proposal (or arrangements implementing the notifiable proposal) or the notifiable arrangements (or proposal implemented by the notifiable arrangements), and

(ii) whose identity and address has been notified to HMRC by the person."

4 For section 312 substitute—

"312 Duty of promoter to notify client of number

(1) This section applies where a person who is a promoter in relation to notifiable arrangements is providing (or has provided) services to any person ("the client") in connection with the notifiable arrangements.

(2) The promoter must, within 30 days after the relevant date, provide the client with prescribed information relating to any reference number (or, if more than one, any one reference number) that has been notified to the promoter (whether by HMRC or any other person) in relation to—

(a) the notifiable arrangements, or

(b) any arrangements substantially the same as the notifiable arrangements (whether involving the same or different parties).

(3) In subsection (2) "the relevant date" means the later of—

(a) the date on which the promoter becomes aware of any transaction which forms part of the notifiable arrangements, and

(b) the date on which the reference number is notified to the promoter.

(4) But where the conditions in subsection (5) are met the duty imposed on the promoter under subsection (2) to provide the client with information in relation to notifiable arrangements is discharged.

(5) Those conditions are that —

(a) the promoter is also a promoter in relation to a notifiable proposal and provides services to the client in connection with them both,

(b) the notifiable proposal and the notifiable arrangements are substantially the same, and

(c) the promoter has provided to the client, in a form and manner specified by HMRC, prescribed information relating to the reference number that has been notified to the promoter in relation to the proposed notifiable arrangements.

(6) HMRC may give notice that, in relation to notifiable arrangements specified in the notice, promoters are not under the duty under subsection (2) after the date specified in the notice.

312A Duty of client to notify parties of number

(1) This section applies where a person (a "client") to whom a person who is a promoter in relation to notifiable arrangements or a notifiable proposal is providing (or has provided) services in connection with the notifiable arrangements or notifiable proposal receives prescribed information relating to the reference number allocated to the notifiable arrangements or proposed notifiable arrangements.

(2) The client must, within the prescribed period, provide prescribed information relating to the reference number to any other person—

(a) who the client might reasonably be expected to know is or is likely to be a party to the arrangements or proposed arrangements, and

(b) who might reasonably be expected to gain a tax advantage in relation to any relevant tax by reason of the arrangements or proposed arrangements.

(3) For the purposes of subsection (1) a tax is a "relevant tax" in relation to arrangements or arrangements proposed in a proposal of any description if it is prescribed in relation to arrangements or proposals of that description by regulations under section 306.

(4) HMRC may give notice that, in relation to notifiable arrangements or a notifiable proposal specified in the notice, persons are not under the duty under subsection (2) after the date specified in the notice.

(5) The duty under subsection (2) does not apply in prescribed circumstances."

5 (1) Section 313 (duty of parties to notifiable arrangements to notify HMRC of number etc) is amended as follows.

(2) In subsection (1)(a), omit "under section 311 by the Board or under section 312 by the promoter".

(3) In subsection (3)—

(a) for "under subsection (1)" substitute "made by HMRC",
(b) in paragraph (a), for "number and other information" substitute "information prescribed under subsection (1)", and
(c) in paragraph (b), for "number and other information" substitute "information prescribed under subsection (1) and such other information as is prescribed".

(4) Insert at the end—

"(5) HMRC may give notice that, in relation to notifiable arrangements specified in the notice, persons are not under the duty under subsection (1) after the date specified in the notice."

6 For section 316 substitute—

"316 Information to be provided in form and manner specified by HMRC

(1) HMRC may specify the form and manner in which information required to be provided by any of the information provisions must be provided if the provision is to be complied with.

(2) The "information provisions" are sections 308(1) and (3), 309(1), 310, 312(2), 312A(2) and 313(1) and (3)."

Amendments of TMA 1970

7 (1) Section 98C of TMA 1970 (penalties for failure to comply with duties under Part 7 of FA 2004) is amended as follows.

(2) In subsection (2)—
(a) in paragraph (d), for "312(1)" substitute "312(2)", and
(b) after that paragraph (but before the "and") insert—
"(da) section 312A(2) (duty of client to notify parties of reference number),".

(3) In subsection (3)—
(a) for "section 313(1)" substitute "subsection (1) of section 313", and
(b) after "etc.)" insert "or regulations under subsection (3) of that section".

(4) In subsection (4), for "313(1)" (in both places) substitute "subsection (1) of section 313 or regulations under subsection (3) of that section".

SCHEDULE 39

Section 118

TIME LIMITS FOR ASSESSMENTS, CLAIMS ETC.

TMA 1970

1 TMA 1970 is amended as follows.

2 In section 28C(5)(a) (time limit for determination of tax where no return delivered and self-assessment superseding determination), for "five years" substitute "3 years".

3 In section 29(4) (assessment where loss of tax discovered), for "is attributable to fraudulent or negligent conduct on the part of" substitute "was brought about carelessly or deliberately by".

4 In section 30B(5) (amendment of partnership statement where loss of tax discovered), for "is attributable to fraudulent or negligent conduct on the part of" substitute "was brought about carelessly or deliberately by".

5 In section 33(1) (claim for error or mistake), for "not later than five years after the 31st January next following" substitute "not more than 4 years after the end of".

6 In section 33A(2) (error or mistake in partnership return), for "not later than 31st January of Year 6" substitute "not more than 4 years after the end of the year of assessment in question, or in which the relevant period ends,".

7 (1) Section 34 (ordinary time limit for assessments) is amended as follows.

(2) In subsection (1), for "not later than five years after the 31st January next following" substitute "not more than 4 years after the end of".

(3) Accordingly, in the heading, for "**six years**" substitute "**4 years**".

8 In section 35 (time limit: income received after year for which it is assessable), for "within six years after" substitute "not more than 4 years after the end of".

9 (1) Section 36 (fraudulent or negligent conduct) is amended as follows.

(2) For subsection (1) substitute—

"(1) An assessment on a person in a case involving a loss of income tax or capital gains tax brought about carelessly by the person may be made at any time not more than 6 years after the end of the year of assessment to which it relates (subject to subsection (1A) and any other provision of the Taxes Acts allowing a longer period).

(1A) An assessment on a person in a case involving a loss of income tax or capital gains tax —

(a) brought about deliberately by the person,

(b) attributable to a failure by the person to comply with an obligation under section 7, or

(c) attributable to arrangements in respect of which the person has failed to comply with an obligation under section 309, 310 or 313 of the Finance Act 2004 (obligation of parties to tax avoidance schemes to provide information to Her Majesty's Revenue and Customs),

may be made at any time not more than 20 years after the end of the year of assessment to which it relates (subject to any provision of the Taxes Acts allowing a longer period).

(1B) In subsections (1) and (1A) references to a loss brought about by the person who is the subject of the assessment include a loss brought about by another person acting on behalf of that person."

(3) In subsection (2)—

(a) for "Where the person in default" substitute "Where the person mentioned in subsection (1) or (1A) ("the person in default")", and

(b) for "subsection (1) above" substitute "subsection (1A) or (1B)".

(4) In subsection (3), after "(1)" insert "or (1A)".

(5) In subsection (4), for "subsection (1)" substitute "subsections (1) and (1A)".

(6) Accordingly, for the heading substitute "**Loss of tax brought about carelessly or deliberately etc**".

10 In section 37A (effect of assessment where allowances transferred), for the words from "for the purpose" to "conduct" substitute "in a case falling within section 36(1) or (1A)".

11 (1) Section 40 (assessment on personal representatives) is amended as follows.

(2) In subsection (1), for "beyond the end of the period of three years beginning with the 31st January next following" substitute "more than 4 years after the end of".

(3) In subsection (2)—

(a) for the words from the beginning to "died" substitute "In a case involving a loss of tax brought about carelessly or deliberately by a person who has died (or another person acting on that person's behalf before that person's death)", and

(b) for "before the end of the period of three years beginning with the 31st January next following" substitute "not more than 4 years after the end of".

12 In section 43(1) (time limit for making claims), for "five years after the 31st January next following" substitute "4 years after the end of".

13 In section 43A(1)(b) (further assessments: claims etc), for the words from "attributable" to the end substitute "brought about carelessly or deliberately by that person or by someone acting on behalf of that person."

14 In section 43C(1)(b) (consequential claims etc), for "attributable to fraudulent or negligent conduct on the part of" substitute "brought about carelessly or deliberately by".

15 In section 118 (interpretation) insert at the end—

"(5) For the purposes of this Act a loss of tax or a situation is brought about carelessly by a person if the person fails to take reasonable care to avoid bringing about that loss or situation.

(6) Where—

(a) information is provided to Her Majesty's Revenue and Customs,

(b) the person who provided the information, or the person on whose behalf the information was provided, discovers some time later that the information was inaccurate, and

(c) that person fails to take reasonable steps to inform Her Majesty's Revenue and Customs,

any loss of tax or situation brought about by the inaccuracy shall be treated for the purposes of this Act as having been brought about carelessly by that person.

(7) In this Act references to a loss of tax or a situation brought about deliberately by a person include a loss of tax or a situation that arises

as a result of a deliberate inaccuracy in a document given to Her Majesty's Revenue and Customs by or on behalf of that person."

ICTA

16 ICTA is amended as follows.

17 In section 36(2)(b) (claims for repayment of tax on sale of land with right to reconveyance), for "six years" substitute "4 years".

18 In section 257AB(9) (elections in respect of married couple's allowance (post-5th December 2005 marriages and civil partnerships)), for "on or before the 5th anniversary of the 31st January next following" substitute "not more than 4 years after".

19 In section 257BB(5)(a) (notices in respect of transfer of relief under section 257A or 257AB), for "on or before the fifth anniversary of the 31st January next following" substitute "not more than 4 years after".

20 In section 265(5) (notices in respect of transfer of blind person's allowance), for "on or before the fifth anniversary of the 31st January next following" substitute "not more than 4 years after".

21 In section 270(4) (claims for repayment of excess paid on surrender etc of life insurance policy), for "six years" substitute "4 years".

22 In section 419(4) (claims for relief from tax where loan surrendered etc), for "six years" substitute "4 years".

23 In section 500(4) and (9) (additional assessment to corporation tax where petroleum revenue tax repaid), for "six years" substitute "4 years".

24 In section 806(1) (time limit for claims for allowance under arrangements by way of credit for foreign tax)—

(a) in paragraph (a)(i), for "the fifth anniversary of the 31st January next following" substitute "the 4th anniversary of the end of", and

(b) in paragraph (b)(i), for "six years" substitute "4 years".

25 In section 806G(3)(a) (claims for the purposes of utilisation of eligible unrelieved foreign tax), for "six years" substitute "4 years".

26 In section 806M(7)(a) (claims for the purpose of carry forward or carry back of unrelieved foreign tax), for "six years" substitute "4 years".

FA 1991

27 In section 65(6) of FA 1991 (additional assessment to corporation tax on receipt of reimbursement expenditure), for "six years" substitute "4 years".

TCGA 1992

28 TCGA 1992 is amended as follows.

29 In section 203(2) (claims in respect of certain capital losses), for "6 years" substitute "4 years".

30 In section 253(4A) (claims for relief for loans to traders)—

(a) in paragraph (a), for "on or before the fifth anniversary of the 31st January next following" substitute "not more than 4 years after the end of", and

(b) in paragraph (b), for "6 years" substitute "4 years".

31 In section 279(5) (claims in respect of delayed remittance of gain from disposal of foreign assets)—

(a) in paragraph (a), for "at any time after the fifth anniversary of the 31st January next following" substitute "more than 4 years after the end of", and

(b) in paragraph (b), for "6 years" substitute "4 years".

VATA 1994

32 VATA 1994 is amended as follows.

33 In section 33A(4) (refunds of VAT to museums and galleries), for "3 years" substitute "4 years".

34 (1) Section 77 (assessments: time limits and supplementary assessments) is amended as follows.

(2) In subsection (1)(a) and (b), for "3 years" substitute "4 years".

(3) For subsection (4) substitute—

"(4) In any case falling within subsection (4A), an assessment of a person ("P"), or of an amount payable by P, may be made at any time not more than 20 years after the end of the prescribed accounting period or the importation, acquisition or event giving rise to the penalty, as appropriate (subject to subsection (5)).

(4A) Those cases are—

(a) a case involving a loss of VAT brought about deliberately by P (or by another person acting on P's behalf),

(b) a case in which P has participated in a transaction knowing that it was part of arrangements of any kind (whether or not legally enforceable) intended to bring about a loss of VAT,

(c) a case involving a loss of VAT attributable to a failure by P to comply with a notification obligation, and

(d) a case involving a loss of VAT attributable to a scheme in respect of which P has failed to comply with an obligation under paragraph 6 of Schedule 11A.

(4B) In subsection (4A) the references to a loss of tax brought about deliberately by P or another person include a loss that arises as a result of a deliberate inaccuracy in a document given to Her Majesty's Revenue and Customs by that person.

(4C) In subsection (4A)(c) "notification obligation" means an obligation under—

(a) paragraph 5, 6, 7 or 14(2) or (3) of Schedule 1,

(b) paragraph 3 of Schedule 2,

(c) paragraph 3 or 8(2) of Schedule 3,

(d) paragraph 3, 4 or 7(2) or (3) of Schedule 3A, or

(e) regulations under paragraph 2(4) of Schedule 11."

(4) In subsection (5)—

(a) in paragraph (a), for "3 years" substitute "4 years", and

(b) omit paragraph (b) and the "and" before it.

35 In section 78(11) (interest in certain cases of official error), for "three years" substitute "4 years".

36 In section 80(4) (credit for, or repayment of, overstated or overpaid VAT), for "3 years" substitute "4 years".

FA 1998

37 Schedule 18 to FA 1998 (company tax returns) is amended as follows.

38 In paragraph 36(5) (determination of tax payable if no return delivered), for "five years" substitute "3 years".

39 In paragraph 37(4) (determination of tax payable if notice complied with in part), for "five years" substitute "3 years".

40 In paragraph 40(3) (time limit for self-assessment superseding determination), for "five years" substitute "3 years".

41 (1) Paragraph 43 (fraudulent or negligent conduct) is amended as follows.

(2) For "is attributable to fraudulent or negligent conduct on the part of" substitute "was brought about carelessly or deliberately by".

(3) Accordingly, for the heading before the paragraph substitute "*Loss of tax brought about carelessly or deliberately*".

42 (1) Paragraph 46 (general time limits for assessments) is amended as follows.

(2) In sub-paragraph (1), for "six years" substitute "4 years".

(3) For sub-paragraph (2) substitute—

"(2) An assessment in a case involving a loss of tax brought about carelessly by the company (or a related person) may be made at any time not more than 6 years after the end of the accounting period to which it relates (subject to sub-paragraph (2A) and to any other provision of the Taxes Acts allowing a longer period).

(2A) An assessment in a case involving a loss of tax—

(a) brought about deliberately by the company (or a related person),

(b) attributable to a failure by the company to comply with an obligation under paragraph 2, or

(c) attributable to arrangements in respect of which the company has failed to comply with an obligation under section 309, 310 or 313 of the Finance Act 2004 (obligation of parties to tax avoidance schemes to provide information to Her Majesty's Revenue and Customs),

may be made at any time not more than 20 years after the end of the accounting period to which it relates (subject to any provision of the Taxes Acts allowing a longer period).

(2B) In this paragraph "related person", in relation to a company, means—

(a) a person acting on behalf of the company, or
(b) a person who was a partner of the company at the relevant time."

43 In paragraph 51(1)(c) (relief in case of mistake in return), for "six years" substitute "4 years".

44 (1) Paragraph 53 (time limit for recovery of excessive payments etc) is amended as follows.

(2) In sub-paragraph (1), for "six year" substitute "4 year".

(3) In sub-paragraph (2), for "paragraph 46(2) (time limit for assessment in case of fraud or negligence)" substitute "paragraph 46(2) and (2A) (time limit for assessment in case of loss of tax brought about carelessly or deliberately)".

45 In paragraph 55 (general time limit for making claims), for "six years" substitute "4 years".

46 In paragraph 61(2) (consequential claims etc arising out of certain Revenue amendments or assessments), for "fraudulent or negligent conduct on the part of" substitute "a loss of tax brought about carelessly or deliberately by".

47 (1) Paragraph 65 (consequential claims) is amended as follows.

(2) In sub-paragraph (1), for "fraudulent or negligent conduct on the part of" substitute "a loss of tax brought about carelessly or deliberately by".

(3) Accordingly, in the heading before the paragraph, for "*fraud or negligence*" substitute "*loss of tax brought about carelessly or deliberately*".

FA 2002

48 In paragraph 27 of Schedule 16 (withdrawal or reduction of community investment tax relief), insert at the end—

"(5) An assessment under this paragraph may be made at any time not more than 6 years after the end of the accounting period for which the relief was obtained.

(6) Sub-paragraph (5) is without prejudice to paragraph 46(2A) of Schedule 18 to the Finance Act 1998 (loss of tax brought about deliberately)."

ITEPA 2003

49 In section 711(2) (notice requiring officer of Revenue and Customs to give notice requiring tax return), for "5 years" substitute "3 years".

ITTOIA 2005

50 ITTOIA 2005 is amended as follows.

51 In section 301(3) (claims for repayment of tax payable in connection with sale with right to reconveyance), for "6 years" substitute "4 years".

52 In section 302(3) (claims for repayment of tax payable in connection with sale and leaseback transactions), for "6 years" substitute "4 years".

53 In section 840A(1) (claims for relief for backdated pensions charged on arising basis) (inserted by Schedule 7 to this Act), for "on or before the fifth anniversary of the normal self-assessment filing date for" substitute "not more than 4 years after the end of".

ITA 2007

54 ITA 2007 is amended as follows.

55 In section 40(1)(a) (election for transfer of blind person's allowance), for "on or before the fifth anniversary of the normal self-assessment filing date for" substitute "not more than 4 years after the end of".

56 In section 46(6)(b) (marriages and civil partnerships on or after 5 December 2005: election specifying person entitled to relief), for "on or before the fifth anniversary of the normal self-assessment filing date for" substitute "not more than 4 years after the end of".

57 In section 53(4)(a) (notice in respect of transfer of unused relief), for "on or before the fifth anniversary of the normal self-assessment filing date for" substitute "not more than 4 years after the end of".

58 In section 155 (claim for loss relief against miscellaneous income), in each of subsections (1) and (2), for "on or before the fifth anniversary of the normal self-assessment filing date for" substitute "not more than 4 years after the end of".

59 (1) Section 237 (EIS relief: time limits for assessments) is amended as follows.

(2) In subsection (1)—
(a) omit "not", and
(b) for "more than" substitute "at any time not more than".

(3) In subsection (3)—
(a) for "36" substitute "36(1A)", and
(b) for "(fraudulent or negligent conduct)" substitute "(loss of tax brought about deliberately etc)".

60 In section 372 (withdrawal or reduction of community investment tax relief), insert at the end—

"(4) An assessment under this paragraph may be made at any time not more than 6 years after the end of the tax year for which the relief was obtained.

(5) Subsection (4) is without prejudice to section 36(1A) of TMA 1970 (loss of tax brought about deliberately etc)."

61 In section 668(7) (claim for relief for unremittable transfer proceeds), for "on or before the fifth anniversary of the normal self-assessment filing date for" substitute "not more than 4 years after the end of".

62 In section 669(4) (claim for relief for unremittable transfer proceeds: section 630 profits), for "on or before the fifth anniversary of the normal self-assessment filing date for" substitute "not more than 4 years after the end of".

Consequential amendments

63 In section 178(3) of FA 1993 (stop-loss and quota share insurance)—
(a) in paragraph (a), for "six years" substitute "4 years", and
(b) in paragraph (b), for "fraudulent or negligent conduct" substitute "loss of tax brought about carelessly or deliberately".

64 In section 225(3)(b) of FA 1994 (stop-loss and quota share insurance), for "fraudulent or negligent conduct" substitute "loss of tax brought about carelessly or deliberately".

65 In consequence of the preceding provisions of this Schedule, omit—
(a) section 149(4)(a)(i) and (ii) of FA 1989,
(b) paragraphs 4 and 6 of Schedule 21 to FA 1996,
(c) section 47(10) of FA 1997,
(d) paragraph 18 of Schedule 19 to FA 1998, and
(e) section 91(6)(b) of FA 2007.

Saving

66 The amendments of sections 33, 34 and 36 of TMA 1970 made by this Schedule do not have effect for the purposes of those sections as applied by paragraph 1 of Schedule 1 to OTA 1975 (management and collection of petroleum revenue tax).

SCHEDULE 40

Section 122

PENALTIES: AMENDMENTS OF SCHEDULE 24 TO FA 2007

1 Schedule 24 to FA 2007 (penalties for errors) is amended as follows.

2 (1) Paragraph 1 (error in taxpayer's document) is amended as follows.

(2) In sub-paragraph (2)—
(a) for "P's" substitute "a", and
(b) omit "by P".

(3) In sub-paragraph (3), for "careless or deliberate (within the meaning of paragraph 3)" substitute "careless (within the meaning of paragraph 3) or deliberate on P's part".

(4) In the Table, after the entry relating to income tax and capital gains tax: accounts in connection with a partnership return insert—

"Income tax	Return under section 254 of FA 2004."

(5) In the Table, after the entries relating to VAT insert—

"Insurance premium tax	Return under regulations under section 54 of FA 1994.

Insurance premium tax	Return, statement or declaration in connection with a claim.
Inheritance tax	Account under section 216 or 217 of IHTA 1984.
Inheritance tax	Information or document under regulations under section 256 of IHTA 1984.
Inheritance tax	Statement or declaration in connection with a deduction, exemption or relief.
Stamp duty land tax	Return under section 76 of FA 2003.
Stamp duty reserve tax	Return under regulations under section 98 of FA 1986.
Petroleum revenue tax	Return under paragraph 2 of Schedule 2 to the Oil Taxation Act 1975.
Petroleum revenue tax	Statement or declaration in connection with a claim under Schedule 5, 6, 7 or 8 to the Oil Taxation Act 1975.
Petroleum revenue tax	Statement under section 1(1)(a) of the Petroleum Revenue Tax Act 1980.
Aggregates levy	Return under regulations under section 25 of FA 2001.
Climate change levy	Return under regulations under paragraph 41 of Schedule 6 to FA 2000.
Landfill tax	Return under regulations under section 49 of FA 1996.
Air passenger duty	Return under section 38 of FA 1994.
Alcoholic liquor duties	Return under regulations under section 13, 49, 56 or 62 of the Alcoholic Liquor Duties Act 1979.
Alcoholic liquor duties	Statement or declaration in connection with a claim for repayment of duty under section 4(4) of FA 1995.
Tobacco products duty	Return under regulations under section 7 of the Tobacco Products Duties Act 1979.
Hydrocarbon oil duties	Return under regulations under section 21 of the Hydrocarbon Oil Duties Act 1979.
Excise duties	Return under regulations under section 93 of CEMA 1979.
Excise duties	Return under regulations under section 100G or 100H of CEMA 1979.
Excise duties	Statement or declaration in connection with a claim.

General betting duty	Return under regulations under paragraph 2 of Schedule 1 to BGDA 1981.
Pool betting duty	Return under regulations under paragraph 2A of Schedule 1 to BGDA 1981.
Bingo duty	Return under regulations under paragraph 9 of Schedule 3 to BGDA 1981.
Lottery duty	Return under regulations under section 28(2) of FA 1993.
Gaming duty	Return under directions under paragraph 10 of Schedule 1 to FA 1997.
Remote gaming duty	Return under regulations under section 26K of BGDA 1981."

(6) In the Table, in the last entry, in column 1, for "Income tax, capital gains tax, corporation tax or VAT" substitute "Any of the taxes mentioned above".

(7) Insert at the end—

"(5) In relation to a return under paragraph 2 of Schedule 2 to the Oil Taxation Act 1975, references in this Schedule to P include any person who, after the giving of the return for a taxable field (within the meaning of that Act), becomes the responsible person for the field (within the meaning of that Act)."

3 After that paragraph insert—

"Error in taxpayer's document attributable to another person

1A (1) A penalty is payable by a person (T) where—

(a) another person (P) gives HMRC a document of a kind listed in the Table in paragraph 1,

(b) the document contains a relevant inaccuracy, and

(c) the inaccuracy was attributable to T deliberately supplying false information to P (whether directly or indirectly), or to T deliberately withholding information from P, with the intention of the document containing the inaccuracy.

(2) A "relevant inaccuracy" is an inaccuracy which amounts to, or leads to—

(a) an understatement of a liability to tax,

(b) a false or inflated statement of a loss, or

(c) a false or inflated claim to repayment of tax.

(3) A penalty is payable under this paragraph in respect of an inaccuracy whether or not P is liable to a penalty under paragraph 1 in respect of the same inaccuracy."

4 (1) Paragraph 2 (under-assessment by HMRC) is amended as follows.

(2) In sub-paragraph (1), for "tax" substitute "a relevant tax".

(3) For sub-paragraph (3) substitute—

"(3) In sub-paragraph (1) "relevant tax" means any tax mentioned in the Table in paragraph 1."

5 (1) Paragraph 3 (degrees of culpability) is amended as follows

(2) In sub-paragraph (1)—

(a) for "Inaccuracy in" substitute "For the purposes of a penalty under paragraph 1, inaccuracy in", and

(b) after "is deliberate" (in both places) insert "on P's part".

(3) In sub-paragraph (2), after "deliberate" insert "on P's part".

6 In paragraph 4 (standard amount), after sub-paragraph (1) insert—

"(1A) The penalty payable under paragraph 1A is 100% of the potential lost revenue."

7 In paragraph 5(1) (potential lost revenue: normal rule), after "document" insert "(including an inaccuracy attributable to a supply of false information or withholding of information)".

8 (1) Paragraph 6 (potential lost revenue: multiple errors) is amended as follows.

(2) In sub-paragraphs (1) and (2), after "penalty" insert "under paragraph 1".

(3) In sub-paragraph (5), after "calculating" insert "for the purposes of a penalty under paragraph 1".

9 (1) Paragraph 9 (reductions for disclosure) is amended as follows.

(2) Before sub-paragraph (1) insert—

"(A1) Paragraph 10 provides for reductions in penalties under paragraphs 1, 1A and 2 where a person discloses an inaccuracy, a supply of false information or withholding of information, or a failure to disclose an under-assessment."

(3) In sub-paragraph (1)—

(a) after "an inaccuracy" insert ", a supply of false information or withholding of information,", and

(b) in paragraphs (b) and (c), for "or" substitute ", the inaccuracy attributable to the supply or false information or withholding of information, or the".

(4) In sub-paragraph (2)(a), for "or under-assessment" substitute ", the supply of false information or withholding of information, or the under-assessment".

10 In paragraph 11(1) (special reduction), after "1" insert ", 1A".

11 (1) Paragraph 12 (interaction with other penalties) is amended as follows.

(2) In sub-paragraph (2), for the words after "other penalty" substitute "incurred by P, or any surcharge for late payment of tax imposed on P, if the amount of the penalty or surcharge is determined by reference to the same tax liability."

(3) After sub-paragraph (3) insert—

"(4) Where penalties are imposed under paragraphs 1 and 1A in respect of the same inaccuracy, the aggregate of the amounts of the penalties must not exceed 100% of the potential lost revenue."

(4) In the heading before paragraph 12, insert at the end "*and late payment surcharges*".

12 (1) Paragraph 13 (assessment) is amended as follows.

(2) In sub-paragraph (1)—
(a) for "Where P" substitute "Where a person",
(b) after "1" insert ", 1A", and
(c) for "notify P" substitute "notify the person".

(3) After that sub-paragraph insert—

"(1A) A penalty under paragraph 1, 1A or 2 must be paid before the end of the period of 30 days beginning with the day on which notification of the penalty is issued."

(4) In sub-paragraph (3)—
(a) after "1" insert "or 1A",
(b) for "within the" substitute "before the end of the", and
(c) after "no assessment" insert "to the tax concerned".

(5) In sub-paragraph (4), for the words after "made" substitute "before the end of the period of 12 months beginning with—
(a) the end of the appeal period for the assessment of tax which corrected the understatement, or
(b) if there is no assessment within paragraph (a), the date on which the understatement is corrected."

13 In paragraph 15 (right of appeal)—
(a) for "P may" (in each place) substitute "A person may", and
(b) for "by P" (in each place) substitute "by the person".

14 For paragraph 16 substitute—

"16 (1) An appeal is to be brought to the First-tier Tribunal.

(2) An appeal shall be treated for procedural purposes in the same way as an appeal against an assessment to the tax concerned (except in respect of a matter expressly provided for by this Act)."

15 In paragraph 18(3) (agency), after "penalty" insert "under paragraph 1 or 2".

16 (1) Paragraph 19 (companies: officers' liability) is amended as follows.

(2) In sub-paragraph (1), for the words from "of the company" to "as they" substitute "of the company, the officer is liable to pay such portion of the penalty (which may be 100%) as HMRC".

(3) For sub-paragraph (5) substitute—

"(5) Where HMRC have specified a portion of a penalty in a notice given to an officer under sub-paragraph (1)—

(a) paragraph 11 applies to the specified portion as to a penalty,

(b) the officer must pay the specified portion before the end of the period of 30 days beginning with the day on which the notice is given,

(c) paragraph 13(2), (3) and (5) apply as if the notice were an assessment of a penalty,

(d) a further notice may be given in respect of a portion of any additional amount assessed in a supplementary assessment in respect of the penalty under paragraph 13(6),

(e) paragraphs 15(1) and (2), 16 and 17(1) to (3) and (6) apply as if HMRC had decided that a penalty of the amount of the specified portion is payable by the officer, and

(f) paragraph 21 applies as if the officer were liable to a penalty."

17 In paragraph 21 (double jeopardy)—

(a) for "P is" substitute "A person is",

(b) after "1" insert ", 1A", and

(c) for "P has" substitute "the person has".

18 In paragraph 22 (interpretation: introduction), for "26" substitute "27".

19 After paragraph 23 insert—

"23A "Tax", without more, includes duty."

20 (1) Paragraph 28 (interpretation) is amended as follows.

(2) In paragraph (c) (meaning of "direct tax"), omit "and" after paragraph (ii) and after paragraph (iii) insert "and

(iv) petroleum revenue tax,".

(3) After paragraph (d) insert—

"(da) references to an assessment to tax, in relation to inheritance tax, means a determination,".

(4) In paragraph (f), insert at the end "against tax or to a payment of a corporation tax credit".

(5) After that paragraph insert—

"(fa) "corporation tax credit" means—

(i) an R&D tax credit under Schedule 20 to FA 2000,

(ii) a land remediation tax credit or life assurance company tax credit under Schedule 22 to FA 2001,

(iii) a tax credit under Schedule 13 to FA 2002 (vaccine research etc),

(iv) a film tax credit under Schedule 5 to FA 2006, or

(v) a first-year tax credit under Schedule A1 to CAA 2001,".

21 In consequence of this Schedule the following provisions are omitted—

(a) paragraphs 8 and 9 of Schedule 2 to OTA 1975,

(b) in section 1(3B) of the Petroleum Revenue Tax Act 1980, ", 8 and 9",

(c) in IHTA 1984—
  (i) section 247(1) and (2),
  (ii) in section 248, in subsection (1), "account," and "delivered," (in both places) and, in subsection (2), "under section 247 above", and
  (iii) section 250(2),
(d) in FA 1994—
  (i) section 8, and
  (ii) paragraphs 12 and 13 of Schedule 7,
(e) paragraphs 18 to 20 of Schedule 5 to FA 1996,
(f) paragraphs 83ZA(4) and (5), 83F, 83L, 83R and 83X of Schedule 18 to FA 1998,
(g) section 108(2)(a) of FA 1999,
(h) paragraphs 98 to 100 of Schedule 6 to FA 2000,
(i) in Schedule 6 to FA 2001, paragraphs 7 to 9, and in paragraph 9A(5), paragraph (b) and the "or" before it,
(j) section 133(2) to (4) of FA 2002,
(k) in FA 2003—
  (i) section 192(8), and
  (ii) paragraph 8 of Schedule 10 to FA 2003, and
(l) section 295(4)(a) of FA 2004.

SCHEDULE 41

Section 123

PENALTIES: FAILURE TO NOTIFY AND CERTAIN VAT AND EXCISE WRONGDOING

Failure to notify etc

1 A penalty is payable by a person (P) where P fails to comply with an obligation specified in the Table below (a "relevant obligation").

Tax to which obligation relates	*Obligation*
Income tax and capital gains tax	Obligation under section 7 of TMA 1970 (obligation to give notice of liability to income tax or capital gains tax).
Corporation tax	Obligation under paragraph 2 of Schedule 18 to FA 1998 (obligation to give notice of chargeability to corporation tax).
Value added tax	Obligations under paragraphs 5, 6, 7 and 14(2) and (3) of Schedule 1 to VATA 1994 (obligations to notify liability to register and notify material change in nature of supplies made by person exempted from registration).

Tax to which obligation relates	*Obligation*
Value added tax	Obligation under paragraph 3 of Schedule 2 to VATA 1994 (obligation to notify liability to register).
Value added tax	Obligations under paragraphs 3 and 8(2) of Schedule 3 to VATA 1994 (obligations to notify liability to register and notify acquisition affecting exemption from registration).
Value added tax	Obligations under paragraphs 3, 4 and 7(2) and (3) of Schedule 3A to VATA 1994 (obligations to notify liability to register and notify relevant change in supplies made by person exempted from registration).
Value added tax	Obligation under regulations under paragraph 2(4) of Schedule 11 to VATA 1994 (obligation to give notification of acquisition of goods from another member State).
Insurance premium tax	Obligations under section 53(1) and (2) of FA 1994 (obligations to register in respect of receipt of premiums in course of taxable business and notify intended receipt of premiums in course of taxable business).
Insurance premium tax	Obligations under section 53AA(1) and (3) of FA 1994 (obligations to register as taxable intermediary and notify intention to charge taxable intermediary's fees).
Aggregates levy	Obligations under section 24(2) of, and paragraph 1 of Schedule 4 to, FA 2001 (obligations to register in respect of carrying out of taxable activities and notify intention of carrying out such activities).
Climate change levy	Obligations under paragraphs 53 and 55 of Schedule 6 to FA 2000 (obligations to register in respect of taxable supplies and notify intention to make, or have made, taxable supply).
Landfill tax	Obligations under section 47(2) and (3) of FA 1996 (obligations to register in respect of carrying out of taxable activities and notify intention of carrying out such activities).
Air passenger duty	Obligation under section 33(4) of FA 1994 (obligation to give notice of liability to register to operate chargeable aircraft).

Tax to which obligation relates	*Obligation*
Alcohol liquor duties	Obligation to be authorised and registered to obtain and use duty stamps under regulations under paragraph 4 of Schedule 2A to ALDA 1979 (duty stamps).
Alcohol liquor duties	Obligations under sections 12(1), 47(1), 54(2), 55(2) and 62(2) of ALDA 1979 (obligations to hold licence to manufacture spirits, register to brew beer, hold licence to produce wine or made-wine and register to make cider).
Alcohol liquor duties	Obligation to have plant and processes approved for the manufacture of spirits under regulations under section 15(6) of ALDA 1979 (distillers' warehouses).
Tobacco products duty	Obligation to manufacture tobacco products only on premises registered under regulations under section 7 of TPDA 1979 (management of tobacco products duty).
Hydrocarbon oil duties	Obligation to make entry of premises intended to be used for production of oil under regulations under section 21 of HODA 1979 (administration and enforcement).
Excise duties	Obligation to receive, deposit or hold duty suspended excise goods only in premises approved under regulations under section 92 of CEMA 1979 (approval of warehouses).
Excise duties	Obligation to receive duty suspended excise goods only if approved or registered (or approved and registered) as a REDS or an Occasional Importer under regulations under section 100G or 100H of CEMA 1979 (registered excise dealers and shippers etc).
Excise duties	Obligation to receive, deposit or hold duty suspended excise goods only if approved or registered (or approved and registered) as a registered owner, a duty representative, a registered mobile operator or a fiscal representative of a registered mobile operator or an authorised warehousekeeper under regulations under section 100G or 100H of CEMA 1979 (registered excise dealers and shippers etc).
General betting duty	Obligations under paragraph 4(1) to (3) of Schedule 1 to BGDA 1981 (obligation to notify intention to carry on general betting business and make entry of, or notify, premises).

Tax to which obligation relates	*Obligation*
Pool betting duty	Obligations under paragraphs 4(2) and 5(1) of Schedule 1 to BGDA 1981 (obligation to make entry and hold permit for carrying on pool betting business).
Bingo duty	Obligations under paragraph 10(1) and (1A) of Schedule 3 to BGDA 1981 (obligation to notify and register in respect of bingo-promotion).
Lottery duty	Obligation under section 29(1) of FA 1993 (obligation to register in respect of promotion of lotteries).
Gaming duty	Obligations under paragraphs 3 and 6 of Schedule 1 to FA 1997 (obligations to register in respect of gaming and to notify premises).
Remote gaming duty	Obligation to register under regulations under section 26J of BGDA 1981 (facilities for remote gaming).
Amusement machine licence duty	Obligation under section 21 of BGDA 1981 (obligation to licence amusement machine or premises on which amusement machine is provided for play).

Issue of invoice showing VAT by unauthorised person

2 (1) A penalty is payable by a person (P) where P makes an unauthorised issue of an invoice showing VAT.

(2) P makes an unauthorised issue of an invoice showing VAT if P—

(a) is an unauthorised person, and

(b) issues an invoice showing an amount as being value added tax or as including an amount attributable to value added tax.

(3) In sub-paragraph (2)(a) "an unauthorised person" means anyone other than—

(a) a person registered under VATA 1994,

(b) a body corporate treated for the purposes of section 43 of that Act as a member of a group,

(c) a person treated as a taxable person under regulations under section 46(4) of that Act,

(d) a person authorised to issue an invoice under regulations under paragraph 2(12) of Schedule 11 to that Act, or

(e) a person acting on behalf of the Crown.

(4) This paragraph has effect in relation to any invoice which—

(a) for the purposes of any provision made under subsection (3) of section 54 of VATA 1994 shows an amount as included in the consideration for any supply, and

(b) either fails to comply with the requirements of any regulations under that section or is issued by a person who is not for the time being authorised to do so for the purposes of that section,

as if the person issuing the invoice were an unauthorised person and that amount were shown on the invoice as an amount attributable to value added tax.

Putting product to use that attracts higher duty

3 (1) A penalty is payable by a person ("P") where P does an act which enables HMRC to assess an amount as duty due from P under any of the provisions in the Table below (a "relevant excise provision").

Provision under which assessment may be made	*Subject-matter of provision*
ALDA 1979 section 8(4)	Spirits for use for medical or scientific purposes.
ALDA 1979 section 10(4)	Spirits for use in art or manufacture.
ALDA 1979 section 11(3)	Imported goods not for human consumption containing spirits.
HODA 1979 section 10(3)	Duty-free oil.
HODA 1979 section 13(1A)	Rebated heavy oil.
HODA 1979 section 13AB(1)(a) or (2)(a)	Kerosene.
HODA 1979 section 13AD(2)	Kerosene.
HODA 1979 section 13ZB(1)	Heating oil etc.
HODA 1979 section 14(4)	Light oil for use as furnace oil.
HODA 1979 section 14D(1)	Rebated biodiesel or bioblend.
HODA 1979 section 14F(2)	Rebated heavy oil or bioblend.
HODA 1979 section 23(1B)	Road fuel gas on which no duty paid.
HODA 1979 section 24(4A)	Duty-free and rebated oil.

(2) A penalty is payable by a person ("P") where P supplies a product knowing that it will be used in a way which enables HMRC to assess an amount as duty due from another person under a relevant excise provision.

Handling goods subject to unpaid excise duty

4 (1) A penalty is payable by a person (P) where—

(a) after the excise duty point for any goods which are chargeable with a duty of excise, P acquires possession of the goods or is concerned in carrying, removing, depositing, keeping or otherwise dealing with the goods, and

(b) at the time when P acquires possession of the goods or is so concerned, a payment of duty on the goods is outstanding and has not been deferred.

(2) In sub-paragraph (1)—

"excise duty point" has the meaning given by section 1 of F(No.2)A 1992, and

"goods" has the meaning given by section 1(1) of CEMA 1979.

Degrees of culpability

5 (1) A failure by P to comply with a relevant obligation is—

(a) "deliberate and concealed" if the failure is deliberate and P makes arrangements to conceal the situation giving rise to the obligation, and

(b) "deliberate but not concealed" if the failure is deliberate but P does not make arrangements to conceal the situation giving rise to the obligation.

(2) The making by P of an unauthorised issue of an invoice showing VAT is—

(a) "deliberate and concealed" if it is done deliberately and P makes arrangements to conceal it, and

(b) "deliberate but not concealed" if it is done deliberately but P does not make arrangements to conceal it.

(3) The doing by P of an act which enables HMRC to assess an amount of duty as due from P under a relevant excise provision is—

(a) "deliberate and concealed" if it is done deliberately and P makes arrangements to conceal it, and

(b) "deliberate but not concealed" if it is done deliberately but P does not make arrangements to conceal it.

(4) P's acquiring possession of, or being concerned in dealing with, goods on which a payment of duty is outstanding and has not been deferred is—

(a) "deliberate and concealed" if it is done deliberately and P makes arrangements to conceal it, and

(b) "deliberate but not concealed" if it is done deliberately but P does not make arrangements to conceal it.

Amount of penalty: standard amount

6 (1) The penalty payable under any of paragraphs 1, 2, 3(1) and 4 is—

(a) for a deliberate and concealed act or failure, 100% of the potential lost revenue,

(b) for a deliberate but not concealed act or failure, 70% of the potential lost revenue, and

(c) for any other case, 30% of the potential lost revenue.

(2) The penalty payable under paragraph 3(2) is 100% of the potential lost revenue.

(3) Paragraphs 7 to 11 define "the potential lost revenue".

Potential lost revenue

7 (1) "The potential lost revenue" in respect of a failure to comply with a relevant obligation is as follows.

(2) In the case of a relevant obligation relating to income tax or capital gains tax and a tax year, the potential lost revenue is so much of any income tax or capital gains tax to which P is liable in respect of the tax year as by reason of the failure is unpaid on 31 January following the tax year.

(3) In the case of a relevant obligation relating to corporation tax and an accounting period, the potential lost revenue is (subject to sub-paragraph (4)) so much of any corporation tax to which P is liable in respect of the accounting period as by reason of the failure is unpaid 12 months after the end of the accounting period.

(4) In computing the amount of that tax no account shall be taken of any relief under subsection (4) of section 419 of ICTA (relief in respect of repayment etc of loan) which is deferred under subsection (4A) of that section.

(5) In any case where the failure is a failure to comply with the obligation under paragraph 2(4) of Schedule 11 to VATA 1994, the potential lost revenue is the value added tax on the acquisition to which the failure relates.

(6) In the case of any other relevant obligation relating to value added tax, the potential lost revenue is the amount of the value added tax (if any) for which P is, or but for any exemption from registration would be, liable for the relevant period (see sub-paragraph (7)), but subject to sub-paragraph (8).

(7) "The relevant period" is—

(a) in relation to a failure to comply with paragraph 14(2) or (3) of Schedule 1 to VATA 1994, paragraph 8(2) of Schedule 3 to that Act or paragraph 7(2) or (3) of Schedule 3A to that Act, the period beginning on the date of the change or alteration concerned and ending on the date on which HMRC received notification of, or otherwise became fully aware of, that change or alteration, and

(b) in relation to a failure to comply with an obligation under any other provision, the period beginning on the date with effect from which P is required in accordance with that provision to be registered and ending on the date on which HMRC received notification of, or otherwise became fully aware of, P's liability to be registered.

(8) But the amount mentioned in sub-paragraph (6) is reduced—

(a) if the amount of the tax mentioned in that sub-paragraph includes tax on an acquisition of goods from another member State, by the amount of any VAT which HMRC are satisfied has been paid on the supply in pursuance of which the goods were acquired under the law of that member State, and

(b) if the amount of that tax includes tax chargeable by virtue of section 7(4) of VATA 1994 on a supply, by the amount of any VAT which HMRC are satisfied has been paid on that supply under the law of another member State.

(9) In the case of a relevant obligation under any provision relating to insurance premium tax, aggregates levy, climate change levy, landfill tax or air passenger duty, the potential lost revenue is the amount of the tax (if any) for which P is liable for the period—

(a) beginning on the date with effect from which P is required in accordance with that provision to be registered, and

(b) ending on the date on which HMRC received notification of, or otherwise became fully aware of, P's liability to be registered.

(10) In the case of a failure to comply with a relevant obligation relating to any other tax, the potential lost revenue is the amount of any tax which is unpaid by reason of the failure.

8 In the case of the making of an unauthorised issue of an invoice showing VAT, the potential lost revenue is the amount shown on the invoice as value added tax or the amount to be taken as representing value added tax.

9 In the case of—

(a) the doing of an act which enables HMRC to assess an amount of duty as due under a relevant excise provision, or

(b) supplying a product knowing that it will be used in a way which enables HMRC to assess an amount as duty due from another person under a relevant excise provision,

the potential lost revenue is the amount of the duty which may be assessed as due.

10 In the case of acquiring possession of, or being concerned in dealing with, goods the payment of duty on which is outstanding and has not been deferred, the potential lost revenue is an amount equal to the amount of duty due on the goods.

11 (1) In calculating potential lost revenue in respect of a relevant act or failure on the part of P no account is to be taken of the fact that a potential loss of revenue from P is or may be balanced by a potential over-payment by another person (except to the extent that an enactment requires or permits a person's tax liability to be adjusted by reference to P's).

(2) In this Schedule "a relevant act or failure" means—

(a) a failure to comply with a relevant obligation,

(b) the making of an unauthorised issue of an invoice showing VAT,

(c) the doing of an act which enables HMRC to assess an amount of duty as due under a relevant excise provision or supplying a product knowing that it will be used in a way which enables HMRC to assess an amount as duty due from another person under a relevant excise provision, or

(d) acquiring possession of, or being concerned in dealing with, goods the payment of duty on which is outstanding and has not been deferred.

Reductions for disclosure

12 (1) Paragraph 13 provides for reductions in penalties under paragraphs 1 to 4 where P discloses a relevant act or failure

(2) P discloses a relevant act or failure by—

(a) telling HMRC about it,

(b) giving HMRC reasonable help in quantifying the tax unpaid by reason of it, and

(c) allowing HMRC access to records for the purpose of checking how much tax is so unpaid.

(3) Disclosure of a relevant act or failure—

(a) is "unprompted" if made at a time when the person making it has no reason to believe that HMRC have discovered or are about to discover the relevant act or failure, and

(b) otherwise, is "prompted".

(4) In relation to disclosure "quality" includes timing, nature and extent.

13 (1) Where a person who would otherwise be liable to a 100% penalty has made an unprompted disclosure, HMRC shall reduce the 100% to a percentage, not below 30%, which reflects the quality of the disclosure.

(2) Where a person who would otherwise be liable to a 100% penalty has made a prompted disclosure, HMRC shall reduce the 100% to a percentage, not below 50%, which reflects the quality of the disclosure.

(3) Where a person who would otherwise be liable to a 70% penalty has made an unprompted disclosure, HMRC shall reduce the 70% to a percentage, not below 20%, which reflects the quality of the disclosure.

(4) Where a person who would otherwise be liable to a 70% penalty has made a prompted disclosure, HMRC shall reduce the 70% to a percentage, not below 35%, which reflects the quality of the disclosure.

(5) Where a person who would otherwise be liable to a 30% penalty has made an unprompted disclosure, HMRC shall reduce the 30%—

(a) if the penalty is under paragraph 1 and HMRC become aware of the failure less than 12 months after the time when tax first becomes unpaid by reason of the failure, to a percentage (which may be 0%), or

(b) in any other case, to a percentage not below 10%,

which reflects the quality of the disclosure.

(6) Where a person who would otherwise be liable to a 30% penalty has made a prompted disclosure, HMRC shall reduce the 30% —

(a) if the penalty is under paragraph 1 and HMRC become aware of the failure less than 12 months after the time when tax first becomes unpaid by reason of the failure, to a percentage not below 10%, or

(b) in any other case, to a percentage not below 20%,

which reflects the quality of the disclosure.

Special reduction

14 (1) If HMRC think it right because of special circumstances, they may reduce a penalty under any of paragraphs 1 to 4.

(2) In sub-paragraph (1) "special circumstances" does not include—

(a) ability to pay, or

(b) the fact that a potential loss of revenue from one taxpayer is balanced by a potential over-payment by another.

(3) In sub-paragraph (1) the reference to reducing a penalty includes a reference to—

(a) staying a penalty, and

(b) agreeing a compromise in relation to proceedings for a penalty.

Interaction with other penalties and late payment surcharges

15 (1) The amount of a penalty for which P is liable under any of paragraphs 1 to 4 shall be reduced by the amount of any other penalty incurred by P, or any surcharge for late payment of tax imposed on P, if the amount of the penalty or surcharge is determined by reference to the same tax liability.

(2) If P is liable to a penalty under section 9 of FA 1994 in respect of a failure to comply with a relevant obligation, the amount of any penalty payable under paragraph 1 in respect of the failure is to be reduced by the amount of the penalty under that section.

(3) Where penalties are imposed under paragraph 3(1) and (2) in respect of the same act or use, the aggregate of the amounts of the penalties must not exceed 100% of the potential lost revenue.

Assessment

16 (1) Where P becomes liable for a penalty under any of paragraphs 1 to 4 HMRC shall—

(a) assess the penalty,

(b) notify P, and

(c) state in the notice the period in respect of which the penalty is assessed.

(2) A penalty under any of paragraphs 1 to 4 must be paid before the end of the period of 30 days beginning with the day on which notification of the penalty is issued.

(3) An assessment—

(a) shall be treated for procedural purposes in the same way as an assessment to tax (except in respect of a matter expressly provided for by this Act),

(b) may be enforced as if it were an assessment to tax, and

(c) may be combined with an assessment to tax.

(4) An assessment of a penalty under any of paragraphs 1 to 4 must be made before the end of the period of 12 months beginning with—

(a) the end of the appeal period for the assessment of tax unpaid by reason of the relevant act or failure in respect of which the penalty is imposed, or

(b) if there is no such assessment, the date on which the amount of tax unpaid by reason of the relevant act or failure is ascertained.

(5) In sub-paragraph (4)(a) "appeal period" means the period during which—

(a) an appeal could be brought, or

(b) an appeal that has been brought has not been determined or withdrawn.

(6) Subject to sub-paragraph (4), a supplementary assessment may be made in respect of a penalty if an earlier assessment operated by reference to an underestimate of potential lost revenue.

(7) The references in this paragraph to "an assessment to tax" are, in relation to a penalty under paragraph 2, a demand for recovery.

Appeal

17 (1) P may appeal against a decision of HMRC that a penalty is payable by P.

(2) P may appeal against a decision of HMRC as to the amount of a penalty payable by P.

18 (1) An appeal is to be brought to the First-tier Tribunal.

(2) An appeal shall be treated for procedural purposes in the same way as an appeal against an assessment to the tax concerned (except in respect of a matter expressly provided for by this Act).

19 (1) On an appeal under paragraph 17(1) the First-tier Tribunal may affirm or cancel HMRC's decision.

(2) On an appeal under paragraph 17(2) the First-tier Tribunal may—
(a) affirm HMRC's decision, or
(b) substitute for HMRC's decision another decision that HMRC had power to make.

(3) If the First-tier Tribunal substitutes its decision for HMRC's, the Tribunal may rely on paragraph 14—
(a) to the same extent as HMRC (which may mean applying the same percentage reduction as HMRC to a different starting point), or
(b) to a different extent, but only if the Tribunal thinks that HMRC's decision in respect of the application of paragraph 14 was flawed.

(4) In sub-paragraph (3)(b) "flawed" means flawed when considered in the light of the principles applicable in proceedings for judicial review.

Reasonable excuse

20 (1) Liability to a penalty under any of paragraphs 1, 2, 3(1) and 4 does not arise in relation to an act or failure which is not deliberate if P satisfies HMRC or (on appeal) the First-tier Tribunal that there is a reasonable excuse for the act or failure.

(2) For the purposes of sub-paragraph (1)—
(a) an insufficiency of funds is not a reasonable excuse unless attributable to events outside P's control,
(b) where P relies on any other person to do anything, that is not a reasonable excuse unless P took reasonable care to avoid the relevant act or failure, and
(c) where P had a reasonable excuse for the relevant act or failure but the excuse has ceased, P is to be treated as having continued to have the excuse if the relevant act or failure is remedied without unreasonable delay after the excuse ceased.

Agency

21 (1) In paragraph 1 the reference to a failure by P includes a failure by a person who acts on P's behalf; but P is not liable to a penalty in respect of any failure by P's agent where P satisfies HMRC or (on appeal) the First-tier Tribunal that P took reasonable care to avoid the failure.

(2) In paragraph 2 the reference to the making by P of an unauthorised issue of an invoice showing VAT includes the making of such an unauthorised issue by a person who acts on P's behalf; but P is not liable to a penalty in respect of any action by P's agent where P satisfies HMRC or (on appeal) the First-tier Tribunal that P took reasonable care to avoid it.

(3) In paragraph 3(1) the reference to the doing by P of an act which enables HMRC to assess an amount as duty due from P under a relevant excise provision includes the doing of such an act by a person who acts on P's behalf; but P is not liable to a penalty in respect of any action by P's agent where P satisfies HMRC or (on appeal) the First-tier Tribunal that P took reasonable care to avoid it.

(4) In paragraph 4 the reference to P acquiring possession of, or being concerned in dealing with, goods the payment of duty on which is outstanding and has not been deferred includes a person who acts on P's behalf doing so; but P is not liable to a penalty in respect of any action by P's agent where P satisfies HMRC or (on appeal) the First-tier Tribunal that P took reasonable care to avoid it.

Companies: officers' liability

22 (1) Where a penalty under any of paragraphs 1, 2, 3(1) and 4 is payable by a company for a deliberate act or failure which was attributable to an officer of the company, the officer is liable to pay such portion of the penalty (which may be 100%) as HMRC may specify by written notice to the officer.

(2) Sub-paragraph (1) does not allow HMRC to recover more than 100% of a penalty.

(3) In the application of sub-paragraph (1) to a body corporate "officer" means—

(a) a director (including a shadow director within the meaning of section 251 of the Companies Act 2006 (c. 46)), or

(b) a secretary.

(4) In the application of sub-paragraph (1) in any other case "officer" means—

(a) a director,

(b) a manager,

(c) a secretary, and

(d) any other person managing or purporting to manage any of the company's affairs.

(5) Where HMRC have specified a portion of a penalty in a notice given to an officer under sub-paragraph (1)—

(a) paragraph 14 applies to the specified portion as to a penalty,

(b) the officer must pay the specified portion before the end of the period of 30 days beginning with the day on which the notice is given,

(c) paragraph 16(3) to (5) and (7) apply as if the notice were an assessment of a penalty,

(d) a further notice may be given in respect of a portion of any additional amount assessed in a supplementary assessment in respect of the penalty under paragraph 16(6),

(e) paragraphs 17 to 19 apply as if HMRC had decided that a penalty of the amount of the specified portion is payable by the officer, and

(f) paragraph 23 applies as if the officer were liable to a penalty.

Double jeopardy

23 P is not liable to a penalty under any of paragraphs 1 to 4 in respect of a failure or action in respect of which P has been convicted of an offence.

Interpretation

24 (1) This paragraph applies for the construction of this Schedule

(2) "HMRC" means Her Majesty's Revenue and Customs.

(3) "Tax", without more, includes duty.

(4) An expression used in relation to value added tax has the same meaning as in VATA 1994.

Consequential repeals

25 In consequence of this Schedule the following provisions are omitted—

(a) in TMA 1970—
  (i) section 7(8), and
  (ii) in the table in section 98, in the second column, the entry relating to section 55 of FA 2004,
(b) section 170A of CEMA 1979,
(c) in ALDA 1979—
  (i) in section 47(5), "which shall be calculated by reference to the amount of duty charged on the beer produced",
  (ii) in section 54(5), "which shall be calculated by reference to the amount of duty charged on the wine produced",
  (iii) in section 55(6), "which shall be calculated by reference to the amount of duty charged on the made-wine produced", and
  (iv) in section 62(4), "which shall be calculated by reference to the amount of duty charged on the cider made",
(d) in HODA 1979—
  (i) section 13AD(4)(a) and (b), and
  (ii) section 14F(4)(a) and (b),
(e) in FA 1994—
  (i) section 33(6),
  (ii) paragraph 13 of Schedule 4, and
  (iii) paragraph 14 of Schedule 7,
(f) section 67 of VATA 1994,
(g) section 32 of FA 1995,
(h) in FA 1996—
  (i) section 37, and
  (ii) paragraph 21(1), (2) and (4) of Schedule 5,
(i) section 27(11) of FA 1997,
(j) paragraph 2(3) and (4) of Schedule 18 to FA 1998,
(k) in FA 2000—
  (i) section 136(2), and
  (ii) paragraph 55(2) to (6) of Schedule 6, and

(l) paragraph 1(2) to (6) of Schedule 4 to FA 2001.

SCHEDULE 42

Section 125

ALCOHOLIC LIQUOR DUTIES: DECISIONS SUBJECT TO REVIEW AND APPEAL

1 Schedule 5 to FA 1994 (customs and excise decisions subject to review and appeal) is amended as follows.

2 (1) Sub-paragraph (1) of paragraph 3 (decisions under or for the purposes of ALDA 1979) is amended as follows.

(2) After paragraph (h) insert—

"(ha) any decision as to whether or not drawback is to be allowed under section 22 (drawback on British compounds and spirits of wine) or the amount of drawback to be allowed under that section;".

(3) After paragraph (k) insert—

"(ka) any decision by the Commissioners as to whether or not to remit or repay duty under section 46 of the Alcoholic Liquor Duties Act 1979 (remission or repayment of duty on spoilt beer) or the amount of duty to be so remitted or repaid;".

(4) After paragraph (m) insert—

"(ma) any decision by the Commissioners as to whether or not to remit or repay duty under section 61 of the Alcoholic Liquor Duties Act 1979 (remission or repayment of duty on spoilt wine or made-wine) or the amount of duty to be so remitted or repaid;

(mb) any decision by the Commissioners as to whether or not to remit or repay duty under section 64 of the Alcoholic Liquor Duties Act 1979 (remission or repayment of duty on spoilt cider) or the amount of duty to be so remitted or repaid;".

3 (1) Sub-paragraph (2) of paragraph 3 (decisions under regulations under section 13 or 77 of ALDA 1979) is amended as follows.

(2) After "a decision" insert "—

(a) ".

(3) Insert at the end "; or

(b) as to whether or not a person is to be required to give security for the fulfilment of an obligation or as to the form or amount of, or the conditions of, any such security."

4 After sub-paragraph (2) of paragraph 3 insert—

"(2A) Any decision which is made under or for the purposes of any regulations under section 15 of the Alcoholic Liquor Duties Act 1979 (distillers' warehouses) and is a decision as to whether or not a person is to be required to give security for the fulfilment of an obligation or as to the form or amount of, or the conditions of, any such security.

(2B) Any decision which is made under or for the purposes of section 41A or 47, or any regulations under section 49, of the Alcoholic Liquor Duties Act 1979 (regulation of the making of beer) and is a decision—

(a) as to whether or not to register a person or premises under section 41A or 47;

(b) as to the conditions subject to which a person is, or premises are, so registered;

(c) as to the revocation of such a registration;

(d) as to whether or not a person is to be required to give security for the fulfilment of an obligation or as to the form or amount of, or the conditions of, any such security; or

(e) as to whether or not to restrict or prohibit the movement of beer from one place to another without payment of duty."

5 (1) Sub-paragraph (3) of paragraph 3 (decisions under section 55, and regulations under section 56, of ALDA 1979) is amended as follows.

(2) For "section 55" substitute "section 54 or 55".

(3) After "a decision" insert "—

(a) ".

(4) For "that section" substitute "section 54 or 55".

(5) Insert at the end—

"(b) as to whether or not a person is to be required to give security for the fulfilment of an obligation or as to the form or amount of, or the conditions of, any such security; or

(c) as to the conditions subject to which, or the purposes for which, wine or made-wine may be moved from one place to another without payment of duty."

6 After sub-paragraph (3) of paragraph 3 insert—

"(3A) Any decision which is made under or for the purposes of section 62 of the Alcoholic Liquor Duties Act 1979 (regulation of the making of cider), or any regulations under that section, and is a decision—

(a) as to whether or not to register, or to cancel the registration of, a maker of cider;

(b) as to whether or not a person is to be required to give security for the fulfilment of an obligation or as to the form or amount of, or the conditions of, any such security; or

(c) as to the conditions subject to which, or the purposes for which, cider may be moved from one place to another without payment of duty."

7 After paragraph 9 insert—

"*The Finance Act 1995*

9ZA Any decision by the Commissioners—

(a) on a claim under section 4 of the Finance Act 1995 for repayment of duty (alcoholic ingredients relief); or

(b) as to whether or not to remit duty under that section."

SCHEDULE 43

Section 129

TAKING CONTROL OF GOODS ETC: CONSEQUENTIAL PROVISION

PART 1

CONSEQUENTIAL PROVISION: TAKING CONTROL OF GOODS

TMA 1970

1 (1) Section 61 of TMA 1970 (distraint by collection) is amended as follows.

(2) In subsection (1), omit the words from "(a) in England and Wales" to "in Northern Ireland,".

(3) Omit subsection (1A).

(4) Insert at the end—

"(7) This section extends only to Northern Ireland."

Social Security Administration Act 1992 (c. 5)

2 In the Social Security Administration Act 1992, omit section 121A (recovery of contributions etc in England and Wales).

FA 1994

3 (1) FA 1994 is amended as follows.

(2) Omit section 10A (breaches of controlled goods agreements).

(3) In Schedule 7 (insurance premium tax), omit paragraph 18A (breaches of controlled goods agreements).

VATA 1994

4 In VATA 1994, omit section 67A (breach of controlled goods agreement).

FA 1996

5 In Schedule 5 to FA 1996 (landfill tax), omit paragraph 23A (controlled goods agreements).

FA 1997

6 In section 51 of FA 1997 (enforcement by distress), omit subsection (A1).

FA 2000

7 In Schedule 6 to FA 2000 (climate change levy), omit paragraph 89A (controlled goods agreements).

FA 2001

8 In Schedule 5 to FA 2001 (aggregates levy: recovery and interest), omit paragraph 14A (controlled goods agreements).

FA 2003

9 In Schedule 12 to FA 2003 (stamp duty land tax: collection and recovery), omit paragraph 1A (recovery of tax in England and Wales).

Tribunals, Courts and Enforcement Act 2007 (c. 15)

10 (1) Schedule 12 of the Tribunals, Courts and Enforcement Act 2007 (taking control of goods) is amended as follows.

(2) Omit paragraph 14(5) (relevant premises where enforcement agent acting under section 121A of Social Security Administration Act 1992).

(3) In paragraph 19(2) (powers to use reasonable force), for paragraphs (b) to (e) substitute—

"(b) section 127 of the Finance Act 2008."

Other repeals

11 In consequence of the preceding provisions of this Schedule, omit—

(a) paragraph 8 of Schedule 5 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2),

(b) paragraph 6 of Schedule 11 to the Welfare Reform and Pensions Act 1999 (c. 30),

(c) section 5(1) of the National Insurance Contributions and Statutory Payments Act 2004 (c. 3), and

(d) paragraphs 33, 104(2), 114, 116(2), 119, 123, 126(2), 136, 140 and 147(2) of Schedule 13 to the Tribunals, Courts and Enforcement Act 2007 (c. 15).

PART 2

CONSEQUENTIAL PROVISION: SUMMARY WARRANT

TMA 1970

12 In TMA 1970 omit—

(a) section 63 (recovery of tax in Scotland), and

(b) section 63A (sheriff officer's fees and outlays).

Debtors (Scotland) Act 1987 (c. 18)

13 (1) In section 1 (time to pay directions)—

(a) in subsection (5)(d), for "in respect of tax or as if it were tax" substitute "under or by virtue of any enactment or under a contract settlement",

(b) in subsection (5)(f), omit sub-paragraphs (i), (iii) and (iv), and

(c) after subsection (8) insert—

"(8A) In paragraph (d) of subsection (5) above, "contract settlement" means an agreement made in connection with any person's liability to make a payment to the Commissioners for Her Majesty's Revenue and Customs under or by virtue of any enactment."

(2) In section 5 (time to pay orders)—

(a) in subsection (4)(d), for "in respect of tax or as if it were tax" substitute "under or by virtue of any enactment or under a contract settlement",

(b) in subsection (4)(f), omit sub-paragraphs (i), (iii) and (iv), and

(c) after subsection (8) insert—

"(8A) In paragraph (d) of subsection (4) above, "contract settlement" means an agreement made in connection with any person's liability to make a payment to the Commissioners for Her Majesty's Revenue and Customs under or by virtue of any enactment."

(3) In section 106 (interpretation), in the definition of "summary warrant"—

(a) omit paragraph (cc),

(b) in paragraph (d), for "any of the enactments" substitute "the enactments (other than the Taxes Management Act 1970)", and

(c) after that paragraph insert—

"(e) section 128 of the Finance Act 2008."

Social Security Administration Act 1992 (c. 5)

14 In the Social Security Administration Act 1992, omit section 121B (recovery of contributions etc in Scotland).

FA 1997

15 In FA 1997, omit section 52 (recovery of relevant tax in Scotland).

FA 2003

16 In Schedule 12 to FA 2003 (stamp duty land tax: collection and recovery), omit paragraph 3 (recovery of tax in Scotland).

SCHEDULE 44

Section 138

CERTIFICATES OF DEBT: CONSEQUENTIAL PROVISION

TMA 1970

1 In section 70 of TMA 1970 (evidence), omit subsections (1) and (2).

OTA 1975

2 In the table in paragraph 2(1) of Schedule 2 to OTA 1975 (management and collection of petroleum revenue tax), omit the entries in respect of section 70(1) and (2) of TMA 1970.

IHTA 1984

3 In section 254 of IHTA 1984 (evidence), omit subsection (2).

Social Security Administration Act 1992 (c. 5)

4 In section 118 of the Social Security Administration Act 1992 (evidence of non-payment), omit subsections (1), (3) and (7).

FA 1994

5 In Schedule 7 to FA 1994 (insurance premium tax), in paragraph 29(1) (evidence by certificate)—

(a) in paragraph (a), after "Act," insert "or", and

(b) omit paragraph (c) (and the "or" before it).

VATA 1994

6 In Schedule 11 to VATA 1994 (administration, collection and enforcement of VAT), in paragraph 14(1) (evidence by certificate), omit paragraph (d) (and the "or" before it).

FA 1996

7 In Schedule 5 to FA 1996 (landfill tax), in paragraph 37(1) (evidence by certificate)—

(a) in paragraph (a), after "Act," insert "or", and

(b) omit paragraph (c) (and the "or" before it).

FA 2000

8 In Schedule 6 to FA 2000 (climate change levy), in paragraph 135(1) (evidence by certificate)—

(a) in paragraph (a), after "levy," insert "or", and

(b) omit paragraphs (c) and (d).

FA 2001

9 In Schedule 7 to FA 2001 (aggregates levy: information and evidence etc), in paragraph 12(1)—

(a) in paragraph (a), after "registered," insert "or", and

(b) omit paragraphs (c) and (d).

FA 2003

10 In Schedule 12 to FA 2003 (stamp duty land tax: collection and recovery of tax), omit paragraph 7 (evidence of unpaid debt) and the heading before it.

Other repeals

11 In consequence of the preceding provisions of this Schedule, omit—

(a) paragraph 21 of Schedule 19 to FA 1994,

(b) section 62(1) of the Social Security Act 1998 (c. 14),

(c) paragraph 32 of Schedule 19 to FA 1998,

(d) paragraph 7(2) and (6) of Schedule 5 to the Social Security (Transfer of Functions, etc.) Act 1999 (c. 2),

(e) section 89(3) of FA 2001, and

(f) paragraph 135(2) of Schedule 6 to ITEPA 2003.

SCHEDULE 45

Section 145

VEHICLE EXCISE DUTY: OFFENCE OF USING OR KEEPING UNLICENSED VEHICLE

Introductory

1 VERA 1994 is amended as follows.

Amendments of section 29

2 (1) Section 29 (offence of using or keeping unlicensed vehicle) is amended as follows.

(2) In subsection (1), for "on a public road a vehicle (not being an exempt vehicle)" substitute "a vehicle".

(3) After subsection (2) insert—

"(2A) Subsection (1) does not apply to a vehicle if—

(a) it is an exempt vehicle in respect of which regulations under this Act require a nil licence to be in force and a nil licence is in force in respect of the vehicle, or

(b) it is an exempt vehicle that is not one in respect of which regulations under this Act require a nil licence to be in force.

(2B) Subsection (1) does not apply to a vehicle if—

(a) the vehicle is being neither used nor kept on a public road, and

(b) the particulars and declaration required to be furnished and made by regulations under section 22(1D) have been furnished and made in accordance with the regulations and the terms of the declaration have at no time been breached.

(2C) Subsection (1) does not apply to a vehicle if the vehicle is kept by a motor trader or vehicle tester at business premises.

(2D) The Secretary of State may by regulations make provision amending this section for the purpose of providing further exceptions from subsection (1) (or varying or revoking any such further exceptions).

(2E) A person accused of an offence under subsection (1) is not entitled to the benefit of an exception from subsection (1) conferred by or under this section unless evidence is adduced that is sufficient to raise an issue with respect to that exception; but where evidence is so adduced it is for the prosecution to prove beyond reasonable doubt that the exception does not apply."

(4) In subsection (3), for "in respect of the vehicle" substitute "in respect of using or keeping the vehicle on a public road".

(5) In subsection (7), for "kept (but not used)" substitute "not being used".

Amendment of section 30

3 In section 30(2) (additional penalty for keeper of unlicensed vehicle), for "appropriate to the vehicle" substitute "chargeable in respect of using or keeping the vehicle on a public road".

Amendments of Schedule 2A

4 Schedule 2A (immobilisation, removal and disposal of vehicles) is amended as follows.

5 (1) Paragraph 1 (immobilisation) is amended as follows.

(2) In sub-paragraph (1), for "on a public road" substitute "in any place other than a place to which this Schedule does not apply".

(3) After that sub-paragraph insert—

"(1A) This Schedule does not apply to—

(a) any place which is within the curtilage of, or in the vicinity of, a dwelling-house, mobile home or houseboat and which is normally enjoyed with it, or

(b) any place which is within the curtilage of, or in the vicinity of, a building consisting entirely (apart from common parts) of two or more dwellings and which is normally enjoyed only by the occupiers of one or more of those dwellings."

(4) In sub-paragraph (2)—

(a) after "direction may" insert "enter the place and", and

(b) omit "on the same or another public road".

(5) For sub-paragraph (6) substitute—

"(6) The second requirement is that—

(a) evidence that no offence under section 29(1) was being committed when the immobilisation device was fixed or the vehicle moved is produced in accordance with instructions specified in the immobilisation notice,

(b) such sum as may be prescribed is paid in any manner specified in the immobilisation notice, or

(c) any other prescribed conditions are fulfilled.

(6A) The conditions prescribed under sub-paragraph (6)(c) may include a condition that any of the following declarations is made—

(a) a declaration that an appropriate licence was in force for the vehicle at the time when the immobilisation device was fixed or the vehicle moved,

(b) (unless the vehicle was stationary on a public road) a declaration that a relevant declaration was in force for the vehicle at that time, or

(c) a declaration that at that time the vehicle was an exempt vehicle which was not one in respect of which regulations under this Act require a nil licence to be in force."

(6) Insert at the end—

"(9) In sub-paragraph (6A)(a) "appropriate licence", in relation to a vehicle, means—

(a) a vehicle licence,

(b) a trade licence which entitled the holder to keep the vehicle where it was stationary, or

(c) a nil licence.

(10) For the purposes of sub-paragraph (6A)(b)—

(a) "relevant declaration" means the declaration required to be made by regulations under section 22(1D), and

(b) a relevant declaration is in force for a vehicle if the vehicle is neither used nor kept on a public road (except under a trade licence) and the declaration has been made, and the particulars required to be furnished by regulations under section 22(1D) have been furnished, in relation to the vehicle in accordance within the regulations within the immediately preceding period of 12 months."

6 In paragraph 2(4) (offences connected with immobilisation), for paragraphs (a) and (b) substitute—

"(a) a person makes a declaration described in paragraph 1(6A)(a), (b) or (c) with a view to securing the release of a vehicle from an immobilisation device purported to have been fixed in accordance with the regulations, and".

7 (1) Paragraph 3 (removal and disposal of vehicles) is amended as follows.

(2) In sub-paragraph (1)(a)(i), for "on a public road" substitute "in any place other than a place to which this Schedule does not apply".

(3) In sub-paragraph (2), after "direction, may" insert "enter the place and".

(4) In sub-paragraph (7), for paragraphs (c) and (d) substitute—

"(c) the production of evidence that no offence under section 29(1) was committed;

(d) payment of a prescribed sum where such evidence is not produced;

(e) the making of a declaration described in paragraph 1(6A)(a), (b) or (c)."

8 In paragraph 4(1) (offences as to securing possession of vehicles), for paragraphs (a) and (b) substitute—

"(a) a person makes a declaration described in paragraph 1(6A)(a), (b) or (c) with a view to securing possession of a vehicle purported to have been delivered into the custody of a person in accordance with provision made under paragraph 3, and".

SCHEDULE 46

Section 157

GOVERNMENT BORROWING: ALTERNATIVE FINANCE ARRANGEMENTS

Introduction

1 In this Schedule "regulations" means regulations under section 157.

2 Paragraphs 3 to 14 do not limit the generality of the power conferred by section 157.

Alternative finance arrangements that are to be available

3 (1) Regulations may make provision about the kind or kinds of alternative finance arrangements that are to be available for raising money.

(2) That includes provision specifying, or about the specification of, available arrangements (or any aspect of available arrangements).

Terms, conditions and procedures

4 (1) Regulations may make provision about—

(a) the terms on which money is to be raised through alternative finance arrangements,

(b) the conditions subject to which money is to be raised through alternative finance arrangements, and

(c) the procedures for the raising of money through alternative finance arrangements.

(2) That includes provision specifying, or about the specification of, terms, conditions or procedures.

Decisions to raise money through alternative finance arrangements

5 (1) Regulations may make provision about decisions by the Treasury to raise money through alternative finance arrangements.

(2) Regulations under this paragraph may, in particular, make provision about considerations that may be, must be, or must not be, taken into account in—

(a) deciding the terms on which to raise money through alternative finance arrangements,

(b) deciding whether or not to raise money through alternative finance arrangements, or

(c) deciding what amount of money to raise through alternative finance arrangements.

Involvement of persons other than the Treasury

6 (1) Regulations may make provision about the involvement of persons other than the Treasury in the raising of money through alternative finance arrangements.

(2) Regulations under this paragraph may, in particular, make provision for the Treasury to enter into arrangements with other persons.

Ancillary arrangements

7 (1) Regulations may make provision about ancillary arrangements.

(2) Regulations under this paragraph may, in particular, make provision about the terms or conditions of ancillary arrangements (including terms or conditions about payments).

(3) That includes provision specifying, or about the specification of, terms or conditions.

(4) In this paragraph "ancillary arrangements" means arrangements that are connected with the raising of money through alternative finance arrangements (including arrangements to facilitate or enable money to be raised through alternative finance arrangements).

Property

8 (1) Regulations may make provision about property to be employed in raising money through alternative finance arrangements.

(2) That includes provision—

(a) about selection of property,

(b) specifying, or about the specification of, property selected,

(c) about dealings with property, and

(d) about the holding of property.

(3) Regulations under sub-paragraph (2)(c) or (d) may, in particular, make provision about the terms on which property is to be dealt with or held (including terms about payments).

(4) That includes provision specifying, or about the specification of, terms or conditions.

(5) In this paragraph "property" includes land.

(6) In this paragraph a reference to a dealing with property includes—

(a) a transfer of property, and

(b) the creation or termination of a right, interest or estate in property (including a legal or equitable right, interest or estate).

Powers and duties

9 Regulations may confer powers, or impose duties, on any person (including the Treasury, the Secretary of State or another Minister of the Crown).

Liabilities

10 Regulations may make—

(a) provision for expenditure and other liabilities to be incurred in connection with raising money through alternative finance arrangements, and

(b) provision about how expenditure and other liabilities are to be met.

Money raised

11 (1) Regulations may make provision about the treatment of money raised through alternative finance arrangements.

(2) That includes provision specifying, or about the specification of, the account or fund into which money is to be paid.

Other legislation

12 (1) Regulations may make modifications of any enactment.

(2) Regulations may provide that available alternative finance arrangements are to be treated for the purposes of any enactment—

(a) as an investment or security of a particular description, or

(b) as an investment or security listed on a particular stock exchange.

(3) In this paragraph—

"available alternative finance arrangements" means alternative finance arrangements of a kind that, under regulations, are available for raising money;

"enactment" means an enactment contained in an Act or other instrument;

"modifications" includes amendments, repeals and revocations.

Things to be done otherwise than in regulations

13 (1) The power under paragraph 3(2), 4(2), 7(3), 8(2)(b) or (4), or 11(2) to make provision about the specification of the matter mentioned there may, in particular, be exercised so as to provide for the Treasury or any other person to specify that matter otherwise than in regulations.

(2) Regulations may provide for the Treasury or any other person to do anything else otherwise than in regulations.

14 (1) This paragraph applies if regulations provide for a person to do something otherwise than in regulations.

(2) Regulations may make provision about considerations that may be, must be, or must not be, taken into account by a person in connection with the doing of that thing.

Regulations to be made by SI

15 Regulations are to be made by statutory instrument.

Parliamentary scrutiny

16 (1) A statutory instrument containing regulations that amend or repeal an enactment contained in an Act may not be made unless a draft has been laid before, and approved by resolution of, the House of Commons.

(2) Subject to that, a statutory instrument containing regulations is subject to annulment in pursuance of a resolution of the House of Commons (unless a draft of the statutory instrument has been approved by resolution of the House of Commons).

Interpretation

17 (1) In this Schedule a reference to a person other than the Treasury includes a reference to—

(a) a body corporate established by or under regulations, and

(b) a company formed under the Companies Acts.

(2) For the purposes of sub-paragraph (1)(b), it does not matter—

(a) whether a company is formed specially in connection with the raising of money through alternative finance arrangements,

(b) whether a company is formed by the Treasury, or

(c) whether a company is independent of the Treasury.

Printed in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

7/2008 406009 19585