

[1997.] *Taxes Consolidation Act, 1997.* [No. 39.]

until the contrary is proved to have been signed by such inspector. Pt.47 S.1076

### CHAPTER 3

#### *Capital gains tax penalties*

**1077.**—(1) Without prejudice to the generality of *section 913(1)*, *Chapter 1* of this Part shall, subject to any necessary modifications, apply in relation to capital gains tax, and *sections 1052, 1053 and 1054*, as applied by this section, shall for the purposes of the Capital Gains Tax Acts be construed as if in *Schedule 29* there were included—

Penalties for failure to make returns, etc. and for fraudulently or negligently making incorrect returns, etc.

[CGTA75 s51(1) and Sch4 par3(2) and (6)]

(a) in *column 1*, references to *sections 914 to 917*,

(b) in *column 2*, a reference to *section 945*, and

(c) in *column 3*, a reference to *section 980*.

(2) Where any person has been required by notice or precept given under the provisions of the Income Tax Acts as applied by *section 913*, or under *section 914, 915, 916, 917 or 980*, to do any act of a kind mentioned in any of the those provisions or sections, and the person fails to comply with the notice or precept, or where any person fraudulently or negligently makes, delivers, furnishes or produces any incorrect return, statement, declaration, list, account, particulars or other document (or knowingly makes any false statement or false representation) under any of those provisions or sections, *Chapter 1* of this Part shall apply to the person for the purposes of capital gains tax as it applies in the case of a like failure or act for the purposes of income tax.

### CHAPTER 4

#### *Revenue offences*

**1078.**—(1) In this Part—

Revenue offences.

“the Acts” means—

[FA83 s94; FA86 s40(2); FA89 s18 and Sch1 par3(2); FA92 s243; FA96 s132(1) and (2) and Sch5 PtI par13(2) and PtII]

(a) the Customs Acts,

(b) the statutes relating to the duties of excise and to the management of those duties,

(c) the Tax Acts,

(d) the Capital Gains Tax Acts,

(e) the Value-Added Tax Act, 1972, and the enactments amending or extending that Act,

(f) the Capital Acquisitions Tax Act, 1976, and the enactments amending or extending that Act,

(g) the statutes relating to stamp duty and to the management of that duty, and

(h) Part VI of the Finance Act, 1983,

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and any instruments made thereunder and any instruments made under any other enactment and relating to tax;

“authorised officer” means an officer of the Revenue Commissioners authorised by them in writing to exercise any of the powers conferred by the Acts;

“tax” means any tax, duty, levy or charge under the care and management of the Revenue Commissioners.

(2) A person shall, without prejudice to any other penalty to which the person may be liable, be guilty of an offence under this section if the person—

- (a) knowingly or wilfully delivers any incorrect return, statement or accounts or knowingly or wilfully furnishes any incorrect information in connection with any tax,
- (b) knowingly aids, abets, assists, incites or induces another person to make or deliver knowingly or wilfully any incorrect return, statement or accounts in connection with any tax,
- (c) claims or obtains relief or exemption from, or repayment of, any tax, being a relief, exemption or repayment to which, to the person’s knowledge, the person is not entitled,
- (d) knowingly or wilfully issues or produces any incorrect invoice, receipt, instrument or other document in connection with any tax,
- (e)
  - (i) fails to make any deduction required to be made by the person under *section 257(1)*,
  - (ii) fails, having made the deduction, to pay the sum deducted to the Collector-General within the time specified in that behalf in *section 258(3)*, or
  - (iii) fails to pay to the Collector-General an amount on account of appropriate tax (within the meaning of *Chapter 4 of Part 8*) within the time specified in that behalf in *section 258(4)*,
- (f)
  - (i) fails to make any deduction required to be made by the person under *section 734(5)*, or
  - (ii) fails, having made the deduction, to pay the sum deducted to the Collector-General within the time specified in *paragraph 1(3) of Schedule 18*,
- (g) knowingly or wilfully fails to comply with any provision of the Acts requiring—
  - (i) the furnishing of a return of income, profits or gains, or of sources of income, profits or gains, for the purposes of any tax,
  - (ii) the furnishing of any other return, certificate, notification, particulars, or any statement or evidence, for the purposes of any tax,
  - (iii) the keeping or retention of books, records, accounts or other documents for the purposes of any tax, or

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(iv) the production of books, records, accounts or other documents, when so requested, for the purposes of any tax, Pt.47 S.1078

(h) knowingly or wilfully, and within the time limits specified for their retention, destroys, defaces or conceals from an authorised officer—

(i) any documents, or

(ii) any other written or printed material in any form, including any information stored, maintained or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in a legible form, which a person is obliged by any provision of the Acts to keep, to issue or to produce for inspection,

(i) fails to remit any income tax payable pursuant to *Chapter 4* of *Part 42*, and the regulations under that Chapter, or value-added tax within the time specified in that behalf in relation to income tax or value-added tax, as the case may be, by the Acts, or

(j) obstructs or interferes with any officer of the Revenue Commissioners, or any other person, in the exercise or performance of powers or duties under the Acts for the purposes of any tax.

(3) A person convicted of an offence under this section shall be liable—

(a) on summary conviction to a fine of £1,000 which may be mitigated to not less than one fourth part of such fine or, at the discretion of the court, to imprisonment for a term not exceeding 12 months or to both the fine and the imprisonment, or

(b) on conviction on indictment, to a fine not exceeding £10,000 or, at the discretion of the court, to imprisonment for a term not exceeding 5 years or to both the fine and the imprisonment.

(4) Section 13 of the Criminal Procedure Act, 1967, shall apply in relation to an offence under this section as if, in place of the penalties specified in subsection (3) of that section, there were specified in that subsection the penalties provided for by *subsection (3)(a)*, and the reference in subsection (2)(a) of section 13 of the Criminal Procedure Act, 1967, to the penalties provided for in subsection (3) of that section shall be construed and apply accordingly.

(5) Where an offence under this section is committed by a body corporate and the offence is shown to have been committed with the consent or connivance of any person who, when the offence was committed, was a director, manager, secretary or other officer of the body corporate, or a member of the committee of management or other controlling authority of the body corporate, that person shall also be deemed to be guilty of the offence and may be proceeded against and punished accordingly.

(6) In any proceedings under this section, a return or statement delivered to an inspector or other officer of the Revenue Commissioners under any provision of the Acts and purporting to be

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signed by any person shall be deemed until the contrary is proved to have been so delivered and to have been signed by that person.

(7) Notwithstanding any other enactment, proceedings in respect of an offence under this section may be instituted within 10 years from the date of the commission of the offence or incurring of the penalty, as the case may be.

(8) Section 1 of the Probation of Offenders Act, 1907, shall not apply in relation to offences under this section.

(9) Sections 987(4) and 1052(4), subsections (3) and (7) of section 1053, and sections 1068 and 1069 and sections 26(6) and 27(7) of the Value-Added Tax Act, 1972, shall, with any necessary modifications, apply for the purposes of this section as they apply for the purposes of those sections, including, in the case of such of those sections as are applied by the Capital Gains Tax Acts, the Corporation Tax Acts, or Part VI of the Finance Act, 1983, the purposes of those sections as so applied.

Duties of relevant person in relation to certain revenue offences.

**1079.**—(1) In this section—

“the Acts” means—

- (a) the Customs Acts,
- (b) the statutes relating to the duties of excise and to the management of those duties,
- (c) the Tax Acts,
- (d) the Capital Gains Tax Acts,
- (e) the Value-Added Tax Act, 1972, and the enactments amending or extending that Act,
- (f) the Capital Acquisitions Tax Act, 1976, and the enactments amending or extending that Act,
- (g) the statutes relating to stamp duty and to the management of that duty,

and any instruments made thereunder and any instruments made under any other enactment and relating to tax;

“appropriate officer” means any officer nominated by the Revenue Commissioners to be an appropriate officer for the purposes of this section;

“company” means any body corporate;

“relevant person”, in relation to a company and subject to *subsection (2)*, means a person who—

- (a) (i) is an auditor to the company appointed in accordance with section 160 of the Companies Act, 1963 (as amended by the Companies Act, 1990), or
- (ii) in the case of an industrial and provident society or a friendly society, is a public auditor to the society for

[FA95 s172]

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the purposes of the Industrial and Provident Societies Acts, 1893 to 1978, and the Friendly Societies Acts, 1896 to 1977, Pt.47 S.1079

or

- (b) with a view to reward, assists or advises the company in the preparation or delivery of any information, declaration, return, records, accounts or other document which he or she knows will be or is likely to be used for any purpose of tax;

“relevant offence” means an offence committed by a company which consists of the company—

- (a) knowingly or wilfully delivering any incorrect return, statement or accounts or knowingly or wilfully furnishing or causing to be furnished any incorrect information in connection with any tax,
- (b) knowingly or wilfully claiming or obtaining relief or exemption from, or repayment of, any tax, being a relief, exemption or repayment to which there is no entitlement,
- (c) knowingly or wilfully issuing or producing any incorrect invoice, receipt, instrument or other document in connection with any tax, or
- (d) knowingly or wilfully failing to comply with any provision of the Acts requiring the furnishing of a return of income, profits or gains, or of sources of income, profits or gains, for the purposes of any tax, but an offence under this paragraph committed by a company shall not be a relevant offence if the company has made a return of income, profits or gains to the Revenue Commissioners in respect of an accounting period falling wholly or partly in the period of 3 years preceding the accounting period in respect of which the offence was committed;

“tax” means any tax, duty, levy or charge under the care and management of the Revenue Commissioners.

(2) For the purposes of *paragraph (b)* of the definition of “relevant person”, a person who but for this subsection would be treated as a relevant person in relation to a company shall not be so treated if the person assists or advises the company solely in the person’s capacity as an employee of the company, and a person shall be treated as assisting or advising the company in that capacity where the person’s income from assisting or advising the company consists solely of emoluments to which *Chapter 4 of Part 42* applies.

(3) If, having regard solely to information obtained in the course of examining the accounts of a company, or in the course of assisting or advising a company in the preparation or delivery of any information, declaration, return, records, accounts or other document for the purposes of tax, as the case may be, a person who is a relevant person in relation to the company becomes aware that the company has committed, or is in the course of committing, one or more relevant offences, the person shall, if the offence or offences are material—

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(a) communicate particulars of the offence or offences in writing to the company without undue delay and request the company to—

(i) take such action as is necessary for the purposes of rectifying the matter, or

(ii) notify an appropriate officer of the offence or offences,

not later than 6 months after the time of communication, and

(b) (i) unless it is established to the person's satisfaction that the necessary action has been taken or notification made, as the case may be, under *paragraph (a)*, cease to act as the auditor to the company or to assist or advise the company in such preparation or delivery as is specified in *paragraph (b)* of the definition of "relevant person", and

(ii) shall not so act, assist or advise before a time which is the earlier of—

(I) 3 years after the time at which the particulars were communicated under *paragraph (a)*, and

(II) the time at which it is established to the person's satisfaction that the necessary action has been taken or notification made, as the case may be, under *paragraph (a)*.

(4) Nothing in *paragraph (b)* of *subsection (3)* shall prevent a person from assisting or advising a company in preparing for, or conducting, legal proceedings, either civil or criminal, which are extant or pending at a time which is 6 months after the time of communication under *paragraph (a)* of that subsection.

(5) Where a person, being in relation to a company a relevant person within the meaning of *paragraph (a)* of the definition of "relevant person", ceases under this section to act as auditor to the company, then, the person shall deliver—

(a) a notice in writing to the company stating that he or she is so resigning, and

(b) a copy of the notice to an appropriate officer not later than 14 days after he or she has delivered the notice to the company.

(6) A person shall be guilty of an offence under this section if the person—

(a) fails to comply with *subsection (3)* or *(5)*, or

(b) knowingly or wilfully makes a communication under *subsection (3)* which is incorrect.

(7) Where a relevant person is convicted of an offence under this section, the person shall be liable—

(a) on summary conviction, to a fine of £1,000 which may be mitigated to not less than one-fourth part of such fine, or

- (b) on conviction on indictment, to a fine not exceeding £5,000 or, at the discretion of the court, to imprisonment for a term not exceeding 2 years or to both the fine and the imprisonment. Pt.47 S.1079

(8) Section 13 of the Criminal Procedure Act, 1967, shall apply in relation to this section as if, in place of the penalties specified in subsection (3) of that section, there were specified in that subsection the penalties provided for by *subsection (7)(a)*, and the reference in subsection (2)(a) of section 13 of the Criminal Procedure Act, 1967, to the penalties provided for in subsection (3) of that section shall be construed and apply accordingly.

(9) Notwithstanding any other enactment, proceedings in respect of this section may be instituted within 6 years from the time at which a person is required under *subsection (3)* to communicate particulars of an offence or offences in writing to a company.

(10) It shall be a good defence in a prosecution for an offence under *subsection (6)(a)* in relation to a failure to comply with *subsection (3)* for an accused (being a person who is a relevant person in relation to a company) to show that he or she was in the ordinary scope of professional engagement assisting or advising the company in preparing for legal proceedings and would not have become aware that one or more relevant offences had been committed by the company if he or she had not been so assisting or advising.

(11) Where a person who is a relevant person takes any action required by *subsection (3)* or *(5)*, no duty to which the person may be subject shall be regarded as having been contravened and no liability or action shall lie against the person in any court for having taken such action.

(12) The Revenue Commissioners may nominate an officer to be an appropriate officer for the purposes of this section, and the name of an officer so nominated and the address to which copies of notices under *subsection (3)* or *(5)* shall be delivered shall be published in *Iris Oifigiúil*.

(13) This section shall apply as respects a relevant offence committed by a company in respect of tax which is—

- (a) assessable by reference to accounting periods, for any accounting period beginning after the 30th day of June, 1995,
- (b) assessable by reference to years of assessment, for the year 1995-96 and subsequent years of assessment,
- (c) payable by reference to a taxable period, for a taxable period beginning after the 30th day of June, 1995,
- (d) chargeable on gifts or inheritances taken on or after the 30th day of June, 1995,
- (e) chargeable on instruments executed on or after the 30th day of June, 1995, or
- (f) payable in any other case, on or after the 30th day of June, 1995.

*Interest on overdue tax*

Interest on overdue income tax and corporation tax.

[ITA67 s550(1), (3), (4) and (5); FA71 s17(2); FA74 s86 and Sch2 PtI; CTA76 s145(3); FA78 s46; FA85 s12; FA97 s146(1) and Sch9 PtI par10(7)]

**1080.**—(1) (a) Subject to this section and *section 1081*, any tax charged by any assessment to income tax or corporation tax shall carry interest at the rate of 1.25 per cent for each month or part of a month from the date when the tax becomes due and payable until payment.

(b) Any tax charged by any assessment to income tax shall, notwithstanding any appeal against such assessment, carry interest at the rate of 1.25 per cent for each month or part of a month from the date when, if there were no appeal against the assessment, the tax would become due and payable under *section 960* until payment.

(2) Interest shall not be payable under this section on the tax charged by any assessment unless the total amount of the interest is not less than £1.

(3) The interest payable under this section—

(a) shall be payable without any deduction of income tax and shall not be allowed as a deduction in computing any income, profits or losses for any of the purposes of the Tax Acts, and

(b) shall be deemed to be a debt due to the Minister for Finance for the benefit of the Central Fund and shall be payable to the Revenue Commissioners,

and, subject to *subsection (4)*—

(i) every enactment relating to the recovery of any tax charged by an assessment,

(ii) every rule of court so relating,

(iii) section 81 of the Bankruptcy Act, 1988, and

(iv) sections 98 and 285 of the Companies Act, 1963,

shall apply to the recovery of any amount of interest payable on that tax as if that amount of interest were a part of that tax.

(4) In proceedings instituted by virtue of *subsection (3)*—

(a) a certificate by the Collector-General certifying that a stated amount of interest is due and payable by the person against whom the proceedings were instituted shall be evidence until the contrary is proved that that amount is so due and payable, and

(b) a certificate so certifying and purporting to be signed by the Collector-General may be tendered in evidence without proof and shall be deemed until the contrary is proved to have been signed by the Collector-General.

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**1081.**—(1) Subject, in the case of income tax, to *subsection (2)*— Pt.47  
Effect on interest of  
reliefs given by  
discharge or  
repayment.

(a) where relief from income tax or corporation tax charged by any assessment referred to in *section 1080(1)* is given to any person by a discharge of any of that tax, such adjustment shall be made of the amount payable under that section in relation to the assessment, and such repayment shall be made of any amounts previously paid under that section in relation to the assessment, as are necessary to secure that the total sum, if any, paid or payable under that section in relation to the assessment is the same as it would have been if the tax discharged had never been charged, and [ITA67 s551(1) and  
(2)(a); CTA76  
s147(1) and (2)]

(b) where relief from income tax paid for any year of assessment, or corporation tax paid for any accounting period, is given to any person by repayment, that person shall be entitled to require that the amount repaid shall be treated for the purposes of this subsection to the extent possible as if it were a discharge of the tax charged on that person (whether alone or together with other persons) by any assessment for the same year or, as the case may be, the same accounting period; but the relief shall not be applied to any assessment made after the relief was given and shall not be applied to more than one assessment so as to reduce without extinguishing the amount of tax charged thereby.

(2) No relief, whether by means of discharge or repayment, shall be treated as affecting tax charged by an assessment to income tax unless it is a relief from income tax.

**1082.**—(1) In this section, “neglect”, in the case of corporation tax, has the same meaning as in *section 919(5)(a)* and, in the case of income tax, has the same meaning as in *section 924(2)(a)*. Interest on overdue  
income tax and  
corporation tax in  
cases of fraud or  
neglect.

(2) Where for any year of assessment or accounting period an assessment is made for the purpose of recovering an undercharge to income tax or corporation tax, as the case may be, attributable to the fraud or neglect of any person, the amount of the tax undercharged shall carry interest at the rate of 2 per cent for each month or part of a month from the date or dates on which the tax undercharged for that year or accounting period, as the case may be, would have been payable if it had been included in an assessment made— [FA71 s20(1) to (4)  
and (6); FA74 s86  
and Sch2 PtI;  
CTA76 s145(4);  
FA80 s14(2); FA82  
s59]

(a) in the case of income tax, before the 1st day of October in that year, and

(b) in the case of corporation tax, on the expiration of 6 months from the end of that accounting period,

to the date of payment of the tax undercharged.

(3) Subject to *subsection (5)*, *section 1080(1)* shall not apply to tax carrying interest under this section.

(4) *Subsections (2) to (4)* of *section 1080* and, in the case of income tax, *section 1081* shall apply to interest chargeable under this section as they apply to interest chargeable under *section 1080*.

(5) Where an assessment of the kind referred to in *subsection (2)* is made—

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- (a) the inspector concerned shall give notice to the person assessed that the tax charged by the assessment will carry interest under this section,
- (b) the person assessed may appeal against the assessment on the ground that interest should not be charged under this section, and the provisions of the Tax Acts relating to appeals against assessments shall apply with any necessary modifications in relation to the appeal as they apply in relation to those appeals, and
- (c) if on the appeal it is determined that the tax charged by the assessment should not carry interest under this section, *section 1080(1)* shall apply to that tax.

Application of *sections 1080 to 1082* for capital gains tax purposes.

**1083.**—Without prejudice to *sections 931(2)* and *976(2)*, *sections 1080 to 1082* shall, subject to any necessary modifications, apply to capital gains tax.

[CGTA75 s51(1) and Sch4 par2(2)]

## CHAPTER 6

### *Other sanctions*

Surcharge for late returns.

**1084.**—(1) (a) In this section—

“chargeable person”, in relation to a year of assessment or an accounting period, means a person who is a chargeable person for the purposes of *Part 41*;

“return of income” means a return, statement, declaration or list which a person is required to deliver to the inspector by reason of a notice given by the inspector under any one or more of the specified provisions, and includes a return which a chargeable person is required to deliver under *section 951*;

“specified return date for the chargeable period” has the same meaning as in *section 950*;

“specified provisions” means *sections 877 to 881* and *884, paragraphs (a) and (d) of section 888(2)*, and *section 1023*;

“tax” means income tax, corporation tax or capital gains tax, as may be appropriate.

(b) For the purposes of this section—

(i) where a person fraudulently or negligently delivers an incorrect return of income on or before the specified return date for the chargeable period, the person shall be deemed to have failed to deliver the return of income on or before that date unless the error in the return of income is remedied on or before that date,

(ii) where a person delivers an incorrect return of income on or before the specified return date for the chargeable period but does so neither fraudulently nor negligently and it comes to the person’s notice (or, if he or she has died, to the

[FA86 s48; FA88 s16; FA90 s25(1); FA92 s245; FA95 s30(1)]

notice of his or her personal representatives) that it is incorrect, the person shall be deemed to have failed to deliver the return of income on or before the specified return date for the chargeable period unless the error in the return of income is remedied without unreasonable delay,

(iii) where a person delivers a return of income on or before the specified return date for the chargeable period but the inspector, by reason of being dissatisfied with any statement of profits or gains arising to the person from any trade or profession which is contained in the return of income, requires the person, by notice in writing served on the person under *section 900*, to do any thing, the person shall be deemed not to have delivered the return of income on or before the specified return date for the chargeable period unless the person does that thing within the time specified in the notice, and

(iv) references to such of the specified provisions as are applied, subject to any necessary modifications, in relation to capital gains tax by *section 913* shall be construed as including references to those provisions as so applied.

(2) (a) Subject to *paragraph (b)*, where in relation to a year of assessment or accounting period a chargeable person fails to deliver a return of income on or before the specified return date for the chargeable period, any amount of tax for that year of assessment or accounting period which apart from this section is or would be contained in an assessment to tax made or to be made on the chargeable person shall be increased by an amount (in this subsection referred to as “the surcharge”) equal to—

(i) 5 per cent of that amount of tax, subject to a maximum increased amount of £10,000, where the return of income is delivered before the expiry of 2 months from the specified return date for the chargeable period, and

(ii) 10 per cent of that amount of tax, subject to a maximum increased amount of £50,000, where the return of income is not delivered before the expiry of 2 months from the specified return date for the chargeable period,

and, if the tax contained in the assessment is not the amount of tax as so increased, then, the provisions of the Tax Acts and the Capital Gains Tax Acts (apart from this section), including in particular those provisions relating to the collection and recovery of tax and the payment of interest on unpaid tax, shall apply as if the tax contained in the assessment to tax were the amount of tax as so increased.

(b) In determining the amount of the surcharge, the tax contained in the assessment to tax shall be deemed to be reduced by the aggregate of—

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- (i) any tax deducted by virtue of any of the provisions of the Tax Acts or the Capital Gains Tax Acts from any income, profits or chargeable gains charged in the assessment to tax in so far as that tax has not been repaid or is not repayable to the chargeable person and in so far as the tax so deducted may be set off against the tax contained in the assessment to tax,
- (ii) the amount of any tax credit to which the chargeable person is entitled in respect of any income, profits or chargeable gains charged in the assessment to tax, and
- (iii) any other amounts which are set off in the assessment to tax against the tax contained in that assessment.

(3) In the case of a person—

- (a) who is a director within the meaning of *section 116*, or
- (b) to whom *section 1017* applies and whose spouse is a director within the meaning of *section 116*,

*subsection (2)(b)(i)* shall not apply in respect of any tax deducted under *Chapter 4* of *Part 42* in determining the amount of a surcharge under this section.

- (4) (a) Notwithstanding *subsections (1) to (3)*, the specified return date for the chargeable period, being a year of assessment (in *paragraph (b)* referred to as “the first-mentioned year of assessment”) to which *section 66(1)* applies, shall be the date which is the specified return date for the year of assessment following that year.
- (b) *Paragraph (a)* shall only apply if throughout the first-mentioned year of assessment the chargeable person or that person’s spouse, not being a spouse in relation to whom *section 1016* applies for that year of assessment, was not carrying on a trade or profession set up and commenced in a previous year of assessment.

(5) This section shall apply in relation to an amount of preliminary tax (within the meaning of *Part 41*) whether paid under *section 952* or specified in a notice under *section 953* as it applies to an amount of tax specified in an assessment.

Corporation tax —  
late returns:  
restriction of certain  
claims for relief.

[FA92 s55(1) and  
(2); FA95 s66(1)  
and (2)]

**1085.**—(1) (a) In this section—

“chargeable period” means an accounting period of a company;

“group relief” has the meaning assigned to it by *section 411*;

“return of income” means a return which a company is required to deliver under *section 951*;

“specified return date for the chargeable period” has the same meaning as in *section 950*.

- (b) *Subparagraphs (i), (ii) and (iii) of paragraph (b) of subsection (1) of section 1084* shall apply for the

purposes of this section as they apply for the purposes of that section. Pr.47 S.1085

(2) Notwithstanding any other provision of the Tax Acts, where in relation to a chargeable period a company fails to deliver a return of income for the chargeable period on or before the specified return date for the chargeable period, then, subject to *subsections (3) and (4)*, the following provisions shall apply:

- (a) any claim in respect of the chargeable period under *section 308(4), 396(2) or 399(2)* shall be so restricted that the amount by which the company's profits of that or any other chargeable period are to be reduced by virtue of the claim shall be 50 per cent of the amount it would have been if this section had not been enacted,
- (b) the total amount of group relief which the company may claim in respect of the chargeable period shall not exceed 50 per cent of the company's profits of the chargeable period as reduced by any other relief from tax other than group relief,
- (c) the total amount of the loss referred to in *subsection (1) of section 420* for the chargeable period and the total amount of the excess referred to in *subsection (2), (3) or (6)* of that section for that period shall each be treated for the purposes of *Chapter 5 of Part 12* as reduced by 50 per cent,
- (d) any claim in respect of the chargeable period under *section 160(3)* shall be so restricted that the amount of advance corporation tax which is treated as if it were advance corporation tax paid in respect of distributions made by the company in any preceding chargeable period shall be 50 per cent of the amount which would have been so treated if this section had not been enacted, and
- (e) the company may not surrender under *section 166(1)* more than 50 per cent of the excess of the total amount of advance corporation tax it has paid (and which has not been repaid) in respect of a dividend or dividends paid by it in the chargeable period over the amount of such advance corporation tax which under *section 160(2)* is set against its liability to corporation tax for the chargeable period.

(3) Subject to *subsection (4)*, any restriction or reduction imposed by *paragraph (a), (b), (c), (d) or (e) of subsection (2)* in respect of a chargeable period in the case of a company which fails to deliver a return of income on or before the specified return date for the chargeable period shall apply subject to—

- (a) in the case of the restrictions or reductions imposed by *paragraph (a), (b) or (c) of subsection (2)*, a maximum restriction or reduction, as the case may be, of £125,000 in each case for the chargeable period, and
- (b) in the case of the restrictions imposed by *paragraph (d) or (e) of subsection (2)*, a maximum restriction of £50,000 in each case for the chargeable period.

(4) Where in relation to a chargeable period a company, having failed to deliver a return of income on or before the specified return

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date for the chargeable period, delivers that return before the expiry of 2 months from the specified return date for the chargeable period, paragraphs (a) to (e) of subsection (2) shall apply—

- (a) as if the references in those paragraphs to “50 per cent” were references to “75 per cent” in the case of paragraphs (a), (b), (d) and (e) and “25 per cent” in the case of paragraph (c), and
- (b) subject to—
  - (i) in the case of the restrictions or reductions imposed by paragraph (a), (b) or (c) of subsection (2), a maximum restriction or reduction, as the case may be, of £25,000 in each case for the chargeable period, and
  - (ii) in the case of the restrictions imposed by paragraph (d) or (e) of subsection (2), a maximum restriction of £10,000 in each case for the chargeable period.

Publication of names of tax defaulters.

[FA83 s23; FA92 s240(b); WCTIPA93 s3(7); FA97 s158]

**1086.**—(1) In this section—

“the Acts” means—

- (a) the Tax Acts,
- (b) the Capital Gains Tax Acts,
- (c) the Value-Added Tax Act, 1972, and the enactments amending or extending that Act,
- (d) the Capital Acquisitions Tax Act, 1976, and the enactments amending or extending that Act,
- (e) the statutes relating to stamp duty and to the management of that duty, and
- (f) Part VI of the Finance Act, 1983,

and any instruments made thereunder;

“tax” means income tax, capital gains tax, corporation tax, value-added tax, gift tax, inheritance tax, residential property tax and stamp duty.

(2) The Revenue Commissioners shall, as respects each relevant period (being the period beginning on the 1st day of January, 1997, and ending on the 30th day of June, 1997, and each subsequent period of 3 months beginning with the period ending on the 30th day of September, 1997), compile a list of the names and addresses and the occupations or descriptions of every person—

- (a) on whom a fine or other penalty was imposed by a court under any of the Acts during that relevant period,
- (b) on whom a fine or other penalty was otherwise imposed by a court during that relevant period in respect of an act or omission by the person in relation to tax, or
- (c) in whose case the Revenue Commissioners, pursuant to an agreement made with the person in that relevant period,

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refrained from initiating proceedings for the recovery of any fine or penalty of the kind mentioned in *paragraphs (a) and (b)* and, in place of initiating such proceedings, accepted or undertook to accept a specified sum of money in settlement of any claim by the Revenue Commissioners in respect of any specified liability of the person under any of the Acts for—

- (i) payment of any tax,
- (ii) payment of interest on that tax, and
- (iii) a fine or other monetary penalty in respect of that tax.

(3) Notwithstanding any obligation as to secrecy imposed on them by the Acts or the Official Secrets Act, 1963—

- (a) the Revenue Commissioners shall, before the expiration of 3 months from the end of each relevant period, cause each such list referred to in *subsection (2)* in relation to that period to be published in *Iris Oifigiúil*, and
- (b) the Revenue Commissioners may at any time cause any such list referred to in *subsection (2)* to be publicised in such manner as they shall consider appropriate.

(4) *Paragraph (c)* of *subsection (2)* shall not apply in relation to a person in whose case—

- (a) the Revenue Commissioners are satisfied that, before any investigation or inquiry had been commenced by them or by any of their officers into any matter occasioning a liability referred to in that paragraph of the person, the person had voluntarily furnished to them complete information in relation to and full particulars of that matter,
- (b) section 72 of the Finance Act, 1988, or section 3 of the Waiver of Certain Tax, Interest and Penalties Act, 1993, applied, or
- (c) the specified sum referred to in *paragraph (c)* of *subsection (2)* does not exceed £10,000.

(5) Any list referred to in *subsection (2)* shall specify in respect of each person named in the list such particulars as the Revenue Commissioners think fit—

- (a) of the matter occasioning the fine or penalty of the kind referred to in *subsection (2)* imposed on the person or, as the case may be, the liability of that kind to which the person was subject, and
- (b) of any interest, fine or other monetary penalty, and of any other penalty or sanction, to which that person was liable, or which was imposed on that person by a court, and which was occasioned by the matter referred to in *paragraph (a)*.

PART 48

MISCELLANEOUS AND SUPPLEMENTAL

Charge and deduction of income tax not charged or deducted before passing of annual Act.

[ITA67 s8 and s93(3); FA69 s 29; FA72 s12 and Sch3; CTA76 s140(1) and Sch2 PtI par2]

**1087.**—(1) Where in any year of assessment any payments have been made, before the passing of an Act increasing the rate of income tax for that year, on account of any interest, dividends or other annual profits or gains from which under the Tax Acts income tax is required to be deducted and tax has not been charged on or deducted from those payments, or has not been charged on or deducted from those payments at the increased rate of tax for that year—

- (a) the amount not so charged or deducted shall be charged under Case IV of Schedule D in respect of those payments as profits or gains not charged by virtue of any other Schedule, and
- (b) the agents entrusted with the payment of the interest, dividends or annual profits or gains shall furnish to the Revenue Commissioners a list containing—
  - (i) the names and addresses of the persons to whom payments have been made, and
  - (ii) the amount of those payments,

on a requisition made by the Revenue Commissioners in that behalf.

(2) Any person liable to pay any rent, interest or annuity, or to make any other annual payment, including a payment to which *section 104* applies (not being a payment of rent, interest or annuity)—

- (a) shall be authorised—
  - (i) to make any deduction on account of income tax for any year of assessment which that person has failed to make before the passing of an Act increasing the rate of tax for that year, or
  - (ii) to make up any deficiency in any such deduction which has been so made,

on the occasion of the next payment of the rent, interest or annuity, or the making of the other annual payment, including a payment to which *section 104* applies (not being a payment of rent, interest or annuity), after the passing of the Act so increasing the rate of tax, in addition to any other deduction which that person may be by law authorised to make, and

- (b) shall also be entitled, if there is no future payment from which the deduction may be made, to recover the sum which might have been deducted as if it were a debt due from the person as against whom the deduction could originally have been made if the Act increasing the rate of tax for the year had been in force.

(3) This section shall not apply to a payment which is a distribution within the meaning of *Chapter 2* of *Part 6*.

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**1088.**—(1) In determining the amount of profits or gains for the purpose of income tax—

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deductions in  
computing profits.

(a) no deductions shall be made other than those expressly provided for by the Income Tax Acts, and

[ITA67 s535; FA74 s51]

(b) no deduction shall be made on account of any annuity or other annual payment (other than interest) to be paid out of such profits or gains in regard that a proportionate part of the income tax is allowed to be deducted on making any such payment.

(2) In determining the amount of profits or gains from any property described in the Income Tax Acts or from any office or employment of profit, no deduction shall be made on account of diminution of capital employed, or of loss sustained, in any trade or in any profession or employment.

**1089.**—(1) Interest payable under—

Status of interest on  
certain unpaid taxes  
and duties.

(a) section 15 of the Stamp Act, 1891, and subsections (2) and (3) of section 69 of the Finance Act, 1973,

[FA73 s35; FA75 s27; FA76 s29]

(b) section 21 of the Value-Added Tax Act, 1972, or

(c) *section 531(9) or 991,*

shall be payable without any deduction of income tax and shall not be allowed in computing any income, profits or losses for any of the purposes of the Income Tax Acts.

(2) Interest payable under section 18 of the Wealth Tax Act, 1975, or section 41 of the Capital Acquisitions Tax Act, 1976, shall not be allowed in computing any income, profits or losses for any of the purposes of the Tax Acts.

**1090.**—Where an assessment has become final and conclusive for the purposes of income tax for any year of assessment, that assessment shall also be final and conclusive in estimating total income from all sources for the purposes of the Income Tax Acts, and no allowance or adjustment of liability, on the ground of diminution of income or loss, shall be taken into account in estimating such total income from all sources for such purposes unless that allowance or adjustment has been previously made on an application under the special provisions of the Income Tax Acts relating to that allowance or adjustment.

Income tax  
assessment to be  
conclusive of total  
income.

[ITA67 s534]

**1091.**—(1) In this section, “company” means a company within the meaning of the Companies Act, 1963, and a company created by letters patent or by or in pursuance of any statute.

Annexation of  
statements to  
interest warrants,  
etc.

(2) Every warrant, cheque or other order sent or delivered for the purpose of paying any interest which is not a distribution within the meaning of the Corporation Tax Acts by a company which is entitled to deduct income tax from such interest shall have annexed to it, or be accompanied by, a statement in writing showing—

[ITA67 s458;  
CTA76 s140(1) and  
Sch2 PtI par25]

(a) the gross amount which, after deduction of the income tax appropriate to such interest, corresponds to the net amount actually paid,

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(b) the rate and amount of income tax appropriate to such gross amount, and

(c) the net amount actually paid.

(3) A company which fails to comply with *subsection (2)* shall incur a penalty of £10 in respect of each offence but the aggregate amount of the penalties imposed under this section on any company in respect of offences connected with any one payment or distribution of interest shall not exceed £100.

Disclosure of certain information to rating authorities, etc.

[FA78 s47; FA80 s89]

**1092.**—(1) This section shall apply to any charge imposed on public moneys, being a charge for the purposes of relief (in this section referred to as “the relief”) under the Rates on Agricultural Land (Relief) Acts, 1939 to 1980, and any subsequent enactment together with which those Acts may be cited.

(2) Where a charge to which this section applies is to be made, the Revenue Commissioners or any officer authorised by them for that purpose may, in connection with the establishment of title to the relief of a person (in this subsection referred to as “the claimant”), notwithstanding any obligation as to secrecy imposed on them under the Income Tax Acts or under any other enactment, disclose to any person specified in *column (1)* of the Table to this section information of the kind specified in *column (2)* of that Table, being information in respect of the claimant which is required by that person when considering the claimant’s title to the relief.

(3) In the Table to this section, “occupation” has the same meaning as in *section 654*, and “rating authority” has the same meaning as in *section 898*.

TABLE

(1) Persons to whom information to be given	(2) Information to be given
The secretary or clerk, or a person acting as such, to a rating authority or any officer of the Minister for the Environment and Local Government authorised by that Minister for the purpose of this section.	Information relating to the occupation of land by the claimant and the rateable valuation of such land.

Disclosure of information to Ombudsman.

[FA81 s52]

**1093.**—Any obligation to maintain secrecy or other restriction on the disclosure or production of information (including documents) obtained by or furnished to the Revenue Commissioners, or any person on their behalf, for taxation purposes, shall not apply to the disclosure or production of information (including documents) to the Ombudsman for the purposes of an examination or investigation by the Ombudsman under the Ombudsman Act, 1980, of any action (within the meaning of that Act) taken by or on behalf of the Revenue Commissioners, being such an action taken in the performance of administrative functions in respect of any tax or duty under the care and management of the Revenue Commissioners.

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**1094.**—(1) In this section—

“the Acts” means—

- (a) the Tax Acts,
- (b) the Capital Gains Tax Acts, and
- (c) the Value-Added Tax Act, 1972, and the enactments amending or extending that Act,

and any instruments made thereunder;

“beneficial holder of a licence” means the person who conducts the activities under the licence and, in relation to a licence issued under the Auctioneers and House Agents Act, 1947, includes the authorised individual referred to in section 8(4), or the nominated individual referred to in section 9(1), of that Act;

“licence” means a licence or authorisation, as the case may be, of the kind referred to in—

- (a) the proviso (inserted by section 156 of the Finance Act, 1992) to section 49(1) of the Finance (1909-1910) Act, 1910,
- (b) the further proviso (inserted by section 79(1) of the Finance Act, 1993) to section 49(1) of the Finance (1909-1910) Act, 1910,
- (c) the proviso (inserted by section 79(2) of the Finance Act, 1993) to section 7(3) of the Betting Act, 1931,
- (d) the proviso (inserted by section 79(3) of the Finance Act, 1993) to section 19 of the Gaming and Lotteries Act, 1956,
- (e) the proviso (inserted by section 79(4)(a) of the Finance Act, 1993) to subsection (1) of section 8 of the Auctioneers and House Agents Act, 1947,
- (f) the proviso (inserted by section 79(4)(b) of the Finance Act, 1993) to subsection (1) of section 9 of the Auctioneers and House Agents Act, 1947 (an auction permit under that section being deemed for the purposes of this section to be a licence),
- (g) the proviso (inserted by section 79(4)(c) of the Finance Act, 1993) to subsection (1) of section 10 of the Auctioneers and House Agents Act, 1947,
- (h) the proviso (inserted by section 79(5) of the Finance Act, 1993) to paragraph 12(12) of the Imposition of Duties (No. 221) (Excise Duties) Order, 1975 (S.I. No. 307 of 1975),
- (i) the proviso (inserted by section 79(6) of the Finance Act, 1993) to paragraph (b) of subsection (3) of section 45 of the Finance Act, 1989, and
- (j) section 93, 116 or 144 of the Consumer Credit Act, 1995;

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certificates in  
relation to certain  
licences.

[FA92 s242; FA93  
s140; FA97 s160(1)]

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“specified date” means the date of commencement of a licence sought to be granted under any of the provisions referred to in *paragraphs (a) to (i)* of the definition of “licence” as specified for the purposes of a tax clearance certificate under *subsection (2)*;

“tax clearance certificate” shall be construed in accordance with *subsection (2)*.

(2) Subject to *subsection (3)*, the Collector-General shall, on an application to him or her by the person who will be the beneficial holder of a licence due to commence on a specified date, issue a certificate (in this section referred to as a “tax clearance certificate”) for the purposes of the grant of a licence if—

- (a) that person and, in respect of the period of that person’s membership, any partnership of which that person is or was a partner,
- (b) in a case where that person is a partnership, each partner,
- (c) in a case where that person is a company, each person who is either the beneficial owner of, or able directly or indirectly to control, more than 50 per cent of the ordinary share capital of the company,

has or have complied with all the obligations imposed on that person or on them by the Acts in relation to—

- (i) the payment or remittance of the taxes, interest and penalties required to be paid or remitted under the Acts, and
- (ii) the delivery of returns.

(3) Subject to *subsection (4)*, where a person (in this section referred to as “the first-mentioned person”) will be the beneficial holder of a licence due to commence on a specified date and another person (in this section referred to as “the second-mentioned person”) was the beneficial holder of the licence at any time during the year ending on that date, and—

- (a) the second-mentioned person is a company connected (within the meaning of *section 10* as it applies for the purposes of the Tax Acts) with the first-mentioned person or would have been such a company but for the fact that the company has been wound up or dissolved without being wound up,
- (b) the second-mentioned person is a company and the first-mentioned person is a partnership in which—
  - (i) a partner is or was able, or
  - (ii) where more than one partner is a shareholder, those partners together are or were able,

directly or indirectly, whether with or without a connected person or connected persons (within the meaning of *section 10* as it applies for the purposes of the Tax Acts), to control more than 50 per cent of the ordinary share capital of the company, or

- (c) the second-mentioned person is a partnership and the first-mentioned person is a company in which—

- (i) a partner is or was able, or
- (ii) where more than one partner is a shareholder, those partners together are or were able,

directly or indirectly, whether with or without a connected person or connected persons (within the meaning of *section 10* as it applies for the purposes of the Tax Acts), to control more than 50 per cent of the ordinary share capital of the company,

then, a tax clearance certificate shall not be issued by the Collector-General under *subsection (2)* unless, in relation to the activities conducted under the licence, the second-mentioned person has complied with the second-mentioned person's obligations under the Acts as specified in *subsection (2)*.

(4) *Subsection (3)* shall not apply to a transfer of a licence effected before the 24th day of April, 1992, or to such transfer effected after that date where a contract for the sale or lease of the premises to which the licence relates was signed before that date.

(5) An application for a tax clearance certificate under this section shall be made to the Collector-General in a form prescribed by the Revenue Commissioners and shall specify the commencement date of the licence to which the application relates and, where that licence is for a period of less than one year, the licensing period.

(6) Where an application for a tax clearance certificate under this section is refused by the Collector-General, he or she shall as soon as is practicable communicate in writing such refusal and the grounds for such refusal to the person concerned.

(7) (a) Where an application under this section to the Collector-General for a tax clearance certificate is refused, the person aggrieved by the refusal may, by notice in writing given to the Collector-General within 30 days of the refusal, apply to have such person's application heard and determined by the Appeal Commissioners; but no right of appeal shall exist by virtue of this section in relation to any amount of tax or interest due under the Acts.

(b) A notice under *paragraph (a)* shall be valid only if—

- (i) that notice specifies—
  - (I) the matter or matters with which the person is aggrieved, and
  - (II) the grounds in detail of the person's appeal as respects each such matter,

and

- (ii) any amount under the Acts which is due to be remitted or paid, and which is not in dispute, is duly remitted or paid.

(c) The Appeal Commissioners shall hear and determine an appeal made to them under this subsection as if it were an appeal against an assessment to income tax and, subject to *paragraph (d)*, the provisions of the Income Tax Acts relating to such an appeal (including the provisions

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relating to the rehearing of an appeal and to the statement of a case for the opinion of the High Court on a point of law) shall apply accordingly with any necessary modifications.

- (d) On the hearing of an appeal made under this subsection, the Appeal Commissioners shall have regard to all matters to which the Collector-General is required to have regard under this section.

Tax clearance certificates in relation to public sector contracts.

**1095.—(1)** In this section—

“the Acts” means—

- (a) the Tax Acts,  
(b) the Capital Gains Tax Acts, and  
(c) the Value-Added Tax Act, 1972, and the enactments amending or extending that Act,

[FA95 s177(1) to (6); FA96 s132(1) and Sch5 PtI par19]

and any instruments made thereunder;

“the scheme” means a scheme of the Department of Finance for the time being in force requiring persons to show, by means of tax clearance certificates, compliance with the obligations imposed by the Acts in relation to the matters specified in *subsection (2)* before the award to them of contracts that are specified in a circular of the Department of Finance entitled “Tax Clearance Procedures — Public Sector Contracts”, numbered F 49/24/84 and issued on the 30th day of July, 1991, or any such circular amending or replacing that circular;

“tax clearance certificate” shall be construed in accordance with *subsection (2)*.

(2) Subject to this section, where a person who is in compliance with the obligations imposed on the person by the Acts in relation to—

- (a) the payment or remittance of any taxes, interest or penalties required to be paid or remitted under the Acts to the Revenue Commissioners, and  
(b) the delivery of any returns required to be made under the Acts,

applies to the Collector-General in that behalf for the purposes of the scheme, the Collector-General shall issue to the person a certificate (in this section referred to as a “tax clearance certificate”) stating that the person is in compliance with those obligations.

(3) A tax clearance certificate shall not be issued to a person unless—

- (a) the person and, in respect of the period of the person’s membership, any partnership of which the person is or was a member,  
(b) in a case where the person is a partnership, each person who is a member of the partnership, and

- (c) in a case where the person is a company, each person who is either the beneficial owner of, or able directly or indirectly to control, more than 50 per cent of the ordinary share capital of the company,

is in compliance with the obligations imposed on the person and each other person (including any partnership) by the Acts in relation to the matters specified in *paragraphs (a) and (b) of subsection (2)*.

(4) Where a person (in this subsection referred to as “the first-mentioned person”) applies for a tax clearance certificate in accordance with *subsection (2)* and the business activity to which the application relates was previously carried on by, or was previously carried on as part of a business activity carried on by, another person (in this subsection referred to as “the second-mentioned person”) and—

- (a) the second-mentioned person is a company which is connected (within the meaning of *section 10* as it applies for the purposes of the Tax Acts) with the first-mentioned person or would have been such a company but for the fact that the company has been wound up or dissolved without being wound up,

- (b) the second-mentioned person is a company and the first-mentioned person is a partnership and—

- (i) a member of the partnership is or was able, or  
(ii) where more than one such member is a shareholder of the company, those members acting together are or were able,

directly or indirectly, whether with or without a connected person or connected persons (within the meaning of *section 10* as it applies for the purposes of the Tax Acts), to control more than 50 per cent of the ordinary share capital of the company, or

- (c) the second-mentioned person is a partnership and the first-mentioned person is a company and—

- (i) a member of the partnership is or was able, or  
(ii) where more than one such member is a shareholder of the company, those members acting together are or were able,

directly or indirectly, whether with or without a connected person or connected persons (within the meaning of *section 10* as it applies for the purposes of the Tax Acts), to control more than 50 per cent of the ordinary share capital of the company,

then, a tax clearance certificate shall not be issued to the first-mentioned person unless, in relation to the business activity to which the application relates, the second-mentioned person is in compliance with the obligations imposed on that person by the Acts in relation to the matters specified in *paragraphs (a) and (b) of subsection (2)*.

(5) *Subsection (4)* shall not apply to a business the transfer of which was effected before the 9th day of May, 1995, or a business the transfer of which is or was effected after that date if a contract for the transfer was made before that date.

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(6) *Subsections (5), (6) and (7) of section 1094* shall, with any necessary modifications, apply to an application for a tax clearance certificate under this section as they apply to an application for a tax clearance certificate under that section.

(7) A tax clearance certificate shall be valid for the period specified in the certificate.

Assessment of  
Electricity Supply  
Board.

[ITA67 s545(1)]

**1096.**—For the purpose of determining liability for assessment to and payment of income tax, the Electricity Supply Board is not and never was the State or a branch or department of the Government of the State.

## PART 49

### COMMENCEMENT, REPEALS, TRANSITIONAL PROVISIONS, ETC.

Commencement.

**1097.**—(1) Except where otherwise provided by or under this Act, this Act shall be deemed to have come into force—

- (a) in relation to income tax, for the year 1997-98 and subsequent years of assessment,
- (b) in relation to corporation tax, for accounting periods ending on or after the 6th day of April, 1997, and
- (c) in relation to capital gains tax, for the year 1997-98 and subsequent years of assessment.

(2) So much of any provision of this Act as—

- (a) authorises the making, variation or revocation of any order or regulation or other instrument,
- (b) relates to the making of a return, the furnishing of a certificate or statement or the giving of any information, including any such provision which imposes a duty or obligation on—
  - (i) the Revenue Commissioners or on an inspector or other officer of the Revenue Commissioners, or
  - (ii) any other person,
- (c) imposes a fine, forfeiture or penalty,
- (d)
  - (i) except where the tax concerned is all income tax for years of assessment before the year 1997-98, confers any power or imposes any duty or obligation the exercise or performance of which operates or may operate in relation to income tax for more than one year of assessment,
  - (ii) except where the tax concerned is all corporation tax for accounting periods ending before the 6th day of April, 1997, confers any power or imposes any duty or obligation the exercise or performance of which operates or may operate in relation to corporation tax for more than one accounting period, and

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- (iii) except where the tax concerned is all capital gains tax for years of assessment before the year 1997-98, confers any power or imposes any duty or obligation the exercise or performance of which operates or may operate in relation to capital gains tax for more than one year of assessment, Pt.49 S.1097

and

- (e) relates to any tax or duty, other than income tax, corporation tax or capital gains tax,

shall be deemed to have come into force on the 6th day of April, 1997, in substitution for the corresponding provisions of the repealed enactments.

(3) For the purposes of *subsection (2)*, anything done under or in connection with the provisions of the repealed enactments which correspond to the provisions of this Act referred to in that subsection shall be deemed to have been done under or in connection with the provisions of this Act to which those provisions of the repealed enactments correspond; but nothing in this subsection shall affect the operation of *subsections (3) and (4) of section 1102*.

(4) Notwithstanding *subsection (2)*, any provision of the repealed enactments which imposes a fine, forfeiture, penalty or punishment for any act or omission shall, in relation to any act or omission which took place or began before the 6th day of April, 1997, continue to apply in substitution for the provision of this Act to which it corresponds.

(5) If, and in so far as, by virtue of *subsection (2)*, a provision of this Act operates from the 6th day of April, 1997, in substitution for a provision of the repealed enactments, any order or regulation made or having effect as if made, and any thing done or having effect as if done, under the excluded provision before that date shall be treated as from that date as if it were an order or regulation made or a thing done under that provision of this Act.

**1098.**—(1) The enactments mentioned in *column (2) of Schedule 30* (which in this Act are referred to as “the repealed enactments”) are hereby repealed as on and from the 6th day of April, 1997, to the extent specified in *column (3) of that Schedule*. Repeals.

(2) *Subsection (1)* shall come into force in accordance with *section 1097*, and accordingly, except where otherwise provided by that section, this Act shall not apply—

- (a) to income tax for the year 1996-97 or any previous year of assessment,
- (b) to corporation tax for accounting periods ending before the 6th day of April, 1997, and
- (c) to capital gains tax for the year 1996-97 or any previous year of assessment,

and the repealed enactments shall continue to apply—

- (i) to income tax for any year mentioned in *paragraph (a)*,

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(ii) to corporation tax for any period mentioned in *paragraph (b)*, and

(iii) to capital gains tax for any year mentioned in *paragraph (c)*,

to the same extent that they would have applied if this Act had not been enacted.

Saving for enactments not repealed.

**1099.**—This Act (other than *subsections (2) to (4) of section 1102*) shall apply subject to so much of any Act as contains provisions relating to or affecting income tax, corporation tax or capital gains tax as—

(a) is not repealed by this Act, and

(b) would have operated in relation to those taxes respectively if this Act had not been substituted for the repealed enactments.

Consequential amendments to other enactments.

**1100.**—*Schedule 31*, which provides for amendments to other enactments consequential on the passing of this Act, shall apply for the purposes of this Act.

Transitional provisions.

**1101.**—*Schedule 32*, which contains transitional provisions, shall apply for the purposes of this Act.

Continuity and construction of certain references to old and new law.

**1102.**—(1) The Revenue Commissioners shall have all the jurisdictions, powers and duties in relation to tax under this Act which they had before the passing of this Act.

(2) The continuity of the operation of the law relating to income tax, corporation tax and capital gains tax shall not be affected by the substitution of this Act for the repealed enactments.

(3) Any reference, whether express or implied, in any enactment or document (including this Act and any Act amended by this Act)—

(a) to any provision of this Act, or

(b) to things done or to be done under or for the purposes of any provision of this Act,

shall, if and in so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision in the repealed enactments applied or had applied, a reference to, or, as the case may be, to things done or to be done under or for the purposes of that corresponding provision.

(4) Any reference, whether express or implied, in any enactment or document (including the repealed enactments and enactments passed and documents made after the passing of this Act)—

(a) to any provision of the repealed enactments, or

(b) to things done or to be done under or for the purposes of any provision of the repealed enactments,

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shall, if and in so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision of this Act applies, a reference to, or as the case may be, to things done or deemed to be done or to be done under or for the purposes of that corresponding provision. Pt.49 S.1102

(5) Notwithstanding any other provision of this Act, no act, whether of commission or omission, which was committed or occurred before the 6th day of April, 1997, and was not an offence at the time of commission or omission, shall be an offence in the period from the 6th day of April, 1997, to the date of the passing of this Act.

**1103.**—(1) All officers appointed under the repealed enactments and holding office immediately before the commencement of this Act shall continue in office as if appointed under this Act. Continuanace of officers, instruments and documents.

(2) All officers who immediately before the commencement of this Act stood authorised or nominated for the purposes of any provision of the repealed enactments shall be deemed to be authorised or nominated, as the case may be, for the purposes of the corresponding provision of this Act.

(3) All instruments, documents, authorisations and letters or notices of appointment made or issued under the repealed enactments and in force immediately before the commencement of this Act shall continue in force as if made or issued under this Act.

**1104.**—(1) This Act may be cited as the Taxes Consolidation Act, 1997. Short title and construction.

(2) *Sections 7, 858, 859, 872(1), 905, 906, 910, 912, 1002, 1078, 1079 and 1093* (in so far as relating to Customs) shall be construed together with the Customs Acts and (in so far as relating to duties of excise) shall be construed together with the statutes which relate to the duties of excise and to the management of those duties.

(3) *Sections 7, 811, 858, 859, 872(1), 887, 905, 906, 910 and 912, subsections (2) and (3) of section 928, and sections 1001, 1002, 1006, 1078, 1079, 1086, 1093, 1094 and 1095* (in so far as relating to value-added tax) shall be construed together with the Value-Added Tax Acts, 1972 to 1997.

(4) *Sections 7, 8, 811, 858, 859, 872(1), 875, 905, 906, 910, 1002, 1078, 1079, 1086 and 1093* (in so far as relating to stamp duties) shall be construed together with the Stamp Act, 1891, and the enactments amending or extending that Act.

(5) *Sections 7, 8, 811, 858, 859, 872(1), 887, 905, 906, 910, 912, 1002, 1003, 1006, 1078, 1079, 1086 and 1093* (in so far as relating to capital acquisitions tax) and *Part 34* (in so far as relating to capital acquisitions tax) shall be construed together with the Capital Acquisitions Tax Act, 1976, and the enactments amending or extending that Act.

(6) *Sections 7, 811, 859, 872(1), 887, 905, 906, 910, 912, 1006, 1078, 1086 and 1093* (in so far as they relate to Part VI of the Finance Act, 1983) shall be construed together with that Part and enactments amending or extending that Part.

SCHEDULE 1

Sections 13 and 567(4).

[FA73 Sch3 pars1, 3, 4, 5, 7 and 8; CTA76 s140(1) and Sch2 PtI par36(1) and (3) and s164 and Sch3 PtII]

SUPPLEMENTARY PROVISIONS CONCERNING THE EXTENSION OF CHARGE TO TAX TO PROFITS AND INCOME DERIVED FROM ACTIVITIES CARRIED ON AND EMPLOYMENTS EXERCISED ON THE CONTINENTAL SHELF

*Information*

1. The holder of a licence granted under the Petroleum and Other Minerals Development Act, 1960, shall, if required to do so by a notice served on such holder by an inspector, give to the inspector within the time limited by the notice (which shall not be less than 30 days) such particulars as may be required by the notice of—

- (a) transactions in connection with activities authorised by the licence as a result of which any person is or might be liable to income tax by virtue of *section 13* or to corporation tax by virtue of that section as applied by *section 23*, and
- (b) emoluments paid or payable in respect of duties performed in an area in which those activities may be carried on under the licence and the persons to whom they were paid or are payable,

and shall take reasonable steps to obtain the information necessary to enable such holder to comply with the notice.

*Collection*

2. (1) Subject to the following provisions of this Schedule, where any income tax is assessed by virtue of *section 13*, or any corporation tax is assessed by virtue of that section as applied by *section 23*, on a person not resident in the State in respect of—

- (a) profits or gains from activities authorised, or carried on in connection with activities authorised, by a licence granted under the Petroleum and Other Minerals Development Act, 1960, or
- (b) profits or gains arising from exploration or exploitation rights connected with activities so authorised or carried on,

and any of the tax remains unpaid later than 30 days after it has become due and payable, the Revenue Commissioners may serve a notice on the holder of the licence (in this paragraph referred to as “the holder”) specifying particulars of the assessment, the amount of tax remaining unpaid and the date when it became payable, and requiring the holder to pay that amount, together with any interest due on that amount under *section 1080*, within 30 days of the service of the notice.

(2) Any amount of tax which the holder is required to pay by a notice under this paragraph may be recovered from the holder as if it were tax due and duly demanded from the holder, and the holder may recover any such amount paid by the holder from the person on whom the assessment was made as a simple contract debt in any court of competent jurisdiction.

3. *Paragraph 2* shall not apply to any assessment to income tax on emoluments from an office or employment referred to in *section 13(5)*.

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4. *Paragraph 2* shall not apply if the profits or gains in respect of which the relevant assessment was made arose to the person on whom it was made in consequence of a contract made by the holder of the licence before the 16th day of May, 1973, unless that person is a person connected with the holder of the licence or the contract was varied on or after that date. SCH.1

5. Where, on an application made by a person who will or might become liable to tax which if remaining unpaid could be recovered under *paragraph 2* from the holder of a licence, the Revenue Commissioners are satisfied that the applicant will comply with any obligations imposed on the applicant by the Tax Acts, they may issue a certificate to the holder of the licence exempting that holder from the application of that paragraph with respect to any tax payable by the applicant and, where such a certificate is issued, that paragraph shall not apply to any such tax which becomes due while the certificate is in force.

6. The Revenue Commissioners may, by notice in writing given to the holder of a certificate issued under *paragraph 5*, cancel the certificate from such date, not earlier than 30 days after the service of the notice, as may be specified in the notice.

## SCHEDULE 2

### MACHINERY FOR ASSESSMENT, CHARGE AND PAYMENT OF TAX UNDER SCHEDULE C AND, IN CERTAIN CASES, SCHEDULE D

#### PART 1

##### *Interpretation of Parts 2 to 4*

1. *Section 32* shall apply for the interpretation of *Parts 2 to 4* of this Schedule as it applies for the interpretation of *Chapter 1* of *Part 3* of this Act, except that in *Part 4* of this Schedule “dividends” shall include all such interest, annuities or payments as are, within the meaning of *section 60*, dividends to which *Chapter 2* of *Part 4* of this Act applies.

#### PART 2

##### *Public revenue dividends, etc., payable to the Bank of Ireland, or entrusted for payment to the Bank of Ireland*

2. The Bank of Ireland, as respects the dividends and the profits attached to the dividends payable to the Bank out of the public revenue of the State, or payable out of any public revenue and entrusted to the Bank for payment and distribution, shall, when any payment becomes due, deliver to the Commissioners appointed to assess and charge the income tax on such dividends and the profits attached to such dividends in books provided for the purpose true accounts of—

- (a) the amounts of the dividends, and profits attached to the dividends, payable to the Bank,
- (b) all dividends entrusted to the Bank for payment to the persons entitled to such dividends, and
- (c) the amount of income tax chargeable on such dividends and the profits attached to such dividends at the standard rate in force at the time of payment without any other deduction than is allowed by the Income Tax Acts.

*Sections 33, 61 and 62.*

[ITA67 Sch1 Pts I and III to VI; F(MP)A68 s3(3) and Sch PtII, s3(4) and Sch PtIII and s3(5) and Sch PtIV; FA74 s11 and Sch1 PtII]

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SCH.2

3. The accounts referred to in *paragraph 2* shall distinguish the separate account of each person.

4. The Commissioners shall assess the income tax chargeable on the accounts delivered to the best of their judgment and belief, and shall deliver the assessment books signed by them to the Revenue Commissioners.

5. The Revenue Commissioners shall cause to be made out a certificate showing the total amount of income tax, the total amounts of the dividends and profits attached to the dividends charged with income tax, and the description of the persons or bodies of persons to whom such dividends and profits are payable or who have the distribution or are entrusted with the payment of such dividends.

6. The certificate shall be transmitted to the Commissioners whose duty it is to make the assessment.

7. (1) In the case of dividends and profits attached to dividends payable to the Bank of Ireland out of the public revenue of the State, the Bank of Ireland shall set apart the income tax in respect of the amount payable to the Bank.

(2) In the case of dividends and profits attached to dividends entrusted to the Bank of Ireland for payment and distribution—

- (a) the Bank of Ireland shall before making any payment retain the amount of the income tax for the purposes of the Income Tax Acts,
- (b) the retaining of the amount shall be deemed to be a payment of the income tax by the persons entitled to the dividends and shall be allowed by those persons on the receipt of the residue of the dividends, and
- (c) the Bank of Ireland shall be acquitted and discharged of a sum equal to the amount retained as though that sum had been actually paid.

8. Money set apart or retained under *paragraph 7* shall be paid into the general account of the Revenue Commissioners at the Bank of Ireland, and every such payment shall be accompanied by a certificate, under the hands of 2 or more of the Commissioners who made the assessment, of the amount of the assessment under which the payment is made.

9. Where the Bank of Ireland does all such things as are necessary to enable the income tax to be assessed and paid in respect of British Government Stocks and India Stocks inscribed in its books in Dublin, the Bank shall receive as remuneration an allowance, to be calculated by reference to the amount of dividends paid in respect of such Stocks from which income tax is deducted, and to be fixed by the Minister for Finance.

10. Except where otherwise provided in any other enactments in force at the commencement of this Act, no assessment, charge or deduction of income tax under this Part of this Schedule shall be made where any half-yearly payment in respect of any dividends does not exceed £2.50, but such dividends shall be assessed and charged under Case III of Schedule D.

*Public revenue dividends payable by public offices and departments*

11. Public revenue dividends payable by any public office or Department of State shall be charged under Schedule C by the Revenue Commissioners.

12. The Revenue Commissioners shall exercise the like powers and duties as are possessed by Commissioners empowered to charge dividends payable out of the public revenue in other cases.

13. When any payments of dividends referred to in *paragraph 11* are made, the income tax on those payments shall be computed and certified to the proper officer for payment, who shall retain the tax and pay the tax into the general account of the Revenue Commissioners at the Bank of Ireland.

PART 4

*Other public revenue dividends, dividends to which Chapter 2 of Part 4 applies, proceeds of coupons and price paid on purchase of coupons*

14. (1) Every person, being—

- (a) a person (other than the Bank of Ireland) entrusted with the payment of any dividends payable to any persons in the State out of any public revenue other than that of the State,
- (b) a person in the State entrusted with the payment of any dividends to which *Chapter 2 of Part 4* applies,
- (c) a banker or other person in the State who obtains payment of any dividends in such circumstances that the dividends are chargeable to income tax under Schedule C or, in the case of dividends to which *Chapter 2 of Part 4* applies, under Schedule D,
- (d) a banker in the State who sells or otherwise realises coupons in such manner that the proceeds of the sale or realisation are chargeable to income tax under Schedule C or, in the case of dividends to which *Chapter 2 of Part 4* applies, under Schedule D, and
- (e) a dealer in coupons in the State who purchases coupons in such manner that the price paid on the purchase is chargeable to income tax under Schedule C or, in the case of dividends to which *Chapter 2 of Part 4* applies, under Schedule D,

shall, within one month after being so required by notice published in *Iris Oifigiúil*, deliver to the Revenue Commissioners an account in writing giving such person's name and residence and a description of those dividends or proceeds or that price paid on purchase, and shall also, on demand by the inspector authorised for that purpose by the Revenue Commissioners, deliver to that inspector true and perfect accounts of the amount of all such dividends, proceeds or price paid on purchase.

(2) The accounts referred to in *subparagraph (1)* shall distinguish the separate accounts of each of the persons entitled to receive such

dividends, proceeds or price paid on purchase, and state the name and address of each such person, and give particulars of the amounts payable and, in the case of amounts payable out of any public revenue other than that of the State, of the public revenue out of which each separate amount is payable.

15. Any person mentioned in *clauses (a) to (e) of paragraph 14(1)* is referred to in this Part as a “chargeable person”.

16. The Revenue Commissioners shall—

- (a) have all necessary powers in relation to the examining, auditing, checking and clearing the books and accounts of dividends, proceeds or price paid on purchase delivered under *paragraph 14*,
- (b) assess and charge the dividends, proceeds or price paid on purchase at the rate of income tax in force at the time of payment, but reduced by the amount of the exemptions (if any) allowed by the Revenue Commissioners, and
- (c) give notice of the amount so assessed and charged to the chargeable person.

17. The chargeable person shall out of the moneys in that person’s hands pay the income tax on the dividends, proceeds or price paid on purchase on behalf of the persons entitled to the dividends, proceeds or price paid on purchase, and shall be acquitted in respect of all such payments, and the Income Tax Acts shall apply as in the case of dividends payable out of the public revenue of the State and entrusted to the Bank of Ireland for payment and distribution.

18. The chargeable person shall pay the income tax into the general account of the Revenue Commissioners at the Bank of Ireland, and in default of payment the income tax shall be recovered from the chargeable person in the like manner as other income tax assessed and charged on that person may be recovered.

19. A chargeable person who does all such things as are necessary to enable the income tax to be assessed and paid shall receive as remuneration an allowance, to be calculated by reference to the amount of the dividends, proceeds or price paid on purchase paid from which tax has been deducted, and to be fixed by the Minister for Finance at a rate not being less than £0.675 for every £1,000 of that amount.

20. Notwithstanding anything to the contrary in the Income Tax Acts, where the Bank of Ireland (in this paragraph referred to as “the Bank”) is entrusted with the payment of any dividends which are payable to any persons in the State out of any public revenue other than that of the State, this Part shall apply to the Bank and, where the Bank does all things required by this Part to be done by a person entrusted with the payment of such dividends, remuneration shall be payable to the Bank in accordance with *paragraph 19*.

21. Nothing in this Part shall impose on any banker the obligation to disclose any particulars relating to the affairs of any person on whose behalf that banker may be acting.

22. Where income tax in respect of the proceeds of the sale or realisation of any coupon or in respect of the price paid on the purchase of any coupon has been accounted for under this Part by any banker or any dealer in coupons and the Revenue Commissioners

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are satisfied that the dividends payable on the coupons in relation to which such proceeds or such price arises have been subsequently paid in such manner that income tax has been deducted from such dividends under any of the provisions of this Schedule, the income tax so deducted shall be repaid. SCH.2

#### PART 5

*Relief from obligation to pay tax on certain interest, dividends and other annual payments in the case of persons entrusted with payment*

23. When any interest, dividends or other annual payments payable out of any public revenue other than that of the State, or in respect of the stocks, funds, shares or securities of any body of persons not resident in the State, are entrusted to any person in the State for payment to any person in the State, the Revenue Commissioners shall have power to relieve the person so entrusted with payment from the obligation to pay the income tax on such interest, dividends or other annual payments imposed on such person by *section 17* and *Chapter 1 of Part 3*, or *Chapter 2 of Part 4* and this Schedule.

24. When granting the relief referred to in *paragraph 23* the Revenue Commissioners shall have power to prescribe any conditions which may appear to them to be necessary to ensure the assessment and payment of any income tax assessable and payable in respect of such interest, dividends or other annual payments under the Income Tax Acts.

25. A letter signed by a Secretary or an Assistant Secretary of the Revenue Commissioners stating that the Revenue Commissioners have exercised all or any of the powers conferred by this Part on them or the publication of a notice to that effect in *Iris Oifigiúil* shall be sufficient evidence that they have done so.

26. When, under the powers conferred on the Revenue Commissioners by this Part, the person entrusted with the payment of the interest, dividends or other annual payments is relieved from payment of the income tax on such interest, dividends or other annual payments, that tax shall be assessable and chargeable under the appropriate case of Schedule D on the person entitled to receive such interest, dividends or other annual payments and shall be payable by that person.

27. Where the person entrusted with the payment of the interest, dividends or other annual payments complies with the conditions prescribed by the Revenue Commissioners under *paragraph 24*, such person shall be entitled to receive as remuneration an allowance, to be calculated by reference to the amount of the dividends, interest or other annual payments in respect of which such conditions have been complied with, and to be fixed by the Minister for Finance at a rate or rates not being in any case less than £0.675 for every £1,000 of that amount.

#### SCHEDULE 3

*Section 201.*

RELIEFS IN RESPECT OF INCOME TAX CHARGED ON PAYMENTS ON RETIREMENT, ETC

[ITA67 Sch3; FA80 s10(2); FA90 s12; FA93 s8(b)]

#### PART 1

*Interpretation and preliminary*

1. (1) In this Schedule—

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“the relevant capital sum in relation to an office or employment” means, subject to *subparagraph (2)*, the aggregate of—

- (a) the amount of any lump sum (not chargeable to income tax) received,
- (b) the amount equal to the value at the relevant date of any lump sum (not chargeable to income tax) receivable, and
- (c) the amount equal to the value at the relevant date of any lump sum (not chargeable to income tax) which, on the exercise of an option or a right to commute, in whole or in part, a pension in favour of a lump sum, may be received in the future,

by the holder in respect of the office or employment in pursuance of any scheme or fund described in *section 778(1)*;

“the standard capital superannuation benefit”, in relation to an office or employment, means a sum determined as follows:

- (a) the average for one year of the holder’s emoluments of the office or employment for the last 3 years of his or her service before the relevant date (or for the whole period of his or her service if less than 3 years) shall be ascertained,
  - (b) one-fifteenth of the amount ascertained in accordance with *clause (a)* shall be multiplied by the whole number of complete years of the service of the holder in the office or employment, and
  - (c) an amount equal to the relevant capital sum in relation to the office or employment shall be deducted from the product determined in accordance with *clause (b)*.
- (2) (a) The relevant capital sum in relation to an office or employment shall include the amount mentioned in *clause (c)* of the definition of “the relevant capital sum in relation to an office or employment” whether or not the option or right referred to in that clause is exercised.
- (b) Where, under the conditions or terms of any scheme or fund described in *section 778(1)*, the holder of the office or employment is entitled to surrender irrevocably the option or right referred to in *clause (c)* of the definition of “the relevant capital sum in relation to an office or employment” and has done so at the relevant date, the relevant capital sum in relation to an office or employment shall not include the amount mentioned in that clause.

2. Any reference in this Schedule to a payment in respect of which income tax is chargeable under *section 123* is a reference to so much of that payment as is chargeable to tax after deduction of the relief applicable to that payment under *section 201(5)*.

3. Any reference in this Schedule to the amount of income tax to which a person is or would be chargeable is a reference to the amount of income tax to which the person is or would be chargeable either by assessment or by deduction.

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4. Relief shall be allowed in accordance with this Schedule in respect of income tax chargeable by virtue of *section 123* where a claim is duly made in accordance with *section 201*. SCH.3

5. A claimant shall not be entitled to relief under this Schedule in respect of any income the tax on which he or she is entitled to charge against any other person, or to deduct, retain or satisfy out of any payment which he or she is liable to make to any other person.

## PART 2

### *Relief by reduction of sums chargeable*

6. In computing the charge to tax in respect of a payment chargeable to income tax under *section 123*, a sum equal to the amount (if any) by which the standard capital superannuation benefit for the office or employment in respect of which the payment is made exceeds the basic exemption shall be deducted from the payment.

7. Where income tax is chargeable under *section 123* in respect of 2 or more payments to which *paragraph 6* applies, being payments made to or in respect of the same person in respect of the same office or employment or in respect of different offices or employments held under the same employer or under associated employers, then—

(a) *paragraph 6* shall apply as if those payments were a single payment of an amount equal to their aggregate amount and, where they are made in respect of different offices or employments, as if the standard capital superannuation benefit were an amount equal to the sum of the standard capital superannuation benefits for those offices or employments, and

(b) where the payments are treated as income of different years of assessment, the relief to be granted under *paragraph 6* in respect of a payment chargeable for any year of assessment shall be the amount by which the relief computed in accordance with *subparagraph (a)* in respect of that payment and any payments chargeable for previous years of assessment exceeds the relief in respect of those payments chargeable for previous years of assessment,

and, where the standard capital superannuation benefit for an office or employment in respect of which 2 or more of the payments are made is not the same in relation to each of those payments, it shall be treated for the purposes of this paragraph as equal to the higher or highest of those benefits.

8. In computing the charge to tax in respect of a payment chargeable to income tax under *section 123* in the case of a claimant, if the claimant has not previously made a claim under *section 201* and the relevant capital sum (if any) in relation to the office or employment in respect of which the payment is made does not exceed £4,000, *subsection (5) of section 201* and *paragraph 6* shall apply to that payment as if each reference in that subsection and in that paragraph to the basic exemption were a reference to the basic exemption increased by the amount by which £4,000 exceeds that relevant capital sum.

9. In computing the charge to tax in respect of a payment chargeable to income tax under *section 123*, being a payment made in respect of an office or employment in which the service of the holder includes foreign service, a sum which bears to the amount which

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would be chargeable to income tax apart from this paragraph the same proportion as the length of the foreign service bears to the length of the service before the relevant date shall be deducted from the payment (in addition to any deduction allowed under *paragraphs 6 to 8* of this Schedule).

### PART 3

#### *Relief by reduction of tax*

10. In the case of any payment in respect of which income tax is chargeable under *section 123*, relief shall be allowed by means of deduction from the tax chargeable by virtue of that section of an amount equal to the amount determined by the formula—

$$A - \left( P \times \frac{T}{I} \right)$$

where—

A is the amount of income tax which apart from this paragraph would be chargeable in respect of the total income of the holder or past holder of the office or employment for the year of assessment of which the payment is treated as income after deducting from that amount of tax the amount of tax which would be so chargeable if the payment had not been made,

P is the amount of that payment after deducting any relief applicable to that payment under the preceding provisions of this Schedule,

T is the aggregate of the amounts of income tax chargeable in respect of the total income of the holder or past holder of the office or employment for the 5 years of assessment preceding the year of assessment of which the payment is treated as income before taking account of any relief provided by *section 826*, and

I is the aggregate of the taxable incomes of the holder or past holder of the office or employment for the 5 years of assessment preceding the year of assessment of which the payment is treated as income.

11. Where income tax is chargeable under *section 123* in respect of 2 or more payments to or in respect of the same person in respect of the same office or employment and is so chargeable for the same year of assessment, those payments shall be treated for the purposes of *paragraph 10* as a single payment of an amount equal to their aggregate amount.

12. Where income tax is chargeable under *section 123* in respect of 2 or more payments to or in respect of the same person in respect of different offices or employments and is so chargeable for the same year of assessment, *paragraphs 10* and *11* shall apply as if those payments were made in respect of the same office or employment.

*Section 227.*

### SCHEDULE 4

[FA94 Sch; S.I. No. 148 of 1997]

#### EXEMPTION OF SPECIFIED NON-COMMERCIAL STATE SPONSORED BODIES FROM CERTAIN TAX PROVISIONS

1. Agency for Personal Service Overseas.
2. Beaumont Hospital Board.

3. Blood Transfusion Service Board.
4. Board for Employment of the Blind.
5. An Bord Altranais.
6. An Bord Bia — The Irish Food Board.
7. Bord Fáilte Éireann.
8. An Bord Glas.
9. An Bord Iascaigh Mhara.
10. Bord na Gaeilge.
11. Bord na Leabhar Gaeilge.
12. Bord na Radharcmhastóirí.
13. An Bord Pleanála.
14. Bord Scoláireachtaí Comalairte.
15. An Bord Tráchtála — The Irish Trade Board.
16. An Bord Uchtála.
17. Building Regulations Advisory Body.
18. The Central Fisheries Board.
19. CERT Limited.
20. The Chester Beatty Library.
21. An Chomhairle Ealaíon.
22. An Chomhairle Leabharlanna.
23. Coiste An Asgard.
24. Combat Poverty Agency.
25. Comhairle na Nimheanna.
26. Comhairle na n-Ospidéal.
27. Cork Hospitals Board.
28. Criminal Injuries Compensation Tribunal.
29. Dental Council.
30. Drug Treatment Centre Board.
31. Dublin Dental Hospital Board.
32. Dublin Institute for Advanced Studies.
33. Eastern Regional Fisheries Board.
34. Economic and Social Research Institute.
35. Employment Equality Agency.
36. Environmental Protection Agency — An Ghníomhaireacht um Chaomhnú Comhshaoil.
37. Eolas — The Irish Science and Technology Agency.
38. Federated Dublin Voluntary Hospitals.
39. Fire Services Council.
40. An Foras Áiseanna Saothair.
41. Forbairt.
42. Forfás.
43. The Foyle Fisheries Commission.
44. Garda Síochána Appeal Board.
45. Garda Síochána Complaints Board.
46. General Medical Services (Payments) Board.
47. Health Research Board — An Bord Taighde Sláinte.
48. Higher Education Authority.
49. Hospital Bodies Administrative Bureau.
50. Hospitals Trust Board.
51. The Independent Radio and Television Commission — An Coimisiún um Raidio agus Teilifís Neamhspleách.
52. The Industrial Development Agency (Ireland).
53. The Industrial Development Authority.
54. Institiúid Teangeolaíochta Éireann.
55. Institute of Public Administration.
56. The Irish Film Board.
57. The Irish Medicines Board.
58. The Labour Relations Commission.
59. Law Reform Commission.
60. The Legal Aid Board.
61. Leopardstown Park Hospital Board.
62. Local Government Computer Services Board — An Bord Seirbhísí Ríomhaire Rialtais Aitiúil.

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63. Local Government Staff Negotiations Board — An Bord Comhchaibidlí Foirne Rialtais Aitiúil.
64. The Marine Institute.
65. Medical Bureau of Road Safety — An Lia-Bhiúró um Shábháiltacht ar Bhóithre.
66. The Medical Council.
67. The National Authority for Occupational Safety and Health — An tÚdarás Náisiúnta um Shábháilteachta agus Sláinte Ceirde.
68. National Cancer Registry.
69. The National Concert Hall Company Limited — An Ceoláras Náisiúnta.
70. National Council for Educational Awards.
71. National Council for the Elderly.
72. The National Economic and Social Council.
73. The National Economic and Social Forum.
74. National Health Council.
75. National Heritage Council — Comhairle Na hOidhreacha Náisiúnta.
76. National Rehabilitation Board.
77. The National Roads Authority — An tÚdarás um Bóithre Náisiúnta.
78. National Safety Council — Comhairle Sábháiltacht Náisiúnta.
79. National Social Services Board.
80. The Northern Regional Fisheries Board.
81. The North Western Regional Fisheries Board.
82. Office of the Data Protection Commissioner.
83. The Pensions Board.
84. Postgraduate Medical and Dental Board.
85. The Radiological Protection Institute of Ireland.
86. The Refugee Agency.
87. Rent Tribunal.
88. Royal Hospital Kilmainham Company.
89. Saint James's Hospital Board.
90. Saint Luke's and St Anne's Hospital Board.
91. Salmon Research Agency of Ireland Incorporated.
92. Shannon Free Airport Development Company Limited.
93. The Shannon Regional Fisheries Board.
94. The Southern Regional Fisheries Board.
95. The South Western Regional Fisheries Board.
96. Tallaght Hospital Board.
97. Teagasc.
98. Temple Bar Renewal Limited.
99. Údarás na Gaeltachta.

Section 322.

SCHEDULE 5

[FA86 Sch4 PtsI  
and II]

DESCRIPTION OF CUSTOM HOUSE DOCKS AREA

*Interpretation*

1. In this Schedule—

“thoroughfare” includes any road, street, lane, place, quay, terrace, row, square, hill, parade, diamond, court, bridge, channel and river;

a reference to a line drawn along any thoroughfare is a reference to a line drawn along the centre of that thoroughfare;

a reference to a projection of any thoroughfare is a reference to a projection of a line drawn along the centre of that thoroughfare;

[1997.] *Taxes Consolidation Act, 1997.* [No. 39.]

a reference to the point where any thoroughfare or projection of any thoroughfare intersects or joins any other thoroughfare or projection of a thoroughfare is a reference to the point where a line drawn along the centre of one thoroughfare or, in the case of a projection of a thoroughfare, along the projection, would be intersected or joined by a line drawn along the centre of the other thoroughfare or, in the case of another projection of a thoroughfare, along the other projection;

a reference to a point where any thoroughfare or projection of a thoroughfare intersects or joins a boundary is a reference to the point where a line drawn along the centre of such thoroughfare or, in the case of a projection of a thoroughfare, along the projection would intersect or join such boundary.

*Description of Custom House Docks Area*

2. That part of the county borough of Dublin bounded by a line commencing at the point (in this description referred to as “the first-mentioned point”) where a line drawn along the westerly projection of the northern boundary of Custom House Quay would be intersected by a line drawn along Memorial Road, then continuing in a northerly direction along Memorial Road and Amiens Street to the point where it joins Sheriff Street Lower, then continuing, initially in an easterly direction, along Sheriff Street Lower and Commons Street to the point where it intersects the easterly projection of the northern boundary of Custom House Quay, and then continuing in a westerly direction along that projection and that boundary and the westerly projection of that boundary to the first-mentioned point.

SCHEDULE 6

*Section 330.*

DESCRIPTION OF TEMPLE BAR AREA

[FA91 Sch2]

*Interpretation*

1. In this Schedule—

“thoroughfare” includes any bridge, green, hill, river and street;

a reference to a line drawn along any thoroughfare is a reference to a line drawn along the centre of that thoroughfare;

a reference to a projection of any thoroughfare is a reference to a projection of a line drawn along the centre of that thoroughfare;

a reference to the point where any thoroughfare or projection of any thoroughfare intersects or joins any other thoroughfare is a reference to the point where a line drawn along the centre of one thoroughfare or, in the case of a projection of a thoroughfare, along the projection, would be intersected or joined by a line drawn along the centre of the other thoroughfare.

*Description of Temple Bar Area*

2. That part of the county borough of Dublin bounded by a line commencing at the point (in this description referred to as “the first-mentioned point”) where the River Liffey is intersected by O’Connell Bridge, then continuing, initially in a southerly direction along O’Connell Bridge, Westmoreland Street, College Green, Dame Street, Cork Hill and Lord Edward Street to the point where it joins

[No. 39.] *Taxes Consolidation Act, 1997.* [1997.]

SCH.6

Fishamble Street, then continuing in a northerly direction along Fishamble Street and the northerly projection of that street to the point where it intersects the River Liffey, then continuing in an easterly direction along the River Liffey to the first-mentioned point.

Section 339.

[FA97 Sch10]

## SCHEDULE 7

### DESCRIPTION OF CERTAIN ENTERPRISE AREAS

#### PART 1

##### *Interpretation*

In this Schedule

“thoroughfare” includes any canal, lane, motorway, railway line and road;

a reference to a line drawn along any thoroughfare is a reference to a line drawn along the centre of that thoroughfare;

a reference to the point where any thoroughfare intersects, joins or traverses any other thoroughfare is a reference to the point where a line drawn along the centre of one thoroughfare would be intersected, joined or traversed by a line drawn along the centre of the other thoroughfare;

a reference to a point where any thoroughfare is intersected by the projection of a boundary is a reference to the point where a line drawn along the centre of such thoroughfare would be intersected by the projection of such boundary.

#### PART 2

##### *Description of Cherry Orchard/Gallanstown Enterprise Area*

That part of the county borough of Dublin and the administrative county of South Dublin bounded by a line commencing at the point (in this description referred to as “the first-mentioned point”) where the Grand Canal is traversed by the M50 motorway, then continuing in an easterly direction along the Grand Canal to the point where it is traversed by the unnamed road to the east of the Dublin Corporation Waterworks installation, then continuing in a north-westerly direction along that unnamed road for a distance of 250 metres, then continuing in a straight undefined line in a north-easterly direction to a point on the South Western Railway Line which is 950 metres east of the point where that railway line is traversed by the M50 motorway, then continuing in a westerly direction along that railway line to the point where it is traversed by the M50 motorway, then continuing in a south-easterly direction along that motorway to the first-mentioned point.

#### PART 3

##### *Description of Finglas Enterprise Area*

That part of the county borough of Dublin and the administrative county of Fingal bounded by a line commencing at the point (in this description referred to as “the first-mentioned point”) where Jamestown Road is intersected by the western projection of the northern boundary of Poppintree Industrial Estate, then continuing in a northerly direction along Jamestown Road to the point where it

[1997.] *Taxes Consolidation Act, 1997.* [No. 39.]

joins St. Margaret's Road, then continuing in an easterly direction along St. Margaret's Road for a distance of 110 metres, then continuing in a straight undefined line due north to the point where it intersects the M50 motorway, then continuing in an easterly direction along the M50 motorway to the point where it is traversed by the unnamed road immediately to the west of the playing fields on the northern side of St. Margaret's Road, then continuing in a southerly direction along that unnamed road to the point where it joins St. Margaret's Road, then continuing in an easterly direction along St. Margaret's Road for a distance of 115 metres, then continuing in a straight undefined line in a southerly direction to the point where Balbutcher Lane is intersected by the eastern projection of the northern boundary of Poppintree Industrial Estate, then continuing in a westerly direction along the last-mentioned projection and boundary and the western projection of the last-mentioned boundary to the first-mentioned point. SCH.7

#### PART 4

##### *Description of Rosslare Harbour Enterprise Area*

###### *Ballygerry Area*

That part of the administrative county of Wexford bounded by a line commencing at the point (in this description referred to as "the first-mentioned point"), where the N25 road intersects the Ballygerry Road at Kilrane then continuing initially in a northerly direction along Ballygerry Road to the point where it next joins the N25 road, then continuing initially in a southerly direction along the N25 road to the first-mentioned point.

###### *Harbour Area*

That part of the town of Rosslare Harbour in the administrative county of Wexford bounded by a line commencing at the point (in this description referred to as "the first-mentioned point") where the high-water mark joins the south-eastern end of the pier wall to the north-west of the premises known locally as the Old Customs Shed, then continuing in a north-westerly direction along that pier to the point where it intersects the eastern end of the new revetment, then continuing in a south-westerly direction along that revetment to the point which is a distance of 150 metres from the western end of that revetment, then continuing in a straight undefined line due south to the point where it intersects the railway track, then continuing in a north-easterly direction along the railway track to the point where it is intersected by the southern projection of the western boundary of the Old Customs Shed property, then continuing in a northerly direction along the last-mentioned projection and boundary to the point where it joins the north-western boundary of the Old Customs Shed property, then continuing in a north-easterly direction in a straight undefined line to the first-mentioned point.

#### SCHEDULE 8

*Section 351.*

##### DESCRIPTION OF QUALIFYING RESORT AREAS

[FA95 Sch3]

#### PART 1

##### *Description of qualifying resort areas of Clare*

###### *Kilkee*

1. That part of the District Electoral Division of Kilkee comprised in the Townlands of Kilkee Upper, Kilkee Lower and Dough.

[No. 39.] *Taxes Consolidation Act, 1997.* [1997.]

SCH.8

2. That part of the District Electoral Division of Kilfearagh comprised in that part of the Townland of Ballyonan or Doonaghboy bounded by a line commencing at the point (in this description referred to as “the first-mentioned point”) where the boundaries of the Townlands of Ballyonan or Doonaghboy, Kilkee Lower and Dough converge, then continuing in a south-westerly direction along the boundary of the Townlands of Kilkee Lower and Ballyonan or Doonaghboy for a distance of 568 yards to a point where it intersects a field measuring 1.829 acres, then continuing along the north-eastern boundary of that field to a point where it intersects Local Road (County Road 395), then continuing along the centre of that road in a south-westerly direction for a distance of 20 yards to a point where it intersects the northern projection of the north-eastern boundary of a field measuring 3.517 acres, then continuing along the north-eastern boundary of that field and of the adjoining field in a south-easterly direction, then continuing in that direction to the centre of the Kilkee/Loop Head Regional Road (R487), then continuing along the centre of that road in a southerly direction for 160 yards to a point where it intersects the westerly projection of the southern boundary of a field measuring 1.282 acres, then continuing in an easterly direction along the southern boundary of that field and adjoining fields to a point where it intersects with the eastern boundary of the Townland of Ballyonan or Doonaghboy, and then continuing, initially in a northerly direction, along that boundary to the first-mentioned point.

3. That part of the District Electoral Division of Kilfearagh comprised in that part of the Townland of Corbally bounded by a line commencing at the point (in this description referred to as “the first-mentioned point”) being the most westerly point of the boundary between the Townlands of Corbally and Dough, then continuing along that boundary in an easterly direction for approximately 510 yards to a point where it intersects the south-eastern corner of a field measuring 2.020 acres, then continuing in a northerly direction along the eastern boundary of that field and of adjoining fields for a distance of 394 yards, then continuing in a generally westerly direction along the northern boundary of a field measuring 3.305 acres, then continuing in that direction to the cliff face of George’s Head, and then continuing, initially in a southerly direction, along the high water mark to the first-mentioned point.

#### *Lahinch*

1. That part of the District Electoral Division of Ennistimon comprised in the Townlands of Lahinch and Dough.

2. That part of the District Electoral Division of Liscannor comprised in the Townland of Ballyellery.

3. That part of the District Electoral Division of Moy comprised in the Townland of Crag.

#### PART 2

##### *Description of qualifying resort areas of Cork*

##### *Clonakilty*

1. The administrative area of the urban district of Clonakilty.

2. That part of the District Electoral Division of Ardfield comprised in the Townlands of Dunmore, Muckcross, Lonagh, Drombeg and Pallas.

[1997.] *Taxes Consolidation Act, 1997.* [No. 39.]

3. That part of the District Electoral Division of Clonakilty Rural SCH.8 comprised in the Townlands of Clogheen, Inchydoney Island, Gal- lanes, Tawnies Lower (Rural), Tawnies Upper (Rural), Desert (Rural), Youghalls (Rural) and Miles (Rural).

*Youghal*

1. The administrative area of the urban district of Youghal.

2. That part of the District Electoral Division of Youghal Rural comprised in the Townlands of Summerfield, Ballyvergan East, Bal- lyclamasy, Knocknacally, Pipersbog, Glanaradotia, Park Mountain, Muckridge Demense, Foxhole and Youghal Mudlands.

3. That part of the District Electoral Division of Clonpriest com- prised in the Townlands of Clonard East and Redbarn.

PART 3

*Description of qualifying resort areas of Donegal*

*Bundoran*

1. The administrative area of the urban district of Bundoran.

2. That part of the District Electoral Division of Bundoran Rural comprised in that part of the Townland of Magheracar which is situ- ated west of the most westerly boundary of the administrative area of the urban district of Bundoran.

3. That part of the District Electoral Division of Bundoran Rural comprised in that part of the Townland of Finner bounded by a line commencing at the point (in this description referred to as “the first- mentioned point”) where the eastern boundary of the administrative area of the urban district of Bundoran, on the southern side of the National Primary Road (N15), intersects with the centre of that National Primary Road, then continuing in an easterly direction along the centre of that road for a distance of 500 feet, then continu- ing in a north-westerly direction along the rear boundary to the east of Finner Avenue Housing Estate until the south-eastern corner of Tullan Strand is reached, then continuing in a westerly direction to the point where it joins the most north-easterly point of the boundary of the administrative area of the urban district of Bundoran, then continuing in a southerly direction along the eastern boundary of the urban district to the point where it intersects the centre of the National Primary Road (N15), and then continuing in an easterly direction along the centre of that road to the first-mentioned point.

PART 4

*Description of qualifying resort areas of Galway*

*Salthill*

1. That part of the County Borough of Galway bounded by a line commencing at the point (in this description referred to as “the first- mentioned point”) where Threadneedle Road meets Salthill Road Upper, then continuing in a northerly direction along the centre of Threadneedle Road to its junction with the road from Seapoint Housing Estate, then continuing in an easterly direction along the

southern edge of that estate road and in an easterly projection therefrom to its intersection with a road named Rockbarton West, then continuing in an easterly direction along the centre of Revagh Road to its junction with Rockbarton Road, then continuing in a southerly direction along the centre of Rockbarton Road to its junction with Salthill Road Upper and then continuing in a westerly direction along Salthill Road Upper to the first-mentioned point.

2. That part of the County Borough of Galway bounded by a line commencing at the point (in this description referred to as “the first-mentioned point”) where the Seapoint Promenade Road meets Salthill Road Upper, then continuing in a north-easterly direction along the centre of Salthill Road Upper to its junction with Salthill Road Lower, then continuing in an easterly direction along the centre of Grattan Road to its junction with Seapoint Promenade Road and then continuing in a south-westerly direction along the centre of Seapoint Promenade Road to the first-mentioned point.

3. That part of the County Borough of Galway bounded by a line commencing at the point (in this description referred to as “the first-mentioned point”) where Dalysfort Road meets Salthill Road Upper, then continuing in an easterly direction along the centre of Salthill Road Upper to a point where it meets Monksfield, then continuing in a north-westerly direction along the centre of Monksfield to the rear of Number 212 Salthill Road Upper, then continuing in a westerly direction along the Commercial Zoning Boundary as set out in the Galway County Borough Development Plan, 1991, to a point at the rear of Western House where it adjoins Dalysfort Road and then continuing in a southerly direction to the first-mentioned point.

4. That part of the County Borough of Galway bounded by a line commencing at the point (in this description referred to as “the first-mentioned point”) where Monksfield meets Salthill Road Upper, then continuing in a north-easterly direction along the centre of Salthill Road Upper to its junction with Salthill Road Lower, then continuing in a northerly direction along the centre of Salthill Road Lower to its junction with Devon Park Road, then continuing in a north-westerly direction along the centre of Devon Park Road to the rear of property known as Number 108 Lower Salthill Road, then continuing in a southerly direction along Devon Park along the rear boundaries of Numbers 108, 110, 112, 114, 116, 118, 120, 122, 124, 126, 128, 130, 132, 134, 136, 138, 140, 142, 144, 146 and 148 Lower Salthill Road to where it meets Lenaboy Park, then continuing along the Commercial Zoning Boundary, as set out in the Galway County Borough Development Plan, 1991, to the rear of Number 160 Upper Salthill Road, then continuing along the rear boundaries of Numbers 160, 162, 164, 166, 168 and 170 Upper Salthill Road, then continuing in a southerly direction to the side boundary of Number 178 Upper Salthill Road, then continuing in a westerly direction along the boundary of Number 178 Upper Salthill Road to its boundary with Lenaboy Gardens, then continuing in a southerly direction along the centre of Lenaboy Gardens to the north-western corner of the Sacre Coeur Hotel, then continuing in a southerly direction along the Commercial Zoning Boundary, as set out in the Galway Borough Development Plan, 1991, to its junction with Monksfield and then continuing in a south-easterly direction to the first-mentioned point.

5. That part of the County Borough of Galway bounded by a line commencing at the point (in this description referred to as “the first-mentioned point”) where Lower Salthill Road meets Grattan Road, then continuing in an easterly direction along the centre of Grattan

Road to its junction with Salthill Promenade Road, then continuing SCH.8  
in a northerly direction along the boundary of the existing private  
car-park to the rear boundary of that car-park, then continuing in a  
westerly direction along the rear boundary of properties fronting  
onto Grattan Road as far as Salthill Road Lower and then continuing  
in a southerly direction along the centre of Salthill Road Lower to  
the first-mentioned point.

#### PART 5

##### *Description of qualifying resort areas of Kerry*

###### *Ballybunion*

1. That part of the District Electoral Division of Killehenny com-  
prised in the Townlands of Ballyeagh, Killehenny, Ballybunion,  
Dromin and Doon West.

2. That part of the District Electoral Division of Killehenny com-  
prised in that part of the Townland of Gortnaskeha bounded by a  
line commencing at the point (in this description referred to as “the  
first-mentioned point”) where the boundaries of the Townlands of  
Ballyeagh, Gortnaskeha and Ahimma converge, then continuing in  
an easterly direction along the boundary between the Townlands of  
Gortnaskeha and Ahimma to a point where it intersects with the  
centre of the Tralee/Ballybunion Regional Road (R551), then con-  
tinuing in a north-westerly direction along the centre of that road for  
1,192 metres to a point where the road would intersect with a line  
drawn along the westerly projection of the northern boundary of the  
existing ESB transformer site, then continuing in a north-easterly  
direction along the existing field boundary to the centre of the  
Listowel/Ballybunion Regional Road (R553), then continuing in a  
northerly direction to the centre of the Local Road (County Road  
28), then continuing in a westerly direction along that road for 230  
metres, then continuing in a northerly direction to a point where it  
intersects with the boundary between the Townlands of Dromin and  
Gortnaskeha, and then continuing in a southerly direction along the  
western boundary of the Townland of Gortnaskeha to the first-men-  
tioned point.

3. That part of the District Electoral Division of Killehenny com-  
prised in that part of the Townland of Doon East bounded by a line  
commencing at the point (in this description referred to as “the first-  
mentioned point”) where the Ballybunion/Beale Local Road  
(County Road 4) intersects the Ballybunion/Asdee Regional Road  
(R551), then continuing in a north-easterly direction along the centre  
of that Regional road for 250 metres, then continuing in a southerly  
direction along the rear boundary of the existing housing develop-  
ment to the boundary of the Townlands of Doon East and Doon  
West, then continuing in a westerly direction along that boundary to  
the centre of the Regional Road (R551), and then continuing in a  
northerly direction along the centre of that road to the first-men-  
tioned point.

#### PART 6

##### *Description of qualifying resort areas of Louth*

###### *Clogherhead*

That part of the District Electoral Division of Clogher comprised in  
the Townland of Clogher and that part of the Townland of Callys-  
town bounded on the west by the Termonfeckin/Annagassan Local  
Road (County Road 281) and on the north by the Dunleer/  
Clogherhead Regional Road (R166).

[No. 39.] *Taxes Consolidation Act, 1997.* [1997.]

PART 7

*Description of qualifying resort areas of Mayo*

*Achill*

1. The District Electoral Divisions of Slievemore, Doega, Achill and Corraun Achill.
2. That part of the District Electoral Division of Newport West comprised in the Townland of Mallanranny.

*Westport*

1. That part of the District Electoral Division of Westport Urban comprised in the Townlands of Ardmore, Cloonmonad, Cahernamart, Carrownalurgan, Knockranny, Westport Demesne (Urban District), Deerpark East, Carrowbeg and those parts of the Townlands of Carrowbaun and Killaghoor contained within the administrative area of the urban district of Westport.
2. That part of the District Electoral Division of Westport Rural comprised in Roman Island and the Townland of Rossbeg.
3. That part of the District Electoral Division of Kilmeena comprised in that part of the Townland of Westport Demesne (Rural District) bounded by a line commencing at the point (in this description referred to as “the first-mentioned point”) forming the most north-westerly point of the Townland of Westport Demesne (Urban District), then continuing in a westerly direction for 100 yards, then continuing in a northerly direction for 320 yards, then continuing in a south-easterly direction for 630 yards following the field boundary south of Kennedy’s Wood as far as the administrative boundary of the urban district of Westport and then continuing along that boundary initially in a south-westerly direction to the first-mentioned point.

PART 8

*Description of qualifying resort areas of Meath*

*Bettystown, Laytown and Mosney*

1. That part of the District Electoral Division of Julianstown comprised in that part of the Townland of Mornington bounded on the north by a line commencing at the high water mark and continuing in a westerly direction along the northern boundary of Laytown/Bettystown Golf Links to a point where it intersects with the boundary of the Townland of Donacarney Great; and those parts of the Townlands of Betaghstown, Sevitsland, Ministown and Ninch which are situated to the east of the Dublin/Belfast railway line.
2. That part of the District Electoral Division of Julianstown comprised in the Townland of Mosney and that part of the Townland of Briarleas situated to the east of Local Road (County Road 438).

PART 9

*Description of qualifying resort areas of Sligo*

*Enniscrone*

1. That part of the District Electoral Division of Kilglass comprised in the Townlands of Carrowhubbock North, Carrowhubbock South, Frankford, Kinard and Trotts.

[1997.] *Taxes Consolidation Act, 1997.* [No. 39.]

2. That part of the District Electoral Division of Castleconnor West comprised in the Townlands of Bartragh, Carrowcardin, Muckduff and Scurmore. SCH.8

#### PART 10

##### *Description of qualifying resort areas of Waterford*

###### *Tramore*

1. That part of the District Electoral Division of Islandikane comprised in the Townlands of Westtown, Newtown and Coolnagoppoge.

2. That part of the District Electoral Division of Tramore comprised in the Townlands of Ballycarnane, Monloum, Tramore East, Tramore West, Crobally Upper, Crobally Lower, Tramore Intake and including the land bounded on the west by the Townlands of Tramore West, Crobally Upper and Tramore Intake (part b), on the north by the Townlands of Ballinattin and Tramore Intake (part a), on the east by a line running in a south-easterly direction from Tramore Intake (part a) along the centre of the embankment to the Townland of Tramore Burrow and continuing in that direction as far as the high water mark, and on the south by the high water mark.

#### PART 11

##### *Description of qualifying resort areas of Wexford*

###### *Courtown*

1. That part of the District Electoral Division of Courtown comprised in the Townlands of Courtown and Ballinatray Lower.

2. That part of the District Electoral Division of Ardamine comprised in the Townlands of Ballinatray Upper, Seamount, Middletown, Parknacross and Glen (Richards).

#### PART 12

##### *Description of qualifying resort areas of Wicklow*

###### *Arklow*

1. The administrative area of the urban district of Arklow.

2. That part of the District Electoral Division of Arklow Rural comprised in the Townlands of Clogga and Askintinny.

3. That part of the District Electoral Division of Kilbride comprised in the Townlands of Seabank and Johnstown South.

#### SCHEDULE 9

##### CHANGE IN OWNERSHIP OF COMPANY: DISALLOWANCE OF TRADING LOSSES

###### *Change in ownership of company*

1. For the purposes of sections 401 and 679(4), there shall be a change in the ownership of a company if—

*Sections 401 and 679(4).*

[FA73 Sch5 PtI pars 1 to 7 and 9; FA97 s146(1) and Sch 9 PtI par5(3)]

[No. 39.] *Taxes Consolidation Act, 1997.* [1997.]

SCH.9

- (a) a single person acquires more than 50 per cent of the ordinary share capital of a company,
- (b) 2 or more persons each acquire a holding of 5 per cent or more of the ordinary share capital of the company and those holdings together amount to more than 50 per cent of the ordinary share capital of the company, or
- (c) 2 or more persons each acquire a holding of the ordinary share capital of the company, and the holdings together amount to more than 50 per cent of the ordinary share capital of the company, but disregarding a holding of less than 5 per cent unless it is an addition to an existing holding and the 2 holdings together amount to 5 per cent or more of the ordinary share capital of the company.

2. In applying *paragraph 1*—

- (a) the circumstances at any 2 points in time with not more than 3 years between them may be compared, and a holder at the later time may be regarded as having acquired whatever such holder did not hold at the earlier time, irrespective of what such holder has acquired or disposed of between such 2 points in time;
- (b) so as to allow for any issue of shares or other reorganisation of capital, the comparison referred to in *subparagraph (a)* may be made in terms of percentage holdings of the total ordinary share capital at the respective times, so that a person whose percentage holding is greater at the later time may be regarded as having acquired a percentage holding equal to the increase;
- (c) in deciding for the purposes of *subparagraphs (b) and (c) of paragraph 1* whether any person has acquired a holding of at least 5 per cent or a holding which makes at least 5 per cent when added to an existing holding, acquisitions by, and holdings of, persons who are connected with each other shall be aggregated as if they were acquisitions by, and holdings of, one and the same person;
- (d) any acquisition of shares under the will or on the intestacy of a deceased person and any gift of shares, if it is shown that the gift is unsolicited and made without regard to *section 401 or 679(4)*, shall be disregarded.

3. Where persons, whether members of the company or not, possess extraordinary rights or powers under the articles of association or under any other document regulating the company and as a consequence ownership of ordinary share capital may not be an appropriate test of whether there has been a major change in the persons for whose benefit the losses or capital allowances may ultimately enure, then, in considering whether there has been a change in ownership of the company for the purposes of *section 401 or 679(4)*, holdings of all kinds of share capital, including preference shares, or of any particular category of share capital, or voting power or any other special kind of power, may be taken into account instead of ordinary share capital.

4. Where *section 401 or 679(4)* has operated to restrict relief by reference to a change in ownership taking place at any time, no transaction or circumstance before that time shall be taken into account in determining whether there is any subsequent change in ownership.

5. (1) For the purposes of *sections 401* and *679(4)*, a change in the ownership of a company shall be disregarded if—

- (a) immediately before the change the company is a 75 per cent subsidiary of another company, and
- (b) that other company continues after the change, despite a change in the direct ownership of the first-mentioned company, to own that first-mentioned company as a 75 per cent subsidiary.

(2) If there is a change in the ownership of a company which has a 75 per cent subsidiary, whether owned directly or indirectly, *section 401* or *679(4)*, as the case may be, shall apply as if there had also been a change in the ownership of that subsidiary unless the change in ownership of the first-mentioned company is to be disregarded under *subparagraph (1)*.

*Provisions as to ownership*

6. For the purposes of *sections 401* and *679(4)* and this Schedule—

- (a) references to ownership shall be construed as references to beneficial ownership, and references to acquisition shall be construed accordingly,
- (b) a company shall be deemed to be a 75 per cent subsidiary of another company if and so long as not less than 75 per cent of its ordinary share capital is owned by that other company, whether directly or through another company or other companies, or partly directly and partly through another company or other companies,
- (c) the amount of ordinary share capital of one company owned by a second company through another company or other companies, or partly directly and partly through another company or other companies, shall be determined in accordance with *subsections (5) to (10)* of *section 9*, and
- (d) “share” includes “stock”.

*Time of change in ownership*

7. (1) Where any acquisition of ordinary share capital or other property or rights taken into account in determining that there has been a change in ownership of a company—

- (a) was made in pursuance of a contract of sale or option or other contract, or
- (b) was made by a person holding such a contract,

the time when the change in ownership took place shall be determined as if the acquisition had been made when the contract was made with the holder or when the benefit of the contract was assigned to the holder so that, in the case of a person exercising an option to purchase shares, such person shall be regarded as having purchased the shares when such person acquired the option.

(2) *Subparagraph (1)* shall not apply where the contract was made before the 16th day of May, 1973.

*Information*

8. Any person in whose name any shares or securities of a company are registered shall, if required by notice in writing by an inspector given for the purposes of *section 401* or *679(4)*, state whether or not that person is the beneficial owner of those shares or securities or any of them and, if that person is not the beneficial owner of those shares or securities or any of them, that person shall furnish the name and address of the person or persons on whose behalf those shares or securities are registered in that person's name.

*Section 507.*

SCHEDULE 10

[FA84 Sch2; FA87  
s12(2); FA91  
s15(2)]

RELIEF FOR INVESTMENT IN CORPORATE TRADES: SUBSIDIARIES

*Finance for trade of subsidiary*

1. The shares issued by the qualifying company may, instead of or as well as being issued for the purpose mentioned in *section 489(1)(b)*, be issued for the purpose of raising money for a qualifying trade being carried on by a subsidiary or which such a subsidiary intends to carry on and, where shares are so issued, *paragraph (b)* of the definition of "relevant period" in *section 488(1)* and *subsections (1)(c), (7), (8) and (11)* of *section 489* shall apply as if references to the company were or, as the case may be, included references to the subsidiary.

*Individuals qualifying for relief*

2. (1) In *subsections (2), (4) and (6)* of *section 493*, references to a company (except in each subsection the first such reference) include references to a company which is during the relevant period a subsidiary of that company, whether it becomes a subsidiary before, during or after the year of assessment in respect of which the individual concerned claims relief and whether or not it is such a subsidiary while he or she is a partner, director or employee mentioned in *subsection (2)* of *section 493* or while he or she has or is entitled to acquire such capital or voting power or rights as are mentioned in *subsections (4) and (6)* of that section.

(2) Without prejudice to *section 493* as it applies in accordance with *subparagraph (1)*, an individual shall be treated as connected with a company if—

(a) he or she has at any time in the relevant period had control (within the meaning of *section 11*) of another company which has since that time and before the end of the relevant period become a subsidiary of the company, or

(b) he or she directly or indirectly possesses or is entitled to acquire any loan capital of a subsidiary of that company.

(3) *Subsections (5) and (9)* of *section 493* shall apply for the purposes of this paragraph.

*Value received*

3. (1) In *sections 499(9) and 501(5)*, references to the receipt of value from the company shall include references to the receipt of value from any company which during the relevant period is a subsidiary of the company, whether it becomes a subsidiary before or

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after the individual concerned receives any value from it, and references to the company in the other provisions of *section 499* and in *section 501(8)* shall be construed accordingly. SCH.10

(2) In *section 501(1)*, references to the company (except the first such reference) shall include references to a company which during the relevant period is a subsidiary of the company, whether it becomes a subsidiary before or after the repayment, redemption, repurchase or payment referred to in that subsection.

#### *Information*

4. *Subsections (4) and (5) of section 505* shall apply in relation to any arrangements mentioned in *section 507(2)(c)* as they apply in relation to any arrangement mentioned in *section 502*.

### SCHEDULE 11

*Section 510.*

#### PROFIT SHARING SCHEMES

[FA82 Sch3; FA90 s136; FA95 s16; FA97 s50(c)]

#### PART 1

##### *Interpretation*

1. In this Schedule, “control” shall be construed in accordance with *section 432*.

2. For the purposes of this Schedule, a company shall be a member of a consortium owning another company if it is one of not more than 5 companies which between them beneficially own not less than 75 per cent of the other company’s ordinary share capital and each of which beneficially owns not less than 5 per cent of that capital.

#### PART 2

##### *Approval of schemes*

3. (1) On the application of a body corporate (in this Schedule referred to as “the company concerned”) which has established a profit sharing scheme which complies with *subparagraphs (3) and (4)*, the Revenue Commissioners shall, subject to *section 511*, approve of the scheme—

(a) if they are satisfied in accordance with *paragraph 4*, and

(b) unless it appears to them that there are features of the scheme which are neither essential nor reasonably incidental to the purpose of providing for employees and directors benefits in the nature of interests in shares.

(2) Where the company concerned has control of another company or companies, the scheme may be expressed to extend to all or any of the companies of which it has control, and in this Schedule a scheme which is expressed so to extend is referred to as a “group scheme” and, in relation to a group scheme, “participating company” means the company concerned or a company of which for the time being the company concerned has control and to which for the time being the scheme is expressed to extend.

(3) The scheme shall provide for the establishment of a body of persons resident in the State (in this Schedule referred to as “the trustees”)—

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- (a) who, out of moneys paid to them by the company concerned or, in the case of a group scheme, by a participating company, are required by the scheme to acquire shares in respect of which the conditions in *Part 3* of this Schedule are fulfilled,
- (b) who are under a duty to appropriate shares acquired by them to individuals who participate in the scheme, not being individuals ineligible by virtue of *Part 4* of this Schedule, and
- (c) whose functions with respect to shares held by them are regulated by a trust which is constituted under the law of the State and the terms of which are embodied in an instrument which complies with *Part 5* of this Schedule.

(4) The scheme shall provide that the total of the initial market values of the shares appropriated to any one participant in a year of assessment will not exceed £10,000.

(5) An application under *subparagraph (1)* shall be made in writing and shall contain such particulars and be supported by such evidence as the Revenue Commissioners may require.

4. (1) The Revenue Commissioners shall be satisfied that at any time every person who—

- (a) (i) as respects a profit sharing scheme approved before the 10th day of May, 1997, is then a full-time employee or director of the company concerned or, in the case of a group scheme, of a participating company, or
- (ii) as respects a profit sharing scheme approved on or after the 10th day of May, 1997, is then an employee or full-time director of the company concerned or, in the case of a group scheme, of a participating company,
- (b) has been such an employee or director at all times during a qualifying period, not exceeding 5 years, ending at that time, and
- (c) is chargeable to income tax in respect of his or her office or employment under Schedule E,

will then be eligible, subject to *Part 4* of this Schedule, to participate in the scheme on similar terms.

(2) For the purposes of *subparagraph (1)*, the fact that the number of shares to be appropriated to the participants in a scheme varies by reference to the levels of their remuneration, the length of their service or similar factors shall not be regarded as meaning that the participants are not eligible to participate in the scheme on similar terms.

5. (1) Where at any time after the Revenue Commissioners have approved of a scheme—

- (a) a participant is in breach of any of his or her obligations under *paragraphs (a), (c) and (d) of section 511(4)*,
- (b) there is, with respect to the operation of the scheme, any contravention of any provision of *Chapter 1 of Part 17*,

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the scheme itself or the terms of the trust referred to in Sch.11  
*paragraph 3(3)(c)*,

(c) any shares of a class of which shares have been appropriated to participants receive different treatment in any respect from the other shares of that class, being in particular different treatment in respect of—

(i) the dividend payable,

(ii) repayment,

(iii) the restrictions attaching to the shares, or

(iv) any offer of substituted or additional shares, securities or rights of any description in respect of the shares,

or

(d) the Revenue Commissioners cease to be satisfied in accordance with *paragraph 4*,

then, the Revenue Commissioners may, subject to *subparagraph (3)*, withdraw the approval with effect from that time or from such later time as they may specify.

(2) Where at any time after the Revenue Commissioners have approved of a scheme an alteration is made in the scheme or the terms of the trust referred to in *paragraph 3(3)(c)*, the approval shall not have effect after the date of the alteration unless the Revenue Commissioners have approved of the alteration.

(3) It shall not be a ground for withdrawal of approval of a scheme that shares which have been newly issued receive, in respect of dividends payable with respect to a period beginning before the date on which the shares were issued, treatment less favourable than that accorded to shares issued before that date.

6. (1) Where the company concerned is aggrieved by—

(a) the failure of the Revenue Commissioners to approve of a scheme,

(b) the failure of the Revenue Commissioners to approve of an alteration as mentioned in *paragraph 5(2)*, or

(c) the withdrawal of approval,

the company may, by notice in writing given to the Revenue Commissioners within 30 days from the date on which it is notified of their decision, make an application to have its claim for relief heard and determined by the Appeal Commissioners.

(2) Where an application is made under *subparagraph (1)*, the Appeal Commissioners shall hear and determine the claim in the like manner as an appeal made to them against an assessment, and the provisions of the Income Tax Acts relating to such an appeal (including the provisions relating to the rehearing of an appeal and to the statement of a case for the opinion of the High Court on a point of law) shall apply accordingly with any necessary modifications.

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7. The Revenue Commissioners may nominate any of their officers, including an inspector, to perform any acts and discharge any functions authorised by this Schedule to be performed or discharged by them.

PART 3

*Conditions as to the shares*

8. The shares shall form part of the ordinary share capital of—
- (a) the company concerned,
  - (b) a company which has control of the company concerned, or
  - (c) a company which either is or has control of a company which—
    - (i) is a member of a consortium owning either the company concerned or a company having control of that company, and
    - (ii) beneficially owns not less than 15 per cent of the ordinary share capital of the company so owned.
9. The shares shall be—
- (a) shares of a class quoted on a recognised stock exchange,
  - (b) shares in a company not under the control of another company, or
  - (c) shares in a company under the control of a company (other than a company which is, or if resident in the State would be, a close company within the meaning of *section 430*) whose shares are quoted on a recognised stock exchange.
10. (1) The shares shall be—
- (a) fully paid up,
  - (b) not redeemable, and
  - (c) not subject to any restrictions other than restrictions which attach to all shares of the same class or, as respects a profit sharing scheme approved on or after the 10th day of May, 1997, a restriction authorised by *subparagraph (2)*.
- (2) Subject to *subparagraphs (3) and (4)*, the shares may be subject to a restriction imposed by the company's articles of association—
- (a) requiring all shares held by directors or employees of the company or of any other company of which it has control to be disposed of on ceasing to be so held, and
  - (b) requiring all shares acquired, in pursuance of rights or interests obtained by such directors or employees, by persons who are not, or have ceased to be, such directors or employees to be disposed of when they are acquired.

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(3) A restriction is not authorised by *subparagraph (2)* unless— SCH.11

- (a) any disposal required by the restriction will be by means of sale for a consideration in money on terms specified in the articles of association, and
- (b) the articles also contain general provisions by virtue of which any person disposing of shares of the same class (whether or not held or acquired as mentioned in *subparagraph (2)*) may be required to sell them on terms which are the same as those mentioned in *paragraph (a)*.

(4) Nothing in *subparagraph (2)* authorises a restriction which would require a person, before the release date, to dispose of his or her beneficial interest in shares the ownership of which has not been transferred to him or her.

11. Except where the shares are in a company whose ordinary share capital, at the time of the acquisition of the shares by the trustees, consists of shares of one class only, the majority of the issued shares of the same class shall be held by persons other than—

- (a) persons who acquired their shares—
  - (i) in pursuance of a right conferred on them or an opportunity afforded to them as a director or employee of the company concerned or any other company, and
  - (ii) not in pursuance of an offer to the public,
- (b) trustees holding shares on behalf of persons who acquired their beneficial interests in the shares in pursuance of a right or opportunity mentioned in *subparagraph (a)*, and
- (c) in a case where the shares are within *paragraph 9(c)* and are not within *paragraph 9(a)*, companies which have control of the company whose shares are in question or of which that company is an associated company within the meaning of *section 432*.

#### PART 4

##### *Individuals ineligible to participate*

12. An individual shall not be eligible to have shares appropriated to him or her under the scheme at any time unless he or she is at that time or was within the preceding 18 months a director or employee of the company concerned or, if the scheme is a group scheme, of a participating company.

13. An individual shall not be eligible to have shares appropriated to him or her under the scheme at any time in a year of assessment if in that year of assessment shares have been appropriated to him or her under another approved scheme established by the company concerned or by—

- (a) a company which controls or is controlled by the company concerned or which is controlled by a company which also controls the company concerned, or

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(b) a company which is a member of a consortium owning the company concerned or which is owned in part by the company concerned as a member of a consortium.

14. (1) An individual shall not be eligible to have shares appropriated to him or her under the scheme at any time if at that time he or she has, or at any time within the preceding 12 months had, a material interest in a close company which is—

(a) the company whose shares are to be appropriated, or

(b) a company which has control of that company or is a member of a consortium which owns that company.

(2) *Subparagraph (1)* shall apply in relation to a company which would be a close company but for *section 430(1)(a)* or *431*.

(3) (a) In this paragraph, “close company” has the meaning assigned to it by *section 430*.

(b) For the purpose of this paragraph—

(i) *subsection (3) of section 433* shall apply—

(I) in a case where the scheme in question is a group scheme, with the substitution of a reference to all participating companies for the first reference to the company in *paragraph (c)(ii)* of that subsection, and

(II) with the substitution of a reference to 15 per cent for the reference in that paragraph to 5 per cent, and

(ii) *section 437(2)* shall apply, with the substitution of a reference to 15 per cent for the reference in that section to 5 per cent, for the purpose of determining whether a person has or had a material interest in a company.

## PART 5

### *Provisions as to the trust instrument*

15. The trust instrument shall provide that, as soon as practicable after any shares have been appropriated to a participant, the trustees will give him or her notice in writing of the appropriation—

(a) specifying the number and description of those shares, and

(b) stating their initial market value.

16. (1) The trust instrument shall contain a provision prohibiting the trustees from disposing of any shares, except as mentioned in *paragraphs (a), (b) or (c) of section 511(6)*, during the period of retention (whether by transfer to the participant or otherwise).

(2) The trust instrument shall contain a provision prohibiting the trustees from disposing of any shares after the end of the period of retention and before the release date except—

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- (a) pursuant to a direction given by or on behalf of the participant or any person in whom the beneficial interest in the participant's shares is for the time being vested, and SCH.11
- (b) by a transaction which would not involve a breach of the participant's obligation under *paragraph (c) or (d) of section 511(4)*.

17. The trust instrument shall contain a provision requiring the trustees—

- (a) subject to any direction referred to in *section 513(3)*, to pay over to the participant any money or money's worth received by them in respect of, or by reference to, any of the participant's shares, other than money consisting of a sum referred to in *section 511(4)(c)* or money's worth consisting of new shares within the meaning of *section 514*, and
- (b) to deal only pursuant to a direction given by or on behalf of the participant (or any person referred to in *paragraph 16(2)(a)*) with any right conferred in respect of any of the participant's shares to be allotted other shares, securities or rights of any description.

18. The trust instrument shall impose an obligation on the trustees—

- (a) to maintain such records as may be necessary to enable the trustees to carry out their obligations under *Chapter 1 of Part 17*, and
- (b) where the participant becomes liable to income tax under Schedule E by reason of the occurrence of any event, to inform the participant of any facts relevant to determining that liability.

## SCHEDULE 12

*Section 519.*

### EMPLOYEE SHARE OWNERSHIP TRUSTS

[FA97 Sch 3].

#### *Interpretation*

1.(1) For the purposes of this Schedule—

“ordinary share capital” has the same meaning as in *section 2*;

“securities” means shares (including stock) and debentures.

(2) For the purposes of this Schedule, the question whether one company is controlled by another shall be construed in accordance with *section 432*.

(3) For the purposes of this Schedule, a person shall be regarded as an employee or a director of a company within the founding company's group at a particular time if, at the time or within 18 months before the time, that person is or was an employee or director of—

- (a) the founding company, being a company resident in the State,

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(b) a company resident in the State and controlled by the founding company, or

(c) a company, being the founding company or a company controlled by the founding company, which carries on a trade in the State through a branch or agency in which that person is employed.

(4) (a) In this subparagraph—

“associate” has the meaning assigned to it by *section 433*;

“control” shall be construed in accordance with *section 432*.

(b) For the purposes of this Schedule, a person shall be treated as having a material interest in a company if the person, either on his or her own or with any one or more of his or her associates, or if any associate of his or her with or without any such other associates, is the beneficial owner of, or able directly or through the medium of other companies or by any other indirect means to control, more than 5 per cent of the ordinary share capital of the company.

(5) For the purposes of this Schedule, a trust shall be established when the deed under which it is established is executed.

#### *Approval of Qualifying Trusts*

2. On the application of a body corporate (in this Schedule referred to as “the founding company”) which has established an employee share ownership trust, the Revenue Commissioners shall approve of the trust as a qualifying employee share ownership trust if they are satisfied that the conditions in *paragraphs 6 to 18* are met in relation to the trust.

3. (1) Where at any time after the Revenue Commissioners have approved of a trust—

(a) there is with respect to the operation of the trust any contravention of the conditions in *paragraphs 6 to 18*, or

(b) any shares of a class of which shares have been acquired by the trustees receive different treatment in any respect from the other shares of that class, in particular, different treatment in respect of—

(i) the dividend payable,

(ii) repayment,

(iii) the restrictions attaching to the shares, or

(iv) any offer of substituted or additional shares, securities or rights of any description in respect of the shares,

the Revenue Commissioners may, subject to *subparagraph (3)*, withdraw the approval with effect from that time or from such later time as they may specify.

(2) Where at any time after the Revenue Commissioners have approved of a trust an alteration is made to the terms of the trust,

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the approval shall not have effect after the date of the alteration unless the Revenue Commissioners have approved of the alteration. SCH.12

(3) It shall not be a ground for withdrawal of approval of a trust that shares which have been newly issued receive, in respect of dividends payable with respect to a period beginning before the date on which the shares were issued, treatment which is less favourable than that accorded to shares issued before that date.

(4) The Revenue Commissioners may by notice in writing require any person to furnish to them, within such time as they may direct which is not less than 30 days, such information as they think necessary to enable them to either or both—

- (a) determine whether to approve of an employee share ownership trust or withdraw an approval already given, and
- (b) determine the liability to tax of any beneficiary under an approved employee share ownership trust.

4. (1) Where the founding company is aggrieved by—

- (a) the failure of the Revenue Commissioners to approve of an employee share ownership trust,
- (b) the failure of the Revenue Commissioners to approve of an alteration as mentioned in *paragraph 3(2)*, or
- (c) the withdrawal of approval,

the company may, by notice in writing given to the Revenue Commissioners within 30 days from the date on which it is notified of their decision, make an application to have its claim for relief heard and determined by the Appeal Commissioners.

(2) Where an application is made under *subparagraph (1)*, the Appeal Commissioners shall hear and determine the claim in the like manner as an appeal made to them against an assessment and the provisions of the Income Tax Acts relating to such an appeal (including the provisions relating to the rehearing of an appeal and to the statement of a case for the opinion of the High Court on a point of law) shall apply accordingly with any necessary modifications.

5. The Revenue Commissioners may nominate any of their officers, including an inspector, to perform any acts and discharge any functions authorised by this Schedule to be performed or discharged by them.

#### *General*

6. (1) The trust shall be established under a deed (in this Schedule and in *section 519* referred to as “the trust deed”).

(2) The trust shall be established by the founding company which at the time the trust is established is not controlled by another company.

#### *Trustees*

7. The trust deed shall provide for the establishment of a body of trustees complying with *paragraph 8, 9 or 10*.

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8. (1) The trust deed shall—

- (a) appoint the initial trustees;
- (b) contain rules for the retirement and removal of trustees;
- (c) contain rules for the appointment of replacement and additional trustees.

(2) The trust deed shall provide that at any time while the trust subsists (in this subparagraph referred to as “the relevant time”)—

- (a) the number of trustees shall not be less than 3;
- (b) all the trustees shall be resident in the State;
- (c) the trustees shall include one person who is a trust corporation, a solicitor, or a member of such other professional body as the Revenue Commissioners may from time to time allow for the purposes of this paragraph;
- (d) the majority of the trustees shall be persons who are not and have never been directors of any company within the founding company’s group at the relevant time;
- (e) the majority of the trustees shall be representatives of the employees of the companies within the founding company’s group at the relevant time, and who do not have and have never had a material interest in any such company;
- (f) the trustees to whom *subparagraph (e)* relates shall, before being appointed as trustees, have been selected by a majority of the employees of the companies within the founding company’s group at the time of the selection.

9. (1) The trust deed shall—

- (a) appoint the initial trustees;
- (b) contain rules for the retirement and removal of trustees;
- (c) contain rules for the appointment of replacement and additional trustees.

(2) The trust deed shall be so framed that at any time while the trust subsists the conditions in *subparagraph (3)* are fulfilled as regards the persons who are then trustees, and in that subparagraph “the relevant time” means that time.

(3) The conditions referred to in *subparagraph (2)* are that—

- (a) the number of trustees is not less than 3;
- (b) all the trustees are resident in the State;
- (c) the trustees include at least one person who is a professional trustee and at least 2 persons who are non-professional trustees;
- (d) at least half of the non-professional trustees were, before being appointed as trustees, selected in accordance with *subparagraph (6)* or *(7)*;

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(e) all the trustees so selected are persons who are employees of companies within the founding company's group at the relevant time, and who do not have and have never had a material interest in any such company. SCH.12

(4) For the purposes of this paragraph, a trustee shall be a professional trustee at a particular time if—

(a) the trustee is then a trust corporation, a solicitor, or a member of such other professional body as the Revenue Commissioners allow for the purposes of this subparagraph,

(b) the trustee is not then an employee or director of any company then within the founding company's group, and

(c) the trustee meets the requirements of *subparagraph (5)*,

and for the purposes of this paragraph a trustee shall be a non-professional trustee at a particular time if the trustee is not then a professional trustee for those purposes.

(5) A trustee shall meet the requirements of this subparagraph if—

(a) he or she was appointed as an initial trustee and, before being appointed as trustee, was selected only by the persons who later became the non-professional initial trustees, or

(b) he or she was appointed as a replacement or additional trustee and, before being appointed as trustee, was selected only by the persons who were the non-professional trustees at the time of the selection.

(6) Trustees shall be selected in accordance with this subparagraph if the process of selection is one under which—

(a) all the persons who are employees of the companies within the founding company's group at the time of the selection, and who do not have and have never had a material interest in any such company, are, in so far as is reasonably practicable, given the opportunity to stand for selection,

(b) all the employees of the companies within the founding company's group at the time of the selection are, in so far as is reasonably practicable, given the opportunity to vote, and

(c) persons gaining more votes are preferred to those gaining less.

(7) Trustees shall be selected in accordance with this subparagraph if they are selected by persons elected to represent the employees of the companies within the founding company's group at the time of the selection.

10. (1) This paragraph shall apply where the trust deed provides that at any time while the trust subsists there shall be a single trustee.

(2) The trust deed shall—

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- (a) be so framed that at any time while the trust subsists the trustee is a company which at that time is resident in the State and controlled by the founding company;
- (b) appoint the initial trustee;
- (c) contain rules for the removal of any trustee and for the appointment of a replacement trustee.

(3) The trust deed shall be so framed that at any time while the trust subsists the company which is then the trustee is a company so constituted that the conditions in *subparagraph (4)* are then fulfilled as regards the persons who are then directors of the company, and in that subparagraph “the relevant time” means that time and “the trust company” means that company.

(4) The conditions referred to in *subparagraph (3)* are that—

- (a) the number of directors is not less than 3;
- (b) all the directors are resident in the State;
- (c) the directors include at least one person who is a professional director and at least 2 persons who are non-professional directors;
- (d) at least half of the non-professional directors were, before being appointed as directors, selected in accordance with *subparagraph (7)* or *(8)*;
- (e) all the directors so selected are persons who are employees of companies within the founding company’s group at the relevant time, and who do not have and have never had a material interest in any such company.

(5) For the purposes of this paragraph, a director shall be a professional director at a particular time if—

- (a) the director is then a solicitor or a member of such other professional body as the Revenue Commissioners may at that time allow for the purposes of this subparagraph,
- (b) the director is not then an employee of any company then within the founding company’s group,
- (c) the director is not then a director of any such company other than the trust company, and
- (d) the director meets the requirements of *subparagraph (6)*,

and for the purposes of this paragraph a director shall be a non-professional director at a particular time if the director is not then a professional director for those purposes.

(6) A director shall meet the requirements of this subparagraph if—

- (a) he or she was appointed as an initial director and, before being appointed as director, was selected only by the persons who later became the non-professional initial directors, or

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(b) he or she was appointed as a replacement or additional director and, before being appointed as director, was selected only by the persons who were the non-professional directors at the time of the selection. SCH.12

(7) Directors shall be selected in accordance with this subparagraph if the process of selection is one under which—

(a) all the persons who are employees of the companies within the founding company's group at the time of the selection, and who do not have and have never had a material interest in any such company, are, in so far as is reasonably practicable, given the opportunity to stand for selection,

(b) all the employees of the companies within the founding company's group at the time of the selection are, in so far as is reasonably practicable, given the opportunity to vote, and

(c) persons gaining more votes are preferred to those gaining less.

(8) Directors shall be selected in accordance with this subparagraph if they are selected by persons elected to represent the employees of the companies within the founding company's group at the time of the selection.

#### *Beneficiaries*

11. (1) The trust deed shall contain provision as to the beneficiaries under the trust in accordance with this paragraph.

(2) The trust deed shall provide that a person is a beneficiary at a particular time (in this subparagraph referred to as "the relevant time") if—

(a) the person is at the relevant time an employee or director of a company at that time within the founding company's group,

(b) at each given time in a qualifying period the person was such an employee or director of a company within the founding company's group at that given time, and

(c) in the case of a director, at that given time the person worked as a director of the company concerned at the rate of at least 20 hours a week (disregarding such matters as holidays and sickness).

(3) The trust deed may provide that a person is a beneficiary at a particular time (in this subparagraph referred to as "the relevant time") if—

(a) the person has at each given time in a qualifying period been an employee or director of a company within the founding company's group at that given time,

(b) the person has ceased to be an employee or director of the company or the company has ceased to be within that group, and

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(c) at the relevant time a period of not more than 18 months has elapsed since the person so ceased or the company so ceased, as the case may be.

(4) The trust deed may provide for a person to be a beneficiary if the person is a charity and the circumstances are such that—

(a) there is no person who is a beneficiary within the rule which is included in the deed and conforms with *subparagraph (2)* or with any rule which is so included and conforms with *subparagraph (3)*, and

(b) the trust is in consequence being wound up.

(5) For the purposes of *subparagraph (2)*, a qualifying period shall be a period—

(a) whose length is not more than 5 years,

(b) whose length is specified in the trust deed, and

(c) which ends with the relevant time (within the meaning of that subparagraph).

(6) For the purposes of *subparagraph (3)*, a qualifying period shall be a period—

(a) whose length is equal to that of the period specified in the trust deed for the purposes of a rule which conforms with *subparagraph (2)*, and

(b) which ends when the person or company, as the case may be, ceased as mentioned in *subparagraph (3)(b)*.

(7) The trust deed shall not provide for a person to be a beneficiary unless the person is within the rule which is included in the deed and conforms with *subparagraph (2)* or any rule which is so included and conforms with *subparagraph (3)* or *(4)*.

(8) The trust deed shall provide that, notwithstanding any other rule which is included in it, a person cannot be a beneficiary at a particular time (in this subparagraph referred to as “the relevant time”) by virtue of a rule which conforms with *subparagraph (2)*, *(3)* or *(4)* if—

(a) at the relevant time the person has a material interest in the founding company, or

(b) at any time in the period of one year preceding the relevant time the person has had a material interest in that company.

(9) For the purposes of this paragraph, “charity” means any body of persons or trust established for charitable purposes only.

#### *Trustees' functions*

12. (1) The trust deed shall contain provision as to the functions of the trustees.

(2) The functions of the trustees shall be so expressed that it is apparent that their general functions are—

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- (a) to receive sums from the founding company and other sums, SCH.12 by means of loan or otherwise;
- (b) to acquire securities;
- (c) to grant rights to acquire shares to persons who are beneficiaries under the terms of the trust deed;
- (d) to transfer either or both securities and sums to persons who are beneficiaries under the terms of the trust deed;
- (e) to transfer securities to the trustees of profit sharing schemes approved under *Part 2 of Schedule 11*;
- (f) pending transfer, to retain the securities and to manage them, whether by exercising voting rights or otherwise.

*Sums*

13. (1) The trust deed shall require that any sum received by the trustees —

- (a) shall be expended within the expenditure period,
- (b) may be expended only for one or more of the qualifying purposes, and
- (c) shall, while it is retained by them, be kept as cash, or be kept in an account with a relevant deposit taker (within the meaning of *section 256*).

(2) For the purposes of *subparagraph (1)*, the expenditure period shall be the period of 9 months beginning on the day determined as follows—

- (a) in a case where the sum is received from the founding company, or a company which is controlled by that company at the time the sum is received, the day following the end of the accounting period in which the sum is expended by the company from which it is received;
- (b) in any other case, the day the sum is received.

(3) For the purposes of *subparagraph (1)*, each of the following shall be a qualifying purpose—

- (a) the acquisition of shares in the founding company;
- (b) the repayment of sums borrowed;
- (c) the payment of interest on sums borrowed;
- (d) the payment of any sum to a person who is a beneficiary under the terms of the trust deed;
- (e) the meeting of expenses.

(4) The trust deed shall provide that, in ascertaining for the purposes of a relevant rule (being a provision which is included in the trust deed and conforms with *subparagraph (1)*) whether a particular sum has been expended, sums received earlier by the trustees shall be treated as expended before sums received by them later.

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(5) The trust deed shall provide that, where the trustees pay sums to different beneficiaries at the same time, all the sums shall be paid on similar terms.

(6) For the purposes of *subparagraph (5)*, the fact that terms vary according to the levels of remuneration of beneficiaries, the length of their service or similar factors shall not be regarded as meaning that the terms are not similar.

*Securities*

14. (1) Subject to *paragraph 15*, the trust deed shall provide that securities acquired by the trustees shall be shares in the founding company which—

- (a) form part of the ordinary share capital of the company,
- (b) are fully paid up,
- (c) are not redeemable, and
- (d) are not subject to any restrictions other than restrictions which attach to all shares of the same class or a restriction authorised by *subparagraph (2)*.

(2) Subject to *subparagraph (3)*, a restriction shall be authorised by this subparagraph if—

- (a) it is imposed by the founding company's articles of association,
- (b) it requires all shares held by directors or employees of the founding company, or of any other company which it controls for the time being, to be disposed of on ceasing to be so held, and
- (c) it requires all shares acquired, in pursuance of rights or interests obtained by such directors or employees, by persons who are not, or have ceased to be, such directors or employees to be disposed of when they are acquired.

(3) A restriction shall not be authorised by *subparagraph (2)* unless —

- (a) any disposal required by the restriction will be by means of sale for a consideration in money on terms specified in the articles of association, and
- (b) the articles also contain general provisions by virtue of which any person disposing of shares of the same class (whether or not held or acquired as mentioned in *subparagraph (2)*) may be required to sell them on terms which are the same as those mentioned in *clause (a)*.

(4) The trust deed shall provide that shares in the founding company may not be acquired by the trustees at a price exceeding the price they might reasonably be expected to fetch on a sale in the open market.

(5) The trust deed shall provide that shares in the founding company may not be acquired by the trustees at a time when that company is controlled by another company.

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15. The trust deed may provide that the trustees may acquire securities other than shares in the founding company—

- (a) if they are securities acquired by the trustees as a result of a reorganisation or reduction of share capital, and the original shares the securities represent are shares in the founding company (construing “reorganisation or reduction of share capital” and “original shares” in accordance with *section 584*), or
- (b) if they are securities issued to the trustees in exchange in circumstances mentioned in *section 586*.

16. (1) The trust deed shall provide that—

- (a) where the trustees transfer securities to a beneficiary, they shall do so on qualifying terms;
- (b) the trustees shall transfer securities before the expiry of 20 years beginning on the date on which they acquired them.

(2) For the purposes of *subparagraph (1)*, a transfer of securities shall be made on qualifying terms if—

- (a) all the securities transferred at the same time are transferred on similar terms,
- (b) securities have been offered to all the persons who are beneficiaries under the terms of the trust deed when the transfer is made, and
- (c) securities are transferred to all such beneficiaries who have accepted.

(3) For the purposes of *subparagraph (2)*, the fact that terms vary according to the levels of remuneration of beneficiaries, the length of their service or similar factors shall not be regarded as meaning that the terms are not similar.

(4) The trust deed shall provide that, in ascertaining for the purposes of a relevant rule (being a provision which is included in the trust deed and conforms with *subparagraph (1)*) whether particular securities are transferred, securities acquired earlier by the trustees shall be treated as transferred by them before securities acquired by them later.

#### *Other features*

17. The trust deed shall not contain features which are not essential or reasonably incidental to the purpose of acquiring sums and securities, transferring sums and securities to employees and directors, and transferring securities to the trustees of profit sharing schemes approved under *Part 2 of Schedule 11*.

18. (1) The trust deed shall provide that for the purposes of the deed the trustees—

- (a) acquire securities when they become entitled to them;
- (b) transfer securities to another person when that other person becomes entitled to them;
- (c) retain securities if they remain entitled to them.

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(2) Where the trust deed provides for the matter set out in *paragraph 15*, the trust deed shall provide for the following exceptions to any rule which is included in it and conforms with *subparagraph (1)(a)*, namely—

(a) if the trustees become entitled to securities as a result of a reorganisation or reduction of share capital, they shall be treated as having acquired them when they became entitled to the original shares which those securities represent (construing “reorganisation or reduction of share capital” and “original shares” in accordance with *section 584*);

(b) if securities are issued to the trustees in exchange in circumstances mentioned in *section 586*, they shall be treated as having acquired them when they became entitled to the securities for which they are exchanged.

(3) The trust deed shall provide that—

(a) if the trustees agree to take a transfer of securities, for the purposes of the deed they become entitled to them when the agreement is made and not on a later transfer made pursuant to the agreement;

(b) if the trustees agree to transfer securities to another person, for the purposes of the deed the other person becomes entitled to them when the agreement is made and not on a later transfer made pursuant to the agreement.

*Section 521.*

### SCHEDULE 13

[FA92 Sch2; FA94 s11; FA96 s8]

#### ACCOUNTABLE PERSONS FOR PURPOSES OF CHAPTER 1 OF PART 18

1. A Minister of the Government.
2. A local authority within the meaning of section 2(2) of the Local Government Act, 1941.
3. A body established under the Local Government Services (Corporate Bodies) Act, 1971.
4. A health board.
5. The General Medical Services (Payments) Board established under the General Medical Services (Payments) Board (Establishment) Order, 1972 (S.I. No. 184 of 1972).
6. The Attorney General.
7. The Comptroller and Auditor General.
8. The Director of Public Prosecutions.
9. The Commissioner of Valuation.
10. The Chief Boundary Surveyor.
11. The Director of Ordnance Survey.
12. The Revenue Commissioners.
13. The Civil Service Commissioners.
14. The Commissioners of Public Works in Ireland.
15. The Clerk of Dáil Éireann.
16. The Legal Aid Board.
17. A vocational education committee or a technical college established under the Vocational Education Act, 1930.
18. Teagasc.
19. A harbour authority.
20. An Foras Áiseanna Saothair.
21. Údarás na Gaeltachta.
22. The Industrial Development Agency (Ireland).
23. An Bord Tráchtála — The Irish Trade Board.
24. Shannon Free Airport Development Company Limited.

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25. Bord Fáilte Éireann.
26. An institution of higher education within the meaning of the Higher Education Authority Act, 1971.
27. CERT Limited.
28. The Radiological Protection Institute of Ireland.
29. A voluntary public or joint board hospital to which grants are paid by the Minister for Health and Children in the year 1988-89 or any subsequent year of assessment.
30. An authorised insurer within the meaning of *section 470*.
31. An Bord Glas.
32. An Bord Pleanála.
33. ACC Bank plc.
34. Aer Lingus Group plc.
35. Aer Rianta cuideachta phoiblí teoranta.
36. Arramara Teoranta.
37. Blood Transfusion Service Board.
38. An Bord Bia.
39. Bord na gCon.
40. Bord Gáis Éireann.
41. Bord Iascaigh Mhara.
42. Bord na Móna.
43. Bord Telecom Éireann.
44. Coillte Teoranta.
45. The Combat Poverty Agency.
46. Coras Iompair Éireann.
47. Custom House Docks Development Authority.
48. Electricity Supply Board.
49. Housing Finance Agency plc.
50. ICC Bank plc.
51. Irish National Petroleum Corporation Limited.
52. Irish National Stud Company Limited.
53. National Building Agency Limited.
54. National Concert Hall Company Limited.
55. The Marine Institute.
56. An Post National Lottery Company.
57. Nítrigin Éireann Teoranta.
58. An Post.
59. Radio Telefís Éireann.
60. National Rehabilitation Board.
61. Royal Hospital Kilmainham Company.
62. The Environmental Protection Agency.
63. Forbairt.
64. Forfás.
65. The Irish Aviation Authority.
66. The National Economic and Social Council.
67. The National Economic and Social Forum.
68. The National Roads Authority.
69. Temple Bar Properties Limited.
70. The Irish Film Board.
71. An educational institution established by or under section 3 of the Regional Technical Colleges Act, 1992, as a regional technical college.
72. The Dublin Institute of Technology.
73. Area Development Management Limited.
74. The Commissioner of Irish Lights.
75. Dublin Transportation Office.
76. The Heritage Council.
77. The Higher Education Authority.
78. The Independent Radio and Television Commission.
79. The Irish Horseracing Authority.
80. The Labour Relations Commission.
81. National Safety Council.
82. The Pensions Board.

SCHEDULE 14

CAPITAL GAINS TAX: LEASES

*Interpretation*

1. In this Schedule, “premium” includes any like sum, whether payable to the intermediate or a superior lessor and, for the purposes of this Schedule, any sum (other than rent) paid on or in connection with the granting of a tenancy shall be presumed to have been paid by means of a premium except in so far as other sufficient consideration for the payment is shown to have been given.

*Leases of land as wasting assets: restriction of allowable expenditure*

2. (1) A lease of land shall not be a wasting asset until its duration does not exceed 50 years.

(2) Where at the beginning of the period of ownership of a lease of land it is subject to a sub-lease not at a rent representing the full value of the land together with any buildings on the land, and the value of the lease at the end of the duration of the sub-lease, estimated as at the beginning of the period of ownership, exceeds the expenditure allowable under *section 552(1)(a)* in computing the gain accruing on a disposal of the lease, the lease shall not be a wasting asset until the end of the duration of the sub-lease.

(3) In the case of a wasting asset which is a lease of land, the rate at which expenditure is assumed to be written off shall, instead of being a uniform rate as provided by *section 560(3)*, be a rate fixed in accordance with the Table to this paragraph.

(4) Accordingly, for the purposes of the computation under *Chapter 2 of Part 19* of the gain accruing on a disposal of a lease, and where—

- (a) the percentage derived from the Table to this paragraph for the duration of the lease at the beginning of the period of ownership is P (1),
- (b) the percentage so derived for the duration of the lease at the time when any item of expenditure attributable to the lease under *section 552(1)(b)* is first reflected in the nature of the lease is P (2), and
- (c) the percentage so derived for the duration of the lease at the time of the disposal is P (3),

then—

- (i) there shall be excluded from the expenditure attributable to the lease under *section 552(1)(a)* a fraction equal to—

$$\frac{P(1) - P(3)}{P(1)}$$

and

- (ii) there shall be excluded from any item of expenditure attributable to the lease under *section 552(1)(b)* a fraction equal to—

$$\frac{P(2) - P(3)}{P(2)}$$

(5) This paragraph shall apply notwithstanding that the period of ownership of the lease is a period exceeding 50 years, and accordingly no expenditure shall be written off under this paragraph in respect of any period earlier than the time when the lease becomes a wasting asset.

(6) *Section 561* shall apply in relation to this paragraph as it applies in relation to *subsections (3) to (5) of section 560*.

(7) Where the duration of the lease is not an exact number of years, the percentage to be derived from the Table to this paragraph shall be the percentage for the whole number of years plus one-twelfth of the difference between that percentage and the percentage for the next higher number of years for each odd month, counting an odd 14 days or more as one month.

TABLE

<i>Years</i>	<i>Percentage</i>	<i>Years</i>	<i>Percentage</i>
50 (or more)	100.0	25	81.1
49	99.7	24	79.6
48	99.3	23	78.1
47	98.9	22	76.4
46	98.5	21	74.6
45	98.1	20	72.8
44	97.6	19	70.8
43	97.1	18	68.7
42	96.6	17	66.5
41	96.0	16	64.1
40	95.5	15	61.6
39	94.8	14	59.0
38	94.2	13	56.2
37	93.5	12	53.2
36	92.8	11	50.0
35	92.0	10	46.7
34	91.2	9	43.2
33	90.3	8	39.4
32	89.4	7	35.4
31	88.4	6	31.2
30	87.3	5	26.7
29	86.2	4	22.0
28	85.1	3	17.0
27	83.8	2	11.6
26	82.5	1	6.0
		0	0.0

*Premiums for leases*

3. (1) Subject to this Schedule, where the payment of a premium is required under a lease of land or otherwise under the terms subject

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to which a lease of land is granted, there shall be a part disposal of the freehold or other asset out of which the lease is granted.

(2) In applying *section 557* to such a part disposal, the property which remains undisposed of shall include a right to any rent or other payments (other than a premium) payable under the lease, and that right shall be valued as at the time of the part disposal.

*Payments during currency of lease treated as premium*

4. (1) Where under the terms subject to which a lease of land is granted a sum becomes payable by the lessee in place of the whole or part of the rent for any period or as consideration for the surrender of the lease, the lease shall be deemed for the purposes of this Schedule to have required the payment of a premium to the lessor (in addition to any other premium) of an amount equal to that sum for the period in relation to which the sum is payable.

(2) Where as consideration for the variation or waiver of any of the terms of a lease of land a sum becomes payable by the lessee otherwise than as rent, the lease shall be deemed for the purposes of this Schedule to have required the payment of a premium to the lessor (in addition to any other premium) of an amount equal to that sum for the period from the time when the variation or waiver takes effect to the time when it ceases to have effect.

(3) Where under *subparagraph (1)* or *(2)* a premium is deemed to have been received by the lessor otherwise than as consideration for the surrender of the lease, then—

(a) subject to *clause (b)*, both the lessor and the lessee shall be treated as if that premium were or were part of the consideration for the grant of the lease due at the time when the lease was granted, but

(b) if the lessor is a lessee under a lease the duration of which does not exceed 50 years, this Schedule shall apply as if—

(i) that premium had been given as consideration for the grant of the part of the sub-lease covered by the period in respect of which the premium is deemed to have been paid, and

(ii) that consideration were expenditure incurred by the sub-lessee and attributable to that part of the sub-lease under *section 552(1)(b)*.

(4) Where *subparagraph (3)(a)* applies, the gain accruing to the lessor on the disposal by means of the grant of the lease shall be recomputed and any necessary adjustments of capital gains tax shall be made accordingly, whether by means of assessment for the year in which the premium is deemed to have been received or by means of discharge or repayment of tax.

(5) Where under *subparagraph (1)* a premium is deemed to have been received as consideration for the surrender of a lease, that premium shall be regarded as consideration for a separate transaction consisting of the disposal by the lessor of the lessor's interest in the lease.

(6) *Subparagraph (2)* shall apply in relation to a transaction not at arm's length, and in particular in relation to a transaction entered into gratuitously, as if such sum had become payable by the tenant

otherwise than as rent as might have been required of the tenant if the transaction had been at arm's length. SCH.14

(7) *Subparagraph (4)* shall apply for the purposes of corporation tax as it applies for the purposes of capital gains tax.

*Sub-leases out of short leases*

5. (1) This paragraph shall apply in relation to a lease which is a wasting asset.

(2) In the computation under *Chapter 2 of Part 19* of the gain accruing on the part disposal of a lease by means of the grant of a sub-lease for a premium (in this paragraph referred to as "the actual premium"), the expenditure attributable to the lease under *paragraphs (a) and (b) of section 552(1)* shall be apportioned in accordance with this paragraph, and *section 557* shall not apply.

(3) Out of each item of the expenditure attributable to the lease under *paragraphs (a) and (b) of section 552(1)* there shall be apportioned to the part disposal—

- (a) if the amount of the actual premium is not less than the amount which would be obtainable by means of a premium for the sub-lease if the rent payable under the sub-lease were the same as the rent payable under the lease (in this paragraph referred to as "the full premium"), the amount (in this paragraph referred to as "the allowable amount") which under *paragraph 2(3)* is to be written off over the period which is the duration of the sub-lease, and
- (b) if the amount of the actual premium is less than the full premium, such proportion of the allowable amount as is equal to the proportion which the actual premium bears to the full premium.

(4) Where the sub-lease is a sub-lease of only part of the land comprised in the lease, this paragraph shall apply only in relation to a proportion of the expenditure attributable to the lease under *paragraphs (a) and (b) of section 552(1)* which is the same as the proportion which the value of the land comprised in the sub-lease at the time when the sub-lease is granted bears to the value of that land and the other land comprised in the lease at that time, and the remainder of that expenditure shall be apportioned to the other land.

*Exclusion of premiums taxed under Case V of Schedule D*

6. (1) Where by reference to any premium income tax has become chargeable under *section 98* on any amount, that amount shall be excluded from the consideration taken into account in the computation under *Chapter 2 of Part 19* of a gain accruing on a disposal of the interest in respect of which income tax becomes so chargeable, except where in an apportionment under *section 557* the value of the consideration is taken into account in the aggregate of that value and the market value of the property which remains undisposed of.

(2) Where by reference to any premium in respect of a sub-lease granted out of a lease, being a lease the duration of which does not at the time of granting the lease exceed 50 years, income tax has become chargeable under *section 98* on any amount, that amount shall be deducted from any gain (as computed in accordance with

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the provisions of the Capital Gains Tax Acts apart from this subparagraph) accruing on the disposal for which the premium is consideration, but not so as to convert the gain into a loss or to increase any loss.

- (3) (a) Subject to *clause (b)*, where income tax has become chargeable under *section 100* on any amount (in this subparagraph referred to as “the relevant amount”), the relevant amount shall be excluded from the consideration taken into account in the computation under *Chapter 2 of Part 19* of a gain accruing on the disposal of the estate or interest in respect of which income tax becomes so chargeable, except where in an apportionment made under *section 557* the value of the consideration is taken into account in the aggregate of that value and the market value of the property which remains undisposed of.
- (b) If the part or interest disposed of is the remainder of a lease or a sub-lease out of a lease the duration of which does not exceed 50 years, *clause (a)* shall not apply, but the relevant amount shall be deducted from any gain (as computed in accordance with the provisions of the Capital Gains Tax Acts apart from this subparagraph) accruing on the disposal, but not so as to convert the gain into a loss or to increase any loss.

(4) References in *subparagraphs (1)* and *(2)* to a premium include references to a premium deemed to have been received under *subsection (3)* or *(4)* of *section 98*.

(5) *Section 551* shall not be taken as authorising the exclusion of any amount from the consideration for a disposal of assets taken into account in the computation of the gain under *Chapter 2 of Part 19* by reference to any amount chargeable to tax under *section 75* and *Chapter 8 of Part 4*.

*Disallowance of premium treated as rent under superior lease*

7. (1) Where under *section 103(2)* a person is to be treated as paying additional rent in consequence of having granted a sub-lease, the amount of any loss accruing to such person on the disposal by means of the grant of the sub-lease shall be reduced by the total amount of the rent which such person is thereby treated as paying over the term of the sub-lease (and without regard to whether relief is thereby effectively given over the term of the sub-lease), but not so as to convert the loss into a gain or to increase any gain.

(2) Nothing in *section 551* shall be taken as applying in relation to any amount on which tax is paid under *section 99*.

(3) Where any adjustment is made under *paragraph (b)* of *section 100(2)*, on a claim under that paragraph, any necessary adjustment shall be made to give effect to the consequences of the claim on the operation of this paragraph or *paragraph 6*.

*Expenditure by lessee under terms of lease*

8. If under *section 98(2)* income tax is chargeable on any amount as being a premium the payment of which is deemed to be required by the lease, the person so chargeable shall be treated for the purposes of the computation of any gain accruing to that person on the disposal by means of the grant of the lease, and on any subsequent disposal of the asset out of which the lease was granted, as having

incurring at the time the lease was granted expenditure of that amount (in addition to any other expenditure) attributable to the asset under *section 552(1)(b)*. SCH.14

*Duration of leases*

9. (1) In ascertaining for the purposes of the Capital Gains Tax Acts the duration of a lease of land, the following provisions of this paragraph shall apply.

(2) Where the terms of the lease include provision for the determination of the lease by notice given by the lessor, the lease shall not be treated as granted for a term longer than one ending at the earliest date on which it could be determined by notice given by the lessor.

(3) Where any of the terms of the lease (whether relating to forfeiture or to any other matter) or any other circumstances render it unlikely that the lease will continue beyond a date falling before the expiration of the term of the lease, the lease shall not be treated as having been granted for a term longer than one ending on that date, and this subparagraph shall apply in particular where the lease provides for the rent to be increased after a given date, or for the lessee's obligations to become in any other respect more onerous after a given date, but includes provision for the determination of the lease on that date by notice given by the lessee, and those provisions render it unlikely that the lease will continue beyond that date.

(4) Where the terms of the lease include provision for the extension of the lease beyond a given date by notice given by the lessee, this paragraph shall apply as if the term of the lease extended for as long as it could be extended by the lessee, but subject to any right of the lessor by notice to determine the lease.

(5) The duration of a lease shall be decided in relation to the grant or any disposal of the lease by reference to the facts which were known or ascertainable at the time when the lease was acquired or created.

*Leases of property other than land*

10. (1) *Paragraphs 3 to 5 and 9* shall, subject to any necessary modifications, apply in relation to leases of property other than land as they apply to leases of land.

(2) In the case of a lease of a wasting asset which is movable property, the lease shall be assumed to terminate not later than the end of the life of the wasting asset.

SCHEDULE 15

LIST OF BODIES FOR PURPOSES OF SECTION 610

PART 1

1. An unregistered friendly society whose income is exempt from income tax under *section 211(1)*.
2. A registered friendly society whose income is exempt from income tax under *section 211(1)*.
3. A registered trade union to the extent that its income is exempt from income tax under *section 213*.

*Section 610.*

[CGTA75 s23;  
FA89 s33; FA91  
s20(2) and s44;  
FA94 s32(5); FA95  
s44(1) and (3);  
FA96 s39(1) and (6)  
and s64]

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4. A local authority within the meaning of section 2(2) of the Local Government Act, 1941.
5. A body established under the Local Government Services (Corporate Bodies) Act, 1971.
6. The Central Bank of Ireland.
7. A health board.
8. A vocational education committee established under the Vocational Education Act, 1930.
9. A committee of agriculture established under the Agriculture Act, 1931.
10. Bord Fáilte Éireann.
11. The Dublin Regional Tourism Organisation Limited.
12. Dublin City and County Regional Tourism Organisation Limited.
13. The South-Eastern Regional Tourism Organisation Limited.
14. South-West Regional Tourism Organisation Limited.
15. The Western Regional Tourism Organisation Limited.
16. The North-West Regional Tourism Organisation Limited.
17. Midlands-East Regional Tourism Organisation Limited.
18. Tramore Fáilte Limited.
19. The National Treasury Management Agency.
20. Eolas—The Irish Science and Technology Agency.
21. Forbairt.
22. Forfás.
23. The Industrial Development Agency (Ireland).
24. The Industrial Development Authority.
25. Shannon Free Airport Development Company Limited.
26. Údarás na Gaeltachta.
27. The Irish Horseracing Authority.
28. The company incorporated on the 1st day of December, 1994, as Irish Thoroughbred Marketing Limited.
29. The company incorporated on the 1st day of December, 1994, as Tote Ireland Limited.
30. A body designated under section 4(1) of the Securitisation (Proceeds of Certain Mortgages) Act, 1995.
31. The Dublin Docklands Development Authority.
32. The Interim Board established under the Milk (Regulation of Supply) (Establishment of Interim Board) Order, 1994 (S.I. No. 408 of 1994).

PART 2

1. The Dublin District Milk Board established under the Dublin District Milk Board Order, 1936 (S.R. & O., No. 254 of 1936).
2. The Cork District Milk Board established under the Cork District Milk Board Order, 1937 (S.R. & O., No. 91 of 1937).
3. The company incorporated on the 19th day of November, 1991, as Dairysan Limited.
4. The company incorporated on the 14th day of February, 1994, as Glenlee (Cork) Limited.

Section 703.

[FA90 Sch3]

SCHEDULE 16

BUILDING SOCIETIES: CHANGE OF STATUS

*Capital allowances*

1. (1) For the purposes of the allowances and charges provided for by *sections 307 and 308*, the trade of the society concerned shall not be treated as permanently discontinued and the trade of the successor company shall not be treated as a new trade set up and commenced by the successor company.

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(2) There shall be made to or on the successor company in accordance with *sections 307 and 308* all such allowances and charges as would have been made to or on the society if the society had continued to carry on the trade, and the amount of any such allowance or charge shall be computed as if the successor company had been carrying on the trade since the society began to do so and as if everything done to or by the society had been done to or by the successor company. SCH.16

(3) The conversion of the society into the successor company shall not be treated as giving rise to any such allowance or charge.

*Financial assets*

2. (1) In this paragraph—

“financial assets” means assets held by the society in accordance with subsections (1) and (3) of section 39 of the Building Societies Act, 1989;

“financial trading stock” means such of the financial assets of the society as would constitute trading stock for the purposes of *section 89*.

(2) For the purposes of *section 89*, the financial trading stock of the society concerned shall be valued at an amount equal to its cost to the society.

(3) Where a society converts itself into the successor company, the vesting in the successor company of any financial assets, the profits or gains on the disposal of which would be chargeable to tax under Case I of Schedule D, shall be treated for the purposes of corporation tax as not constituting a disposal of those assets by the society; but, on the disposal of any of those assets by the successor company, the profits or gains accruing to the successor company shall be calculated (for the purposes of corporation tax) as if those assets had been acquired by the successor company at their cost to the society.

*Capital gains: assets vested in the successor company, etc*

3. (1) For the purposes of capital gains tax and corporation tax on chargeable gains, the conversion of a society into the successor company shall not constitute—

- (a) a disposal by the society of assets owned by it immediately before the conversion, or
- (b) the acquisition at that time by the successor company of assets which immediately before the conversion were owned by the society.

(2) The Capital Gains Tax Acts, and the Corporation Tax Acts in so far as those Acts relate to chargeable gains, shall apply where a society has converted itself into the successor company as if the successor company had—

- (a) acquired the assets which vested in the successor company on conversion at the same time and for the same consideration at which they were acquired by the society,
- (b) been in existence as a company at all times since the society was incorporated,

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- (c) done all things done by the society relating to the acquisition and disposal of the assets which vested in the successor company on conversion, and
- (d) done all other things done by the society before the conversion.

*Capital gains: shares, and rights to shares, in successor company*

4. (1) In this paragraph—

“free shares”, in relation to a member of the society, means any shares issued by the successor company to that member in connection with the conversion but for no new consideration;

“member”, in relation to the society, means a person who is or has been a member of the society, in that capacity, and any reference to a member includes a reference to a member of any particular class or description;

“new consideration” means consideration other than—

- (a) consideration provided directly or indirectly out of the assets of the society or the successor company, or
- (b) consideration derived from a member’s shares or other rights in the society or the successor company.

(2) Where in connection with the conversion there are conferred on members of the society concerned any rights—

- (a) to acquire shares in the successor company in priority to other persons,
- (b) to acquire shares in that company for consideration of an amount or value lower than the market value of the shares, or
- (c) to free shares in that company,

any such rights so conferred on a member shall be regarded for the purposes of capital gains tax as an option (within the meaning of *section 540*) granted to and acquired by the member for no consideration and having no value at the time of that grant and acquisition.

(3) Where in connection with the conversion shares in the successor company are issued by that company to a member of the society concerned, those shares shall be regarded for the purposes of capital gains tax—

- (a) as acquired by the member for a consideration of an amount or value equal to the amount or value of any new consideration given by the member for the shares or, if no new consideration is given, as acquired for no consideration, and
- (b) as having at the time of their acquisition by the member a value equal to the amount or value of the new consideration so given or, if no new consideration is given, as having no value;

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but this subparagraph is without prejudice to the application where appropriate of *subparagraph (2)*. SCH.16

(4) *Subparagraph (5)* shall apply in any case where—

(a) in connection with the conversion, shares in the successor company are issued by that company to trustees on terms which provide for the transfer of those shares to members of the society for no new consideration, and

(b) the circumstances are such that in the hands of the trustees the shares constitute settled property within the meaning of the Capital Gains Tax Acts.

(5) Where this subparagraph applies, then, for the purposes of capital gains tax—

(a) the shares shall be regarded as acquired by the trustees for no consideration,

(b) the interest of any member in the settled property constituted by the shares shall be regarded as acquired by that member for no consideration and as having no value at the time of its acquisition, and

(c) where on the occasion of a member becoming absolutely entitled as against the trustees to any of the settled property, both the trustees and the member shall be treated as if, on the member becoming so entitled, the shares in question had been disposed of and immediately reacquired by the trustees, in their capacity as trustees within *section 567(2)*, for a consideration of such an amount as would secure that on the disposal neither a gain nor a loss would accrue to the trustees and, accordingly, *section 576(1)* shall not apply in relation to that occasion.

(6) References in this paragraph to the case where a member becomes absolutely entitled to settled property as against the trustees shall be taken to include references to the case where the member would become so entitled but for being a minor or otherwise under a legal disability.

#### SCHEDULE 17

*Section 705.*

#### REORGANISATION INTO COMPANIES OF TRUSTEE SAVINGS BANKS

[FA90 Sch4]

##### *Interpretation*

1. In this Schedule—

“bank” means either or both a trustee savings bank and a bank within the meaning of *section 57(3)(c)(i)* of the Trustee Savings Banks Act, 1989, as the context requires;

“successor” means the company to which any property, rights, liabilities and obligations are transferred in the course of a transfer;

“transfer” means the transfer by a trustee savings bank of all or part of its property and rights and all of its liabilities or obligations under an order made by the Minister for Finance under *section 57* of the Trustee Savings Banks Act, 1989, authorising the reorganisation of

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one or more trustee savings banks into a company or the reorganisation of a company referred to in subsection (3)(c)(i) of that section into a company referred to in subsection (3)(c)(ii) of that section.

*Capital allowances*

2. (1) This paragraph shall apply for the purposes of—
- (a) allowances and charges provided for in *Part 9, section 670, Chapter 1 of Part 29 and sections 765 and 769*, or any other provision of the Tax Acts relating to the making of allowances or charges under or in accordance with that Part or Chapter or those sections, and
  - (b) allowances or charges provided for by *sections 307 and 308*.
- (2) The transfer shall not be treated as giving rise to any allowance or charge provided for under *subparagraph (1)*.

(3) There shall be made to or on the successor in accordance with *sections 307 and 308* all such allowances and charges as would, if the bank had continued to carry on the trade, have been made to or on the bank, and the amount of any such allowance or charge shall be computed as if the successor had been carrying on the trade since the trustee savings bank began to do so and as if everything done to or by the bank had been done to or by the successor; but the successor shall not be entitled to any amount which would have been made to the trustee savings bank by virtue only of *section 304(4)*.

*Trading losses*

3. Notwithstanding any other provision of the Tax Acts—
- (a) a company referred to in subsection (3)(c)(i) of section 57 of the Trustee Savings Banks Act, 1989, which becomes a company referred to in subsection (3)(c)(ii) of that section shall not be entitled to relief under *section 396(1)* in respect of any loss incurred by the company in a trade in any accounting period or part of an accounting period in which it was a company referred to in subsection (3)(c)(i) of section 57 of the Trustee Savings Banks Act, 1989, and
  - (b) a company referred to in subsection (3)(c)(ii) of section 57 of that Act shall not be entitled to relief under *section 396(1)* in respect of any loss incurred by a company referred to in subsection (3)(c)(i) of section 57 of that Act.

*Financial assets*

4. (1) In this paragraph, “financial trading stock” means such of the assets of the bank as would constitute trading stock for the purposes of *section 89*.

(2) For the purposes of *section 89*, the financial trading stock of the bank concerned shall be valued at an amount equal to or treated for the purposes of *subparagraph (3)* as its cost to that bank.

(3) The acquisition in the course of a transfer by the successor of any assets, the profits or gains on the disposal of which by the bank would be chargeable to tax under Case I of Schedule D, shall be treated for the purposes of income tax and corporation tax as not

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constituting a disposal of those assets by that bank; but, on the disposal of any of those assets by the successor, the profits or gains accruing to the successor shall be calculated (for the purposes of corporation tax) as if those assets had been acquired by the successor at their cost to the bank. SCH.17

*Capital gains*

5. (1) This paragraph shall apply for the purposes of the Capital Gains Tax Acts, and of the Corporation Tax Acts in so far as those Acts relate to chargeable gains.

(2) The disposal of an asset by a bank to a company in the course of a transfer shall be deemed to be for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to the bank.

(3) Where *subparagraph (2)* has applied in relation to the disposal of an asset by the bank, then, in relation to a subsequent disposal of the asset, the successor shall be treated as if the acquisition or provision of the asset by—

(a) the trustee savings bank, or

(b) if the asset was not acquired or provided by the trustee savings bank, the bank within the meaning of section 57(3)(c)(i) of the Trustee Savings Banks Act, 1989,

were the successor's acquisition or provision of the asset.

(4) Any allowable losses accruing at any time to a bank shall, on a transfer and in so far as they have not been allowed as a deduction from chargeable gains, be treated as allowable losses which accrued at that time to the successor.

(5) For the purposes of *section 597*, the bank and the successor shall be treated as if they were the same person.

(6) Where the liability in respect of any debt owed to a bank is transferred in the course of a transfer to a successor, the successor shall be treated as the original creditor for the purposes of *section 541*.

SCHEDULE 18

*Section 734(5).*

ACCOUNTING FOR AND PAYMENT OF TAX DEDUCTED FROM RELEVANT PAYMENTS AND UNDISTRIBUTED RELEVANT INCOME

[FA89 Sch1 par1(1) to (7)(d) and (8) and par2; FA97 s146(2) and Sch7 PtII]

*Time and manner of payment*

1. (1) Notwithstanding any other provision of the Acts, this paragraph shall apply for the purpose of regulating the time and manner in which tax deducted in accordance with *section 734(5)* shall be accounted for and paid.

(2) A collective investment undertaking which is not a specified collective investment undertaking shall, within 15 days from the 5th day of April each year, make a return to the Collector-General of all amounts from which it was required by *section 734(5)* to deduct tax in the year ending on that date and of the amount of appropriate tax which it was required to deduct from those amounts.

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(3) The appropriate tax required to be included in a return shall be due and payable at the time by which the return is to be made and shall be paid by the collective investment undertaking to the Collector-General, and the appropriate tax so due shall be payable by the collective investment undertaking without the making of an assessment; but the appropriate tax which has become so due may be assessed on the collective investment undertaking (whether or not it has been paid when the assessment is made) if that tax or any part of it is not paid on or before the due date.

(4) Where it appears to the inspector that there is an amount of appropriate tax which ought to have been and has not been included in a return, or the inspector is dissatisfied with any return, he or she may make an assessment on the collective investment undertaking to the best of his or her judgment, and any amount of appropriate tax due under an assessment made by virtue of this subparagraph shall be treated for the purposes of interest on unpaid tax as having been payable at the time when it would have been payable if a correct return had been made.

(5) Where any item has been incorrectly included in a return, the inspector may make such assessments, adjustments or set-offs as may in his or her judgment be required for securing that the resulting liabilities to tax (including interest on unpaid tax) whether of the collective investment undertaking or any other person are, in so far as possible, the same as they would have been if the item had not been so included.

(6) (a) Any appropriate tax assessed on a collective investment undertaking under this Schedule shall be due within one month after the issue of the notice of assessment (unless that tax is due earlier under *subparagraph (3)*) subject to any appeal against the assessment, but no such appeal shall affect the date when any amount is due under *subparagraph (3)*.

(b) On the determination of an appeal against an assessment under this Schedule any appropriate tax overpaid shall be repaid.

(7) (a) The provisions of the Income Tax Acts relating to—

(i) assessments to income tax,

(ii) appeals against such assessments (including the rehearing of appeals and the statement of a case for the opinion of the High Court), and

(iii) the collection and recovery of income tax,

shall, with any necessary modifications, apply to the assessment, collection and recovery of appropriate tax.

(b) Any amount of appropriate tax payable in accordance with this Schedule without the making of an assessment shall carry interest at the rate of 1.25 per cent for each month or part of a month from the date when the amount becomes due and payable until payment.

(c) *Subsections (2) to (4) of section 1080* shall apply in relation to interest payable under *clause (b)* as they apply in relation to interest payable under *section 1080*.

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- (d) In its application to any appropriate tax charged by an assessment made in accordance with this Schedule, *section 1080* shall apply as if *subsection (1)(b)* of that section were deleted. SCH.18

(8) Every return shall be in a form prescribed by the Revenue Commissioners and shall include a declaration to the effect that the return is correct and complete.

*Statement to be given on making of relevant payment*

2. Where a collective investment undertaking other than a specified collective investment undertaking makes a relevant payment from which appropriate tax is deductible in accordance with *section 734(5)*, or would be so deductible but for *paragraphs (i) and (ii)* of the definition of “appropriate tax” in *section 734(1)(a)*, it shall give to the unit holder to whom the relevant payment is made a statement showing—

- (a) the amount of the relevant payment,
- (b) the amount equal to the aggregate of the appropriate tax deducted from the relevant payment and any amount or amounts deducted pursuant to *paragraphs (i) and (ii)* of the definition of “appropriate tax” in *section 734(1)(a)* in determining the appropriate tax or, if by reason of those paragraphs there was no appropriate tax to deduct from the amount of the relevant payment, the aggregate of the amounts referred to in those paragraphs in so far as they refer to the relevant payment,
- (c) the net amount of the relevant payment,
- (d) the date of the relevant payment, and
- (e) such other information in relation to the relevant payment as shall be necessary to enable the correct amount of tax, if any, payable by or repayable to the unit holder in respect of the relevant payment to be determined.

SCHEDULE 19

*Section 744.*

OFFSHORE FUNDS: DISTRIBUTING FUNDS

[FA90 Sch5]

PART 1

THE DISTRIBUTION TEST

*Requirements as to distributions*

1. (1) For the purposes of *Chapter 2 of Part 27*, an offshore fund pursues a full distribution policy with respect to an account period if—

- (a) a distribution is made for the account period or for some other period which in whole or in part falls within that account period,
- (b) subject to *Part 2* of this Schedule, the amount of the distribution which is paid to the holders of material and other interests in the fund—

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- (i) represents at least 85 per cent of the income of the fund for the period, and
- (ii) is not less than 85 per cent of the fund's Irish equivalent profits for the period,
- (c) the distribution is made during the account period or not more than 6 months after the expiry of that period, and
- (d) the form of the distribution is such that, if any sum forming part of it were received in the State by a person resident in the State and did not form part of the profits of a trade, profession or vocation, that sum would be chargeable to tax under Case III of Schedule D,

and any reference in this subparagraph to a distribution made for an account period includes a reference to any 2 or more distributions so made or, in the case of *clause (b)*, the aggregate of those distributions.

(2) Subject to *subparagraph (3)*, with respect to any account period for which—

- (a) there is no income of the fund, and
- (b) there are no Irish equivalent profits of the fund,

the fund shall be treated as pursuing a full distribution policy notwithstanding that no distribution is made as mentioned in *subparagraph (1)*.

(3) For the purposes of *Chapter 2 of Part 27*, an offshore fund shall be regarded as not pursuing a full distribution policy with respect to an account period for which the fund does not make up accounts.

(4) For the purposes of this paragraph—

- (a) where a period for which an offshore fund makes up accounts includes the whole or part of 2 or more account periods of the fund, then, subject to *clause (c)*, income shown in those accounts shall be apportioned between those account periods on a time basis according to the number of days in each account period comprised in the period for which the accounts are made up,
- (b) where a distribution is made for a period which includes the whole or part of 2 or more account periods of the fund, then, subject to *subparagraph (5)*, the distribution shall be apportioned between those account periods on a time basis according to the number of days in each account period which are comprised in the period for which the distribution is made,
- (c) where a distribution is made out of specified income but is not made for a specified period, that income shall be attributed to the account period of the fund in which it in fact arose and the distribution shall be treated as made for that account period, and
- (d) where a distribution is made neither for a specified period nor out of specified income, then, subject to *subparagraph (5)*, the distribution shall be treated as made for

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the last account period of the fund which ended before the distribution was made. SCH.19

(5) Where but for this subparagraph the amount of a distribution made, or treated by virtue of *subparagraph (4)* as made, for an account period would exceed the income of that period, then, for the purposes of this paragraph—

- (a) if the amount of the distribution was determined by apportionment under *subparagraph (4)(b)*, the excess shall be reapportioned, as may be just and reasonable, to any other account period which, in whole or in part, falls within the period for which the distribution was made or, if there is more than one such period, between those periods, and
- (b) subject to *clause (a)*, the excess shall be treated as an additional distribution or series of additional distributions made for preceding account periods in respect of which the distributions or the aggregate distributions, as the case may be, would otherwise be less than the income of the period, applying the excess to later account periods before earlier ones until it is exhausted.

(6) In any case where—

- (a) for a period which is or includes an account period an offshore fund is subject to any restriction as regards the making of distributions, being a restriction imposed by the law of any territory, and
- (b) the fund is subject to that restriction by reason of an excess of losses over profits (applying the concept of “profits” and “losses” in the sense in which, and to the extent to which, they are relevant for the purposes of the law in question),

then, in determining for the purposes of *subparagraphs (1) to (5)* the amount of the fund’s income for that account period, there shall be allowed as a deduction any amount which apart from this subparagraph would form part of the income of the fund for that account period and which may not be distributed by virtue of the restriction.

#### *Funds operating equalisation arrangements*

2. (1) In the case of an offshore fund which throughout any account period operates equalisation arrangements, on any occasion in that period when there is a disposal to which this subparagraph applies, the fund shall be treated for the purposes of this Part of this Schedule as making a distribution of an amount equal to so much of the consideration for the disposal as, in accordance with this paragraph, represents income accrued to the date of the disposal.

(2) *Subparagraph (1)* shall apply to a disposal which—

- (a) is a disposal of a material interest in the offshore fund concerned,
- (b) is a disposal to which *Chapter 2 of Part 27* applies (whether by virtue of *subsection (3) of section 742* or otherwise) or is one to which that Chapter would apply if *subsections (5) and (6)* of that section applied generally and not only

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for the purpose of determining whether, by virtue of *sub-section (3)* of that section, there is a disposal to which that Chapter applies,

(c) is not a disposal with respect to which the conditions in *sub-section (4)* of *section 742* are fulfilled, and

(d) is a disposal to the fund itself or to the persons concerned in the management of the fund (in this paragraph referred to as “the managers of the fund”) in their capacity as such.

(3) On a disposal to which *subparagraph (1)* applies, the part of the consideration which represents income accrued to the date of the disposal shall be, subject to *subparagraph (4)* and *paragraph 4(4)*, the amount which would be credited to the equalisation account of the offshore fund concerned in respect of accrued income if on the date of the disposal the material interest disposed of were acquired by another person by means of initial purchase.

(4) Where, after the beginning of the period by reference to which the accrued income referred to in *subparagraph (3)* is calculated, the material interest disposed of by a disposal to which *subparagraph (1)* applies was acquired by means of initial purchase (whether or not by the person making the disposal), then—

(a) the amount which on that acquisition was credited to the equalisation account in respect of accrued income shall be deducted from the amount which in accordance with *subparagraph (3)* would represent income accrued to the date of the disposal, and

(b) if in that period there has been more than one such acquisition of that material interest by means of initial purchase, the deduction to be made under this subparagraph shall be the amount so credited to the equalisation account on the latest such acquisition before the disposal in question.

(5) Where by virtue of this paragraph an offshore fund is treated for the purposes of this Part of this Schedule as making a distribution on the occasion of a disposal, the distribution shall be treated for those purposes as—

(a) complying with *paragraph 1(1)(d)*,

(b) made out of the income of the fund for the account period in which the disposal occurs, and

(c) paid immediately before the disposal to the person who was then the holder of the interest disposed of.

(6) In any case where—

(a) a distribution in respect of an interest in an offshore fund is made to the managers of the fund,

(b) their holding of that interest is in their capacity as such, and

(c) at the time of the distribution the fund is operating equalisation arrangements,

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then, the distribution shall not be taken into account for the purposes of *paragraph 1(1)* except to the extent that the distribution is properly referable to that part of the period for which the distribution is made during which that interest has been held by the managers of the fund in their capacity as such. SCH.19

(7) *Subsection (2)* of *section 742* shall apply for the purposes of this paragraph as it applies for the purposes of that section.

*Income taxable under Case III of Schedule D*

3. (1) *Subparagraph (2)* shall apply if any sums which form part of the income of an offshore fund within *paragraph (b)* or *(c)* of *section 743(1)* are of such a nature that—

(a) the holders of interests in the fund who are either companies resident in the State or individuals domiciled and resident in the State—

(i) are chargeable to tax under Case III of Schedule D in respect of such of those sums as are referable to their interests, or

(ii) if any of that income is derived from assets in the State, would be so chargeable had the assets been outside the State,

and

(b) the holders of interests, who are not such companies or individuals, would be chargeable as mentioned in *subclause (i)* or *(ii)* of *clause (a)* if they were resident in the State or, in the case of individuals, if they were domiciled and both resident and ordinarily resident in the State.

(2) To the extent that sums within *subparagraph (1)* do not actually form part of a distribution complying with *clauses (c)* and *(d)* of *paragraph 1(1)*, they shall be treated for the purposes of this Part of this Schedule—

(a) as a distribution complying with those clauses and made out of the income of which they form part, and

(b) as paid to the holders of the interests to which they are referable.

*Commodity income*

4. (1) In this paragraph—

“commodities” means tangible assets (other than currency, securities, debts or other assets of a financial nature) dealt with on a commodity exchange in any part of the world;

“dealing”, in relation to dealing in commodities, includes dealing by means of futures contracts and traded options.

(2) To the extent that the income of an offshore fund for any account period includes profits from dealing in commodities, 50 per cent of those profits shall be disregarded in determining for the purposes of *paragraphs 1(1)(b)* and 5—

(a) the income of the fund for that period, and

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(b) the fund's Irish equivalent profits for that period;

but in any account period in which an offshore fund incurs a loss in dealing in commodities the amount of that loss shall not be varied by virtue of this paragraph.

(3) Where the income of an offshore fund for any account period consists of profits from dealing in commodities and other income, then—

(a) in determining whether the condition in *paragraph 1(1)(b)* is fulfilled with respect to that account period, the expenditure of the fund shall be apportioned in such manner as is just and reasonable between the profits from dealing in commodities and the other income, and

(b) in determining whether and to what extent any expenditure is deductible under *section 83* in computing the fund's Irish equivalent profits for that period, so much of the business of the fund as does not consist of dealing in commodities shall be treated as a business carried on by a separate company.

(4) Where there is a disposal to which *paragraph 2(1)* applies, then, to the extent that any amount which was or would be credited to the equalisation account in respect of accrued income, as mentioned in *subparagraph (3) or (4) of paragraph 2*, represents profits from dealing in commodities, 50 per cent of that accrued income shall be disregarded in determining under those subparagraphs the part of the consideration for the disposal which represents income accrued to the date of the disposal.

*Irish equivalent profits*

5. (1) In this paragraph, "profits" does not include chargeable gains.

(2) A reference in this Schedule to the Irish equivalent profits of an offshore fund for an account period shall be construed as a reference to the amount which, on the assumptions in *subparagraph (3)*, would be the total profits of the fund for that period on which, after allowing for any deductions available against those profits, corporation tax would be chargeable.

(3) The assumptions referred to in *subparagraph (2)* are that—

(a) the offshore fund is a company which in the account period is resident in the State,

(b) the account period is an accounting period of that company, and

(c) any dividends or distributions which by virtue of *section 129* should be disregarded in computing income for corporation tax purposes are nevertheless to be taken into account in that computation in the like manner as if they were dividends or distributions of a company resident outside the State.

(4) Without prejudice to any deductions available apart from this subparagraph, the deductions referred to in *subparagraph (2)* include—

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- (a) a deduction equal to any amount which by virtue of *paragraph 1(6)* is allowed as a deduction in determining the income of the fund for the account period in question, SCH.19
- (b) a deduction equal to any amount of Irish income tax paid by deduction or otherwise by, and not repaid to, the offshore fund in respect of the income of the account period, and
- (c) a deduction equal to any amount of tax (paid under the law of a territory outside the State) taken into account as a deduction in determining the income of the fund for the account period in question but which, because it is referable to capital rather than income, is not to be taken into account by virtue of *section 71(1)* or *77(6)*;

but *section 2(4)* shall be disregarded for the purposes of *clause (b)*.

(5) For the avoidance of doubt it is hereby declared that, if any sums forming part of the offshore fund's income for any period have been received by the fund without any deduction of or charge to tax by virtue of *section 43, 49, 50 or 63*, the effect of the assumption in *subparagraph (3)(a)* is that those sums are to be taken into account in determining the total profits referred to in *subparagraph (2)*.

## PART 2

### MODIFICATIONS OF CONDITIONS FOR CERTIFICATION IN CERTAIN CASES

#### *Exclusion of investments in distributing offshore funds*

6. (1) In this Part of this Schedule, an offshore fund within *subparagraph (2)(c)* is referred to as a "qualifying fund".

(2) In any case where—

- (a) in an account period of an offshore fund (in this Part of this Schedule referred to as "the primary fund"), the assets of the fund consist of or include interests in another offshore fund,
- (b) those interests (together with other interests which the primary fund may have) are such that, by virtue of *paragraph (a)* of *subsection (3)* of *section 744* or, if the other fund concerned is a company, *paragraph (b)* or *(c)* of that subsection, the primary fund could not apart from this paragraph be certified as a distributing fund in respect of the account period, and
- (c) without regard to this paragraph, that other fund could be certified as a distributing fund in respect of its account period or, as the case may be, each of its account periods which comprises the whole or any part of the account period of the primary fund,

then, in determining whether in *section 744(3)* (other than *paragraph (d)*) anything prevents the primary fund being certified as mentioned in *clause (b)*, the interests of the primary fund in that other fund shall be disregarded except for the purposes of determining the total value of the assets of the primary fund.

(3) In a case within *subparagraph (2)*—

- (a) *section 744(3)* (other than *paragraph (d)*) shall apply in relation to the primary fund with the modification in

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*paragraph 7* (in addition to that provided for by *subparagraph (2)*), and

(b) *Part 1* of this Schedule shall apply in relation to the primary fund with the modification in *paragraph 8*.

7. The modification referred to in *paragraph 6(3)(a)* is that in any case where—

- (a) at any time in the account period referred to in *paragraph 6(2)*, the assets of the primary fund include an interest in an offshore fund or in any company (whether an offshore fund or not),
- (b) that interest is to be taken into account in determining whether in *section 744(3)* (other than *paragraph (d)*) anything prevents the primary fund being certified as a distributing fund in respect of that account period, and
- (c) at any time in that account period the assets of the qualifying fund include an interest in the offshore fund or company referred to in *clause (a)*,

then, for the purposes of the application in relation to the primary fund of *section 744(3)* (other than *paragraph (d)*), at any time when the assets of the qualifying fund include the interest referred to in *clause (c)*, the primary fund's share of that interest shall be treated as an additional asset of the primary fund.

8. (1) The modification referred to in *paragraph 6(3)(b)* is that, in determining whether the condition in *paragraph 1(1)(b)(ii)* is fulfilled with respect to the account period of the primary fund referred to in *paragraph 6(2)*, the Irish equivalent profits of the primary fund for that account period shall be treated as increased by the primary fund's share of the excess income (if any) of the qualifying fund which is attributable to that account period.

(2) For the purposes of this paragraph, the excess income of the qualifying fund for any account period of that fund shall be the amount (if any) by which its Irish equivalent profits for that account period exceed the amount of the distributions made for that account period, as determined for the purposes of the application of *paragraph 1(1)* to the qualifying fund.

(3) Where an account period of the qualifying fund coincides with an account period of the primary fund, the excess income (if any) of the qualifying fund for that account period shall be the excess income which is attributable to that account period of the primary fund.

(4) In a case where *subparagraph (3)* does not apply, the excess income of the qualifying fund attributable to an account period of the primary fund shall be the appropriate fraction of the excess income (if any) of the qualifying fund for any of its account periods which comprises the whole or any part of the account period of the primary fund and, if there is more than one such account period of the qualifying fund, the aggregate of the excess income (if any) of each of them.

(5) For the purposes of *subparagraph (4)*, the appropriate fraction shall be determined by reference to the formula—

$$\frac{A}{B}$$

where—

A is the number of days in the account period of the primary fund which are also days in an account period of the qualifying fund, and

B is the number of days in that account period of the qualifying fund or, as the case may be, in each of those account periods of that fund which comprises the whole or any part of the account period of the primary fund.

9. (1) The references in *paragraphs 7 and 8(1)* to the primary fund's share of—

(a) an interest forming part of the assets of the qualifying fund, or

(b) the excess income (within the meaning of *paragraph 8*) of the qualifying fund,

shall be construed as references to the fraction specified in *subparagraph (2)* of that interest or excess income.

(2) In relation to any account period of the primary fund, the fraction referred to in *subparagraph (1)* shall be determined by reference to the formula—

$$\frac{C}{D}$$

where—

C is the average value of the primary fund's holding of interests in the qualifying fund during that account period, and

D is the average value of all the interests of the qualifying fund held by any persons during that account period.

*Offshore funds investing in trading companies*

10. (1) In this paragraph—

“commodities” has the same meaning as in *paragraph 4(1)*;

“dealing”, in relation to commodities, currency, securities, debts or other assets of a financial nature, includes dealing by means of futures contracts and traded options;

“trading company” means a company whose business consists wholly of the carrying on of a trade or trades and does not to any extent consist of—

(a) dealing in commodities, currency, securities, debts or other assets of a financial nature, or

(b) banking or money-lending.

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(2) In any case where the assets of an offshore fund for the time being include an interest in a trading company, *section 744(3)* shall apply subject to the modifications in *subparagraphs (3) and (4)*.

(3) In the application of *section 744(3)(b)* to so much of the assets of an offshore fund as for the time being consists of interests in a single trading company, “20 per cent” shall be substituted for “10 per cent”.

(4) In the application of *section 730(3)(c)* to an offshore fund, for “more than 10 per cent”, in so far as it would otherwise refer to the share capital of a trading company or to any class of such share capital, “50 per cent or more” shall be substituted.

*Offshore funds with wholly-owned subsidiaries*

11. (1) In relation to an offshore fund which has a wholly-owned subsidiary which is a company, *section 744(3)* or *Part 1* of this Schedule shall apply subject to the modifications in *subparagraph (4)*.

(2) Subject to *subparagraph (3)*, for the purposes of this paragraph, a company shall be a wholly-owned subsidiary of an offshore fund if and so long as the whole of the issued share capital of the company is—

- (a) in the case of an offshore fund within *section 743(1)(a)*, directly and beneficially owned by the fund,
- (b) in the case of an offshore fund within *section 743(1)(b)*, directly owned by the trustees of the fund for the benefit of the fund, and
- (c) in the case of an offshore fund within *section 743(1)(c)*, owned in a manner which as near as may be corresponds either to *clause (a)* or *(b)*.

(3) In the case of a company which has only one class of issued share capital, the reference in *subparagraph (2)* to the whole of the issued share capital shall be construed as a reference to at least 95 per cent of that share capital.

(4) The modifications referred to in *subparagraph (1)* are that for the purposes of *section 744(3)* and *Part 1* of this Schedule—

- (a) the percentage of the receipts, expenditure, assets and liabilities of the subsidiary which is equal to the percentage of the issued share capital of the company concerned which is owned as mentioned in *subparagraph (2)* shall be regarded as the receipts, expenditure, assets and liabilities of the fund, and
- (b) there shall be disregarded the interest of the fund in the subsidiary and any distributions or other payments made by the subsidiary to the fund or by the fund to the subsidiary.

*Offshore funds with interests in dealing and management companies*

12. (1) *Section 744(3)(c)* shall not apply to so much of the assets of an offshore fund as consists of issued share capital of a company which is either—

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- (a) a wholly-owned subsidiary of the fund which is within *sub-paragraph (2)*, or
- (b) a subsidiary management company of the fund (within the meaning of *subparagraph (3)*).

(2) A company which is a wholly-owned subsidiary of an offshore fund shall be one to which *subparagraph (1)(a)* applies if—

- (a) the business of the company consists wholly of dealing in material interests in the offshore fund for the purposes of and in connection with the management and administration of the business of the fund, and
- (b) the company is not entitled to any distribution in respect of any material interest for the time being held by the company,

and *paragraph 11(2)* shall apply to determine whether a company is for the purposes of this paragraph a wholly-owned subsidiary of an offshore fund.

(3) A company (being a company in which an offshore fund has an interest) shall be a subsidiary management company of the fund for the purposes of *subparagraph (1)(b)* if—

- (a) the company carries on no business other than providing services within *subparagraph (4)* either for the fund alone or for the fund and for any other offshore fund which has an interest in the company, and
- (b) the company's remuneration for the services it provides to the fund is not greater than it would be if it were determined at arm's length between the fund and a company in which the fund has no interest.

(4) The services referred to in *subparagraph (3)* are—

- (a) holding property (being property of any description) occupied or used in connection with the management or administration of the fund, and
- (b) providing administrative, management and advisory services to the fund.

(5) In determining in accordance with *subparagraph (3)* whether a company in which an offshore fund has an interest is a subsidiary management company of that fund—

- (a) every business carried on by a wholly-owned subsidiary of the company shall be treated as carried on by the company,
- (b) no account shall be taken of so much of the company's business as consists of holding its interests in a wholly-owned subsidiary, and
- (c) any reference in *subparagraph (3)(b)* to the company shall be taken to include a reference to a wholly-owned subsidiary of the company.

(6) A reference in *subparagraph (5)* to a wholly-owned subsidiary of a company shall be construed as a reference to another company,

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the whole of the issued share capital of which is for the time being directly and beneficially owned by the first-mentioned company.

*Disregarding of certain investments forming less than 5 per cent of a fund*

13. (1) In this paragraph, “excess holding” means any holding within *subparagraph (2)*.

(2) In any case where—

(a) in any account period of an offshore fund the assets of the fund include a holding of issued share capital (or any class of issued share capital) of a company, and

(b) that holding is such that by virtue of *section 744(3)(c)* the fund could not (apart from this paragraph) be certified as a distributing fund in respect of that account period,

then, if the condition in *subparagraph (3)* is fulfilled, that holding shall be disregarded for the purposes of *section 744(3)(c)*.

(3) The condition referred to in *subparagraph (2)* is that at no time in the account period in question does that portion of the fund which consists of—

(a) excess holdings, and

(b) interests in other offshore funds which are not qualifying funds,

exceed 5 per cent by value of all the assets of the fund.

*Power of Revenue Commissioners to disregard certain breaches of conditions*

14. Where in the case of any account period of an offshore fund it appears to the Revenue Commissioners that there has been a failure to comply with any of the conditions in *paragraphs (a), (b) and (c)* of *section 744(3)* (as modified, where appropriate, by the preceding provisions of this Part of this Schedule) but they are satisfied that the failure—

(a) occurred inadvertently, and

(b) was remedied without unreasonable delay,

then, the Revenue Commissioners may disregard the failure for the purposes of determining whether to certify the fund as a distributing fund in respect of that account period.

### PART 3

#### CERTIFICATION PROCEDURE

##### *Application for certification*

15. (1) The Revenue Commissioners shall, in such manner as they consider appropriate, certify an offshore fund as a distributing fund in respect of an account period if—

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- (a) an application in respect of that period is made under this paragraph, SCH.19
- (b) the application is accompanied by the accounts of the fund for, or for a period which includes, the account period to which the application relates,
- (c) such information as the Revenue Commissioners may reasonably require for the purpose of determining whether the fund should be so certified is furnished to the Revenue Commissioners, and
- (d) the Revenue Commissioners are satisfied that nothing in *subsection (2) or (3) of section 744* prevents the fund being so certified.

(2) An application under this paragraph shall be made to the Revenue Commissioners by the fund or by a trustee or officer of the fund on behalf of the fund and may be so made before the expiry of the period of 6 months beginning at the end of the account period to which the application relates.

(3) In any case where on an application under this paragraph the Revenue Commissioners determine that the offshore fund concerned should not be certified as a distributing fund in respect of the account period to which the application relates, they shall give notice of that determination to the fund.

(4) Where at any time it appears to the Revenue Commissioners that—

- (a) the accounts accompanying an application under this paragraph in respect of any account period of an offshore fund are not such, or
- (b) any information furnished to them in connection with such an application is not such,

as to make full and accurate disclosure of all facts and considerations relevant to the application, the Revenue Commissioners shall give notice to the fund accordingly, specifying the period concerned.

(5) Where a notice is given by the Revenue Commissioners under *subparagraph (4)*, they shall be deemed never to have certified the offshore fund in respect of the account period in question.

#### *Appeals*

16. (1) An appeal to the Appeal Commissioners—

- (a) against a determination referred to in *paragraph 15(3)*, or
- (b) against a notification under *paragraph 15(4)*,

may be made by the offshore fund or by a trustee or officer of the fund on behalf of the fund, and shall be so made by notice specifying the grounds of appeal and given to the Revenue Commissioners within 30 days of the date of the notice under *subparagraph (3) or (4) of paragraph 15* as the case may be.

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(2) The Appeal Commissioners shall hear and determine an appeal under *subparagraph (1)* in accordance with the principles to be followed by the Revenue Commissioners in determining applications under *paragraph 15* and, subject to those principles, in the like manner as in the case of an appeal to the Appeal Commissioners against an assessment to income tax, and the provisions of the Income Tax Acts relating to such an appeal (including the provisions relating to the rehearing of an appeal and to the statement of a case for the opinion of the High Court on a point of law) shall apply accordingly with any necessary modifications.

(3) The jurisdiction of the Appeal Commissioners on an appeal under this paragraph shall include jurisdiction to review any decision of the Revenue Commissioners relevant to a ground of the appeal.

#### PART 4

##### SUPPLEMENTARY

###### *Assessment: effect of non-certification*

17. No appeal may be brought against an assessment to tax on the ground that an offshore fund should have been certified as a distributing fund in respect of an account period of the fund.

18. (1) Without prejudice to *paragraph 17*, in any case where no application has been made under *paragraph 15* in respect of an account period of an offshore fund, any person liable to pay tax which that person would not be liable to pay if the offshore fund were certified as a distributing fund in respect of that period may by notice in writing require the Revenue Commissioners to take action under this paragraph for the purposes of determining whether the fund should be so certified.

(2) Subject to *subparagraphs (3) and (5)*, where the Revenue Commissioners receive a notice under *subparagraph (1)* they shall by notice, given in such manner as they consider appropriate in the circumstances, invite the offshore fund concerned to make an application under *paragraph 15* in respect of the period in question.

(3) Where *subparagraph (2)* applies, the Revenue Commissioners shall not be required to give notice under that subparagraph before the expiry of the account period to which the notice is to relate nor if an application under *paragraph 15* has already been made; but where notice is given under *subparagraph (2)*, an application under *paragraph 15* shall not be out of time under *paragraph 15(2)* if it is made within 90 days of the date of that notice.

(4) Where an offshore fund to which notice is given under *subparagraph (2)* does not make an application under *paragraph 15* in respect of the account period in question within the time allowed by *subparagraph (3)* or *paragraph 15(2)*, as the case may be, the Revenue Commissioners shall proceed to determine the question of certification in respect of that period as if such an application had been made.

(5) Where the Revenue Commissioners receive more than one notice under *subparagraph (1)* with respect to the same account period of the same offshore fund, their obligations under *subparagraphs (2) and (4)* shall be taken to be fulfilled with respect to each of those notices if they are fulfilled with respect to any of them.

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(6) Notwithstanding anything in *subparagraph (5)*, for the purpose of a determination under *subparagraph (4)* with respect to an account period of an offshore fund, the Revenue Commissioners shall have regard to accounts and other information furnished by all persons who have given notice under *subparagraph (1)* with respect to that account period, and *paragraph 15* shall apply as if accounts and information so furnished had been furnished in compliance with *subparagraph (1)* of that paragraph. SCH.19

(7) Without prejudice to *subparagraph (5)*, in any case where—

- (a) at a time after the Revenue Commissioners have made a determination under *subparagraph (4)* that an offshore fund should not be certified as a distributing fund in respect of an account period, notice is given under *subparagraph (1)* with respect to that period, and
- (b) the person giving that notice furnishes the Revenue Commissioners with accounts or information which had not been furnished to them at the time of the earlier determination,

then, the Revenue Commissioners shall reconsider their previous determination in the light of the new accounts or information and, if they consider it appropriate, may determine to certify the fund accordingly.

(8) Where any person has given notice to the Revenue Commissioners under *subparagraph (1)* with respect to an account period of an offshore fund and no application has been made under *paragraph 15* with respect to that period, then—

- (a) the Revenue Commissioners shall notify that person of their determination with respect to certification under *subparagraph (4)*, and
- (b) *paragraph 16* shall not apply in relation to that determination.

*Information as to decisions on certification etc.*

19. Any obligation on the Revenue Commissioners to maintain secrecy or any other restriction upon the disclosure of information by them shall not preclude them from disclosing to any person appearing to them to have an interest in the matter—

- (a) any determination of the Revenue Commissioners or (on appeal) the Appeal Commissioners as to whether an offshore fund should or should not be certified as a distributing fund in respect of any account period, or
- (b) the content and effect of any notice given by the Revenue Commissioners under *paragraph 15(4)*.

20. The Revenue Commissioners may nominate any of their officers to perform any acts and discharge any functions authorised by this Schedule to be performed or discharged by the Revenue Commissioners, and references in this Schedule to the Revenue Commissioners shall, with any necessary modifications, be construed as including references to an officer so nominated.

SCHEDULE 20

Section 745.

[FA90 Sch6]

OFFSHORE FUNDS: COMPUTATION OF OFFSHORE INCOME GAINS

PART 1

DISPOSAL OF INTERESTS IN NON-QUALIFYING FUNDS

*Interpretation*

1. In this Part of this Schedule, “material disposal” means a disposal to which *Chapter 2 of Part 27* applies otherwise than by virtue of *section 742*.

*Calculation of unindexed gain*

2. (1) Where there is a material disposal, there shall first be determined for the purposes of this Part of this Schedule the amount (if any) which in accordance with this paragraph is the unindexed gain accruing to the person making the disposal.

(2) Subject to *subsections (2) to (6) of section 741* and *paragraph 3*, the unindexed gain accruing on a material disposal shall be the amount which would be the gain on that disposal for the purposes of the Capital Gains Tax Acts if it were computed without regard to—

- (a) any charge to income tax or corporation tax by virtue of *section 745*, and
- (b) any adjustment (in this Part of this Schedule referred to as “the indexation allowance”) made under *section 556(2)* to sums allowable as deductions in the computation of chargeable gains.

3. (1) Where the material disposal forms part of a transfer to which *section 600* applies, the unindexed gain accruing on the disposal shall be computed without regard to any deduction to be made under that section in computing a chargeable gain.

(2) Notwithstanding *sections 538* and *546*, where apart from this subparagraph the effect of any computation under the preceding provisions of this Part of this Schedule would be to produce a loss, the unindexed gain on the material disposal shall be treated as nil, and accordingly for the purposes of this Part of this Schedule no loss shall be treated as accruing on a material disposal.

*Gains since the 6th day of April, 1990*

4. (1) This paragraph shall apply where—

- (a) the interest in the offshore fund which is disposed of by the person making a material disposal was acquired by that person before the 6th day of April, 1990, or
- (b) that person is treated by virtue of any provision of *subparagraphs (3) and (4)* as having acquired the interest before that date.

(2) Where this paragraph applies, the amount which would have been the gain on the material disposal shall be determined for the purposes of this Part of this Schedule—

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- (a) on the assumption that on the 6th day of April, 1990, the interest was disposed of and immediately reacquired for a consideration equal to its market value at that time, and
- (b) subject to that assumption, on the basis that the gain is computed in the like manner as the unindexed gain on the material disposal is determined under *paragraphs 2 and 3*,

and that amount is in *paragraph 5(2)* referred to as “the gain since the 6th day of April, 1990”.

(3) Where the person making the material disposal acquired the interest disposed of—

- (a) on or after the 6th day of April, 1990, and
- (b) in such circumstances that by virtue of any enactment other than *section 556(4)* that person and the person (in this subparagraph and *subparagraph (4)* referred to as “the previous owner”) from whom that person acquired the interest disposed of were to be treated for the purposes of the Capital Gains Tax Acts as if that person’s acquisition were for a consideration of such an amount as would secure that, on the disposal under which that person acquired the interest disposed of, neither a gain or a loss accrued to the previous owner,

then, the previous owner’s acquisition of the interest shall be treated as that person’s acquisition of the interest.

(4) Where the previous owner acquired the interest disposed of—

- (a) on or after the 6th day of April, 1990, and
- (b) in circumstances similar to those referred to in *subparagraph (3)*,

then, the acquisition of the interest by the predecessor of the previous owner shall be treated for the purposes of this paragraph as the previous owner’s acquisition, and so on back through previous acquisitions in similar circumstances until the first such acquisition before the 6th day of April, 1990, or, as the case may be, until an acquisition on a material disposal on or after that date.

#### *The offshore income gain*

5. (1) Subject to *subparagraph (2)*, a material disposal shall give rise to an offshore income gain of an amount equal to the unindexed gain on that disposal.

(2) In any case where—

- (a) *paragraph 4* applies, and
- (b) the gain since the 6th day of April, 1990 (within the meaning of *paragraph 4(2)*) is less than the unindexed gain on the disposal,

the offshore income gain to which the disposal gives rise shall be an amount equal to the income gain since the 6th day of April, 1990 (within the meaning of that paragraph).

PART 2

DISPOSALS INVOLVING AN EQUALISATION ELEMENT

6. (1) Subject to *paragraph 7*, a disposal to which *Chapter 2 of Part 27* applies by virtue of *section 742(3)* shall give rise to an offshore income gain of an amount equal to the equalisation element relevant to the asset disposed of.

(2) Subject to *subparagraphs (4) to (6)*, the equalisation element relevant to the asset disposed of by a disposal within *subparagraph (1)* shall be the amount which would be credited to the equalisation account of the offshore fund concerned in respect of accrued income if, on the date of the disposal, the asset disposed of were acquired by another person by means of initial purchase.

(3) In the following provisions of this Part of this Schedule, a disposal within *subparagraph (1)* is referred to as a “disposal involving an equalisation element”.

(4) Where the asset disposed of by a disposal involving an equalisation element was acquired by the person making the disposal after the beginning of the period by reference to which the accrued income referred to in *subparagraph (2)* is calculated, the amount which apart from this subparagraph would be the equalisation element relevant to that asset shall be reduced by the following amount, that is—

- (a) if that acquisition took place on or after the 6th day of April, 1990, the amount which on that acquisition was credited to the equalisation account of the offshore fund concerned in respect of accrued income or, as the case may be, would have been so credited if that acquisition had been an acquisition by means of initial purchase, and
- (b) in any other case, the amount which would have been credited to that account in respect of accrued income if that acquisition had been an acquisition by means of initial purchase taking place on the 6th day of April, 1990.

(5) In any case where—

- (a) the asset disposed of by a disposal involving an equalisation element was acquired by the person making the disposal at or before the beginning of the period by reference to which the accrued income referred to in *subparagraph (2)* is calculated, and
- (b) that period began before the 6th day of April, 1990, and ends after that date,

the amount which apart from this subparagraph would be the equalisation element relevant to that asset shall be reduced by the amount which would have been credited to the equalisation account of the offshore fund concerned in respect of accrued income if the acquisition referred to in *clause (a)* had been an acquisition by means of initial purchase taking place on the 6th day of April, 1990.

(6) Where there is a disposal involving an equalisation element, then, to the extent that any amount which was or would be credited to the equalisation account of the offshore fund in respect of accrued income (as mentioned in *subparagraph (2), (3), (4) or (5)*) represents profits from dealing in commodities (within the meaning of *paragraph 4 of Schedule 19*), 50 per cent of that accrued income shall be

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disregarded in determining under those subparagraphs the equalisation element relevant to the asset disposed of by that disposal. SCH.20

7. (1) For the purposes of this Part of this Schedule, the Part 1 gain (if any) on any disposal involving an equalisation element shall be determined in accordance with *paragraph 8*.

(2) Notwithstanding anything in *paragraph 6*—

(a) where there is no Part 1 gain on a disposal involving an equalisation element, that disposal shall not give rise to an offshore income gain, and

(b) where apart from this paragraph the offshore income gain on a disposal involving an equalisation element would exceed the Part 1 gain on that disposal, the offshore income gain to which that disposal gives rise shall be reduced to an amount equal to that Part 1 gain.

8. (1) On a disposal involving an equalisation element, the Part 1 gain shall be the amount (if any) which, by virtue of *Part 1* of this Schedule (as modified by *subparagraphs (2) and (3)*), would be the offshore income gain on that disposal if it were a material disposal within the meaning of that Part.

(2) For the purposes only of the application of *Part 1* of this Schedule to determine the Part 1 gain (if any) on a disposal involving an equalisation element, *subsections (5) and (6) of section 742* shall apply as if in *subsection (5)* of that section “by virtue of *subsection (3)*” were deleted.

(3) Where a disposal involving an equalisation element is one which by virtue of any enactment other than *section 556(4)* is treated for the purposes of the Capital Gains Tax Acts as one on which neither a gain nor a loss accrues to the person making the disposal, then, for the purpose only of determining the Part 1 gain (if any) on the disposal, that enactment shall be deemed not to apply to such a disposal (but without prejudice to the application of that enactment to any earlier disposal).

#### SCHEDULE 21

*Sections 749, 750 and 751.*

##### PURCHASE AND SALE OF SECURITIES: APPROPRIATE AMOUNT IN RESPECT OF THE INTEREST

[ITA67 Sch11; F(MP)A68 s3(2) and Sch Pt1]

1. For the purposes of *section 749*, the appropriate amount in respect of the interest shall be the appropriate proportion of the net interest receivable by the first buyer.

2. For the purposes of *sections 750 and 751*, the appropriate amount in respect of the interest shall be the gross amount corresponding to the appropriate proportion of the net interest receivable by the first buyer.

3. (1) For the purposes of *paragraphs 1 and 2*, the appropriate proportion shall be the proportion which—

(a) the period beginning on the first relevant date and ending on the day before the day on which the first buyer bought the securities,

bears to—

- (b) the period beginning on the first relevant date and ending on the day before the second relevant date.

(2) In *subparagraph (1)*—

“the first relevant date” means—

- (a) in a case where the securities have not been quoted in the official list of the Dublin Stock Exchange at a price excluding the value of the interest payment last payable before the interest receivable by the first buyer or, the securities having been so quoted, the date of the quotation was not the earliest date on which they could have been so quoted if an appropriate dealing in the securities had taken place, that earliest date, and
- (b) in any other case, the date on which the securities have been first so quoted;

“the second relevant date” means—

- (a) in a case where the securities have not been quoted in the official list of the Dublin Stock Exchange at a price excluding the value of the interest receivable by the first buyer or, the securities having been so quoted, the date of the quotation was not the earliest date on which they could have been so quoted if an appropriate dealing in the securities had taken place, that earliest date, and
- (b) in any other case, the date on which the securities have been first so quoted.

(3) Where the interest receivable by the first buyer was the first interest payment payable in respect of the securities, *subparagraph (1)* shall apply with the substitution for the references to the first relevant date of references to the beginning of the period (in this subparagraph referred to as “the relevant period”) for which the interest was payable; but where the capital amount of the securities was not fully paid at the beginning of the relevant period and one or more instalments of capital were paid during the relevant period, then—

- (a) the interest shall be treated as divided into parts, calculated by reference to the amount of the interest attributable to the capital paid at or before the beginning of the relevant period and the amount of that interest attributable to each such instalment,
- (b) treating each of those parts as interest payable for the relevant period or, where the part was calculated by reference to any such instalment, as interest payable for the part of the relevant period beginning with the payment of the instalment, the amount constituting the appropriate proportion of each part shall be calculated in accordance with the preceding provisions of this paragraph, and
- (c) the appropriate proportion of the interest for the purposes of *paragraphs 1* and *2* shall be the proportion of the interest constituted by the sum of those amounts.

(4) In relation to securities not the subject of quotations in the official list of the Dublin Stock Exchange, *subparagraph (1)* shall apply with the substitution for the periods mentioned in that subparagraph of such periods as in the opinion of the Appeal Commissioners correspond with those in the case of the securities in question. SCH.21

4. Where the securities are of a description such that the bargain price is increased, where interest is receivable by the buyer, by reference to gross interest accruing before the bargain date, *paragraphs 1* to 3 shall not apply; but for the purposes of *sections 749* to *751* the appropriate amount in respect of the interest shall be the amount of the increase in the bargain price.

#### SCHEDULE 22

*Sections 749 and 752]*

##### DIVIDENDS REGARDED AS PAID OUT OF PROFITS ACCUMULATED BEFORE GIVEN DATE

[ITA67 Sch12; F(MP)A68 s3(2) and Sch Pt1; CTA76 s140(1) and Sch2 Pt1 par28; FA79 s34]

1. (1) Subject to *paragraph 2*, a dividend shall be regarded for the purposes of *section 752* and of this Schedule as paid wholly out of profits accumulated before a given date (in this Schedule referred to as “the relevant date”) if—

- (a) it is declared for a period falling wholly before the relevant date,
- (b) there are no profits of the company arising in the period beginning on the relevant date and ending on the date on which the dividend is payable, or
- (c) having regard to *paragraph 3*, no part is available for payment of the dividend out of such profits of the company as arose in the period beginning on the relevant date and ending on the date on which the dividend is payable.

(2) Subject to *paragraph 2*, where out of such profits of the company as arose in the period beginning on the relevant date and ending on the date on which the dividend is payable, some part is, having regard to *paragraph 3*, available for payment of the dividend but the total amount distributed in payment of the net dividend on all the shares of the class in question exceeds that part of the profits, the dividend shall be regarded for the purposes of *section 752* and of this Schedule as paid out of profits accumulated before the relevant date to an extent which is the same as the proportion which the excess bears to that total amount.

(3) For the purposes of this Schedule, a dividend which is declared for a period falling partly before and partly after the relevant date shall be regarded as consisting of 2 dividends respectively declared for the 2 parts of the period and of amounts proportionate to each such part.

2. (1) Notwithstanding *paragraph 1*, a dividend shall not be regarded as paid to any extent out of profits accumulated before the relevant date if—

- (a) it became payable within one year from that date, and
- (b) in the opinion of the Appeal Commissioners the annual rate of dividend on the shares in question in that year—

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- (i) is not substantially greater than the annual rate of dividend on those shares in the period of 3 years ending on the relevant date, or
- (ii) in a case where the shares in question were acquired in the ordinary course of a business of arranging public issues and placings of shares, represents a yield on the cost to the person receiving the dividend not substantially greater than the yield obtainable by investing in comparable shares the prices of which are quoted on stock exchanges in the State.

(2) For the purposes of *subparagraph (1)(b)*, the Appeal Commissioners shall have regard to—

- (a) all dividends paid on the shares in the respective periods,
- (b) any share issue made in those periods to holders of the shares, and
- (c) in a case under *subparagraph (1)(b)(i)* where the shares were not in existence 3 years before the relevant date, the dividends paid on, and any share issue made to holders of, any shares surrendered in exchange for the first-mentioned shares or in right of which the first-mentioned shares were acquired,

and shall take such averages and make such adjustments as may appear to them to be required for a fair comparison.

3. (1) The part of the profits of the company arising in the period beginning on the relevant date and ending on the date on which a dividend is payable which is available for payment of the dividend shall be determined in accordance with *subparagraphs (2) to (5)*.

(2) There shall be deducted from those profits such amount, whether fixed or proportionate to the amount of the profits, as in the opinion of the Appeal Commissioners ought justly and reasonably to be treated as set aside for payment of dividends on any other class of shares in the company, having regard to the respective rights attaching to the shares and on the assumption that the total amount available for distribution by means of net dividend on all the shares in the company over any period will be proportionately greater or less than the profits of the company arising in the period beginning on the relevant date and ending on the date on which the dividend mentioned in *subparagraph (1)* is payable, according as the first-mentioned period is longer or shorter than the second-mentioned period.

(3) In a case where, in the period beginning on the relevant date and ending on the date on which the dividend is payable, no previous dividend became payable on the shares of the class in question, the whole of the profits of the company arising in the period, less any deduction to be made under *subparagraph (2)*, shall be regarded as available for payment of the dividend.

(4) If any previous dividend became payable on the same shares in the period beginning on the relevant date and ending on the date on which the dividend is payable, there shall be determined in accordance with the preceding paragraphs the extent, if any, to which that previous dividend is to be regarded as paid out of profits accumulated before the relevant date, and the profits of the company arising in that period, less any deduction to be made under *subparagraph (2)*, shall be regarded as primarily available for payment of the

net amount of that previous dividend in so far as it is not regarded as paid out of profits accumulated before the relevant date and only such balance, if any, as remains shall be regarded as available for payment of the later dividend. SCH.22

(5) Where under *subparagraph (2)* the Appeal Commissioners are to determine what should be set aside for payment of dividends on shares of any class, and dividends on shares of that class have been treated under this Schedule as paid to any extent out of profits accumulated before the relevant date, the Appeal Commissioners may take that fact into account and reduce the amount to be so set aside accordingly.

4. (1) For the purposes of this Schedule, the profits of a company arising in a given period (in this paragraph referred to as “the specified period”) shall be determined in accordance with *subparagraphs (2)* and *(3)*.

(2) Those profits shall be the income of the company for the specified period diminished by—

- (a) the income tax actually paid by the company for any year of assessment (not being a year of assessment after the year 1975-76) in the specified period, including any sur-tax borne by the company under section 530 of, and Schedule 16 to, the Income Tax Act, 1967,
- (b) the corporation profits tax payable by the company for any accounting period in the specified period,
- (c) the corporation tax (including corporation tax charged by virtue of *sections 440* and *441*) payable by the company for any accounting period in the specified period, and for this purpose the tax credit comprised in any franked investment income shall be treated as corporation tax payable by the company for the accounting period in which the distribution was received, and
- (d) the capital gains tax payable by the company for any year of assessment (not being a year of assessment after the year 1975-76) in the specified period;

but where relief has been afforded to the company under section 360 of the Income Tax Act, 1967, or under *section 826* or *833*, references in this subparagraph to tax actually borne or to tax payable shall be construed as references to the tax which would have been borne or payable if that relief had not been given.

(3) In ascertaining for the purposes of this paragraph the amount of income tax, corporation profits tax and corporation tax by which the income of the company for the specified period is to be diminished, any tax on the amount to be deducted under *clause (g)* or *(h)* of *paragraph 5(3)* shall be disregarded.

5. (1) For the purposes of this Schedule, the income of the company for a given period (in this paragraph referred to as “the specified period”) shall be determined in accordance with *subparagraphs (2)* and *(3)*.

(2) There shall be computed the aggregate amount of—

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- (a) any profits or gains arising in the specified period from any trade carried on by the company computed in accordance with the provisions applicable to Case I of Schedule D,
  - (b) any income (including any franked investment income) arising in the specified period (computed in accordance with the Income Tax Acts or, in the case of franked investment income, in accordance with the Corporation Tax Acts), other than profits or gains arising from any trade referred to in *clause (a)*, and
  - (c) any capital profits arising in the specified period (whether or not chargeable to capital gains tax or corporation tax).
- (3) There shall be deducted from the aggregate amount determined under *subparagraph (2)* the sum of the following amounts—
- (a) any loss sustained by the company in the specified period in any trade referred to in *subparagraph (2)(a)* (computed in the same manner as profits or gains under the provisions applicable to Case I of Schedule D),
  - (b) any group relief given to the company in accordance with *Chapter 5 of Part 12* for any accounting period in the specified period,
  - (c) any allowances for any year of assessment (not being a year of assessment after the year 1975-76) in the specified period in respect of any such trade under sections 241, 244(3) and 245, Chapter III of Part XIV, and Parts XV and XVI, of the Income Tax Act, 1967,
  - (d) any allowances in respect of any such trade under Chapter III of Part XIV of the Income Tax Act, 1967, which under section 14 of the Corporation Tax Act, 1976, were to be made in taxing the trade for the purposes of corporation tax for any accounting period in the specified period,
  - (e) any allowances in respect of any such trade under *Part 9, section 670, Chapter 1 of Part 29* or *subsection (1) or (2) of section 765*, which under *section 307* are to be made in taxing the trade for the purpose of corporation tax for any accounting period in the specified period,
  - (f)
    - (i) any payments made by the company in the specified period to which *section 237* or *238* applies, other than payments which are deductible in computing the profits or gains or losses of a trade carried on by the company,
    - (ii) any amount in respect of which repayment was made under section 496 of the Income Tax Act, 1967, for any year of assessment in the specified period, and
    - (iii) any charges on income which under *section 243(2)* are to be allowed as deductions against the total profits for any accounting period in the specified period,
  - (g) if the company is not engaged in carrying on a trade mentioned in *section 752(3)* and has received in the period—
    - (i) on or before the 5th day of April, 1976, a dividend which if the company had been engaged in such a

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trade would have been required by section 371(1) of the Income Tax Act, 1967, to be taken into account to any extent mentioned in that section, such amount as would, after deduction of income tax at the rate authorised by section 456 of that Act, be equal to the amount which would have been so required to be taken into account, SCH.22

(ii) after the 5th day of April, 1976, a distribution within the meaning of *Chapter 2 of Part 6* which if the company had been engaged in such a trade would have been required by *section 752(3)* to be taken into account to any extent mentioned in that section, an amount equal to so much of the distribution as would be so required to be taken into account increased by so much of the tax credit in respect of that distribution as bears to the amount of such tax credit the same proportion as the part of the distribution which would be so required to be taken into account bears to the distribution, and

(h) if the company is not engaged in carrying on a trade mentioned in *section 752(3)*, but were it so engaged any reduction under *section 749* would, or would but for *section 749(3)*, be made as respects the price paid by the company for securities (within the meaning of that section) bought by it in the period—

(i) on or before the 5th day of April, 1976, such amount as would, after deduction of income tax at the rate applicable to the payment, be equal to the amount of the reduction, or

(ii) after the 5th day of April, 1976, such amount as would be equal to an amount of gross interest corresponding to an amount of net interest equal to the amount of the reduction,

so however that where the securities are of the description specified in *paragraph 4 of Schedule 21*, the amount shall be the amount of the reduction,

and the balance shall be the income of the company for the specified period.

6. Any reference in *paragraph 4 or 5* to an amount for a year of assessment in the period in question shall be taken as a reference to the full amount for any year of assessment falling wholly within that period and a proportionate part of the amount (on a time basis) for any year of assessment falling partly within that period, and the references in those paragraphs to an amount for an accounting period in that period shall be construed in a corresponding manner.

## SCHEDULE 23

### OCCUPATIONAL PENSION SCHEMES

#### PART 1

#### GENERAL

##### *Application for approval of a scheme*

1. An application for the approval for the purposes of *Chapter 1 of Part 30* (in this Schedule referred to as “*Chapter 1*”) of any retirement benefits scheme shall be made in writing by the administrator

*Section 770.*

[FA72 Sch1 PtI pars1 to 3(3), 4 and 5 and PtVI pars 1 to 4; FA96 s132(1) and Sch5 PtI par6]

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of the scheme to the Revenue Commissioners before the end of the first year of assessment for which approval is required, and shall be supported by—

- (a) a copy of the instrument or other document constituting the scheme,
- (b) a copy of the rules of the scheme and, except where the application is being made on the setting up of the scheme, a copy of the accounts of the scheme for the last year for which such accounts have been made up, and
- (c) such other information and particulars (including copies of any actuarial report or advice given to the administrator or employer in connection with the setting up of the scheme) as the Revenue Commissioners may consider relevant.

*Information about payments under approved schemes*

2. In the case of every approved scheme, the administrator of the scheme and every employer who pays contributions under the scheme shall, within 30 days from the date of the notice from the inspector requiring them so to do—

- (a) furnish to the inspector a return containing such particulars of contributions paid under the scheme as the notice may require;
- (b) prepare and deliver to the inspector a return containing particulars of all payments under the scheme, being—
  - (i) payments by means of the return of contributions (including interest on contributions, if any),
  - (ii) payments by means of the commutation of, or in place of, pensions or other lump sum payments, and
  - (iii) other payments made to an employer;
- (c) furnish to the inspector a copy of the accounts of the scheme to the last date previous to the notice to which such accounts have been made up, together with such other information and particulars (including copies of any actuarial report or advice given to the administrator or employer in connection with the conduct of the scheme in the period to which the accounts relate) as the inspector considers relevant.

*Information about schemes other than approved schemes or statutory schemes*

3. (1) This paragraph shall apply as respects a retirement benefits scheme which is neither an approved scheme nor a statutory scheme.

(2) It shall be the duty of every employer—

- (a) if there subsists in relation to any of that employer's employees any such scheme, to deliver particulars of that scheme to the inspector within 3 months beginning on the date on which the scheme first comes into operation in relation to any of that employer's employees, and

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(b) when required to do so by notice given by the inspector to furnish within the time limited by the notice such particulars as the inspector may require with regard to—

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- (i) any retirement benefits scheme relating to the employer, or
- (ii) the employees of that employer to whom any such scheme relates.

(3) It shall be the duty of the administrator of any such scheme, when required to do so by notice given by the inspector, to furnish within the time limited by the notice such particulars as the inspector may require with regard to the scheme.

#### *Responsibility of administrator of a scheme*

4. (1) Where the administrator of a retirement benefits scheme defaults, cannot be traced or dies, the employer shall be responsible in place of the administrator for the discharge of all duties imposed on the administrator under *Chapter 1* and this Schedule and shall be liable for any tax due from the administrator in the capacity as administrator.

(2) No liability incurred under *Chapter 1* or this Schedule by the administrator of a scheme, or by an employer, shall be affected by the termination of the scheme or by its ceasing to be an approved scheme or an exempt approved scheme, or by the termination of the appointment of the person mentioned in *section 772(2)(c)*.

(3) References in this paragraph to the employer include, where the employer is resident outside the State, references to any factor, agent, receiver, branch or manager of the employer in the State.

#### *Regulations*

5. (1) The Revenue Commissioners may make regulations generally for the purpose of carrying *Chapter 1* and this Schedule into effect.

(2) Every regulation made under this paragraph shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

## PART 2

### CHARGE TO TAX IN RESPECT OF UNAUTHORISED AND CERTAIN OTHER PAYMENTS

6. This Part shall apply to any payment to or for the benefit of an employee, otherwise than in course of payment of a pension, being a payment made out of funds which are or have been held for the purposes of a scheme which is or has at any time been approved for the purposes of *Chapter 1*.

7. Where the payment—

- (a) is not expressly authorised by the rules of the scheme, or

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(b) is made at a time when the scheme is not approved for the purposes of *Chapter 1* and would not have been expressly authorised by the rules of the scheme when it was last so approved,

the employee (whether or not he or she is the recipient of the payment) shall be chargeable to tax on the amount of the payment under Schedule E for the year of assessment in which the payment is made.

8. Any payment chargeable to tax under this Part shall not be chargeable to tax under *section 780* or *781*.

9. References in this Part to any payment include references to any transfer of assets or other transfer of money's worth.

*Sections 826 and 833.*

#### SCHEDULE 24

##### RELIEF FROM INCOME TAX AND CORPORATION TAX BY MEANS OF CREDIT IN RESPECT OF FOREIGN TAX

###### *Interpretation*

[ITA67 Sch10;  
F(MP)A68 s3(2)  
and Sch PtI;  
F(No.2)A70 s1(c);  
FA74 s86 and Sch2  
PtI; CTA76 s23(2)  
to (4) and s166 and  
Sch4 PtsI and II;  
FA95 s60]

1. (1) In this Schedule, except where the context otherwise requires—

“arrangements” means arrangements for the time being in force by virtue of *section 826* or *section 12* of the Finance Act, 1950;

“the Irish taxes” means income tax and corporation tax;

“foreign tax”, in relation to any territory in relation to which arrangements have the force of law, means any tax chargeable under the laws of that territory for which credit may be allowed under the arrangements.

(2) Any reference in this Schedule to foreign tax shall be construed, in relation to credit to be allowed under any arrangements, as a reference only to tax chargeable under the laws of the territory in relation to which the arrangements are made.

###### *General*

2. (1) Subject to this Schedule, where under the arrangements credit is to be allowed against any of the Irish taxes chargeable in respect of any income, the amount of the Irish taxes so chargeable shall be reduced by the amount of the credit.

(2) In the case of any income within the charge to corporation tax, the credit shall be applied in reducing the corporation tax chargeable in respect of that income.

(3) Nothing in this paragraph shall authorise the allowance of credit against any Irish tax against which credit is not allowable under the arrangements.

###### *Requirements as to residence*

3. Credit shall not be allowed against income tax for any year of assessment or corporation tax for any accounting period unless the person in respect of whose income the tax is chargeable is resident in the State for that year or accounting period.

4. (1) The amount of the credit to be allowed against corporation tax for foreign tax in respect of any income shall not exceed the corporation tax attributable to that income.

(2) For the purposes of this paragraph, the corporation tax attributable to any income or gain (in this subparagraph referred to as “that income” or “that gain”, as the case may be) of a company shall, subject to *subparagraphs* (3) to (5), be the corporation tax attributable to so much (in this paragraph referred to as “the relevant income” or “the relevant gain”, as the case may be) of the income or chargeable gains of the company computed in accordance with the Tax Acts and the Capital Gains Tax Acts, as is attributable to that income or that gain, as the case may be.

(3) For the purposes of *subparagraph* (2), the relevant income of a company attributable to an amount receivable from the sale of goods (within the meaning of *section 449*) shall be the sum which would for the purposes of that section be taken to be the amount of the income of the company referable to the amount so receivable.

(4) Subject to *subparagraph* (5), the amount of corporation tax attributable to the relevant income or gain shall be treated as equal to such proportion of the amount of that income or gain as corresponds to the rate of corporation tax payable by the company (before any credit for double taxation relief) on its income or chargeable gains for the accounting period in which the income arises or the gain accrues (in this paragraph referred to as “the relevant accounting period”); but, where the corporation tax payable by the company for the relevant accounting period on the relevant income or gain is reduced by virtue of—

- (a) *section 448* by any fraction, the rate of corporation tax payable by the company on its income and chargeable gains for the relevant accounting period shall be treated as reduced by that fraction,
- (b) *section 713(3)* or *738(2)*, the rate of corporation tax payable by the company on its income and chargeable gains for the relevant accounting period shall be treated as the standard rate of income tax by reference to which the corporation tax so payable is reduced, and
- (c) *section 723(6)*, the rate of corporation tax payable by the company on its income and chargeable gains for the relevant accounting period shall be treated as 10 per cent,

for the purposes of computing the corporation tax attributable to that relevant income or gain, as the case may be.

(5) Where in the relevant accounting period there is any deduction to be made for charges on income, expenses of management or other amounts which can be deducted from or set off against or treated as reducing profits of more than one description—

- (a) the company shall for the purposes of this paragraph and *sections 449* and *450* allocate every such deduction in such amounts and to such of its profits for that period as it thinks fit, and
- (b) (i) the amount of the relevant income or gain shall be treated for the purposes of *subparagraph* (4),

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- (ii) the amount of any income of a company treated for the purposes of *section 449* as referable to an amount receivable from the sale of goods (within the meaning of that section) shall be treated for the purposes of that section, and
- (iii) the amount of the income of a company treated for the purposes of *section 450* as attributable to relevant payments (within the meaning of that section) shall be treated for the purposes of that section,

as reduced or, as the case may be, extinguished by so much (if any) of the deduction as is allocated to it.

*Limit on total credit — income tax*

5. (1) The amount of the credit to be allowed against income tax for foreign tax in respect of any income shall not exceed the sum which would be produced by computing the amount of that income in accordance with the Income Tax Acts, and then charging it to income tax for the year of assessment for which the credit is to be allowed, but at a rate (in this paragraph referred to as “the specified rate”) ascertained by dividing the income tax payable by that person for that year by the amount of the total income of that person for that year.

(2) For the purpose of determining the specified rate, the tax payable by any person for any year shall be computed without any reduction of that tax for any credit allowed or to be allowed under any arrangements having effect by virtue of *section 826* but shall be deemed to be reduced by any tax which the person in question is entitled to charge against any other person, and the total income of any person shall be deemed to be reduced by the amount of any income the income tax on which that person is entitled to charge as against any other person.

(3) Where credit for foreign tax is to be allowed in respect of any income and any relief would but for this subparagraph be allowed in respect of that income under *section 830*, that relief shall not be allowed.

6. Without prejudice to *paragraph 5*, the total credit to be allowed to a person against income tax for any year of assessment shall not exceed the total income tax payable by the person in question for that year of assessment, less any tax which that person is entitled to charge against any other person.

*Effect on computation of income of allowance of credit*

7. (1) Where credit for foreign tax is to be allowed against any of the Irish taxes in respect of any income, this paragraph shall apply in relation to the computation for the purposes of income tax or corporation tax of the amount of that income.

(2) Where the income tax or corporation tax payable depends on the amount received in the State, that amount shall be treated as increased by the amount of the credit allowable against income tax or corporation tax, as the case may be.

(3) Where *subparagraph (2)* does not apply—

- (a) no deduction shall be made for foreign tax (whether in respect of the same or any other income), and

(b) where the income includes a dividend and under the arrangements foreign tax not chargeable directly or by deduction in respect of the dividend is to be taken into account in considering whether any, and if so what, credit is to be allowed against the Irish taxes in respect of the dividend, the amount of the income shall be treated as increased by the amount of the foreign tax not so chargeable which is to be taken into account in computing the amount of the credit, but

(c) notwithstanding anything in *clauses (a) and (b)*, where any part of the foreign tax in respect of the income (including any foreign tax which under *clause (b)* is to be treated as increasing the amount of the income) cannot be allowed as a credit against any of the Irish taxes, the amount of the income shall be treated as reduced by that part of that foreign tax.

(4) In relation to the computation of the total income of a person for the purpose of determining the rate mentioned in *paragraph 5, subparagraphs (1) to (3)* shall apply subject to the following modifications:

(a) for the reference in *subparagraph (2)* to the amount of the credit allowable against income tax there shall be substituted a reference to the amount of the foreign tax in respect of the income (in the case of a dividend, foreign tax not chargeable directly or by deduction in respect of the dividend being disregarded), and

(b) *clauses (b) and (c) of subparagraph (3)* shall not apply,

and, subject to those modifications, shall apply in relation to all income in the case of which credit is to be allowed for foreign tax under any arrangements.

*Special provisions as to dividends*

8. (1) For the purposes of this paragraph, the relevant profits shall be—

(a) if the dividend is paid for a specified period, the profits of that period,

(b) if the dividend is not paid for a specified period but is paid out of specified profits, those profits, or

(c) if the dividend is paid neither for a specified period nor out of specified profits, the profits of the last period for which accounts of the body corporate were made up which ended before the dividend became payable;

but if, in a case within *clause (a) or (c)*, the total dividend exceeds the profits available for distribution of the period mentioned in *clause (a) or (c)*, as the case may be, the relevant profits shall be the profits of that period together with so much of the profits available for distribution of preceding periods (other than profits previously distributed or previously treated as relevant for the purposes of this paragraph) as is equal to the excess, and for this purpose the profits of the most recent preceding period shall first be taken into account, then the profits of the next most recent preceding period, and so on.

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(2) Where, in the case of any dividend, foreign tax not chargeable directly or by deduction in respect of the dividend is under the arrangements to be taken into account in considering whether any, and if so what, credit is to be allowed against the Irish taxes in respect of the dividend, the foreign tax not so chargeable to be taken into account shall be that borne by the body corporate paying the dividend on the relevant profits in so far as it is properly attributable to the proportion of the relevant profits represented by the dividend.

9. Where—

- (a) the arrangements provide, in relation to dividends of some classes but not in relation to dividends of other classes, that foreign tax not chargeable directly or by deduction in respect of dividends is to be taken into account in considering whether any, and if so what, credit is to be allowed against the Irish taxes in respect of the dividends, and
- (b) a dividend is paid which is not of a class in relation to which the arrangements so provide,

then, if the dividend is paid to a company which controls, directly or indirectly, not less than 50 per cent of the voting power in the company paying the dividend, credit shall be allowed as if the dividend were a dividend of a class in relation to which the arrangements so provide.

#### *Miscellaneous*

10. Credit shall not be allowed under the arrangements against the Irish taxes chargeable in respect of any income of any person if the person in question elects that credit shall not be allowed in respect of that income.

11. Where under the arrangements relief may be given either in the State or in the territory in relation to which the arrangements are made in respect of any income, and it appears that the assessment to income tax or to corporation tax made in respect of the income is not made in respect of the full amount of that income or is incorrect having regard to the credit, if any, which is to be given under the arrangements, any such additional assessments may be made as are necessary to ensure that the total amount of the income is assessed and the proper credit, if any, is given in respect of that income, and where the income is entrusted to any person in the State for payment, any such additional assessment to income tax may be made on the recipient of the income under Case IV of Schedule D.

12. (1) In this paragraph—

“the relevant year of assessment”, in relation to credit for foreign tax in respect of any income, means the year of assessment for which that income is to be charged to income tax or would be so charged if any income tax were chargeable in respect of that income;

“the relevant accounting period”, in relation to credit for foreign tax in respect of any income, means the accounting period for which that income is to be charged to corporation tax or would be so charged if any corporation tax were chargeable in respect of that income.

(2) Subject to *paragraph 13*, any claim for an allowance by means of credit for foreign tax in respect of any income shall be made in writing to the inspector not later than 6 years from the end of the

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relevant year of assessment or the relevant accounting period, as the case may be, and, if the inspector objects to any such claim, it shall be heard and determined by the Appeal Commissioners as if it were an appeal to the Appeal Commissioners against an assessment to income tax and the provisions of the Income Tax Acts relating to the rehearing of an appeal and to the statement of a case for the opinion of the High Court on a point of law shall, with the necessary modifications, apply accordingly. SCH.24

13. Where the amount of any credit given under the arrangements is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either in the State or in the territory in relation to which the arrangements are made, nothing in the Tax Acts limiting the time for the making of assessments or claims for relief shall apply to any assessment or claim to which the adjustment gives rise, being an assessment or claim made not later than 6 years from the time when all such assessments, adjustments and other determinations have been made, as are material in determining whether any, and if so what, credit is to be given.

#### SCHEDULE 25

*Section 833.*

[The Convention set out in this Schedule was ratified subject to the exclusion of articles XIV and XVI in accordance with reservations made by the Senate of the United States of America. Instruments of ratification were exchanged at Washington, District of Columbia, on 20th December, 1951.]

[ITA67 Sch8]

Reciprocal Relief of Double Taxation in Respect of Irish Income Tax, Sur-tax and Corporation Profits Tax and United States Federal Income Taxes, Including Sur-Taxes

CONVENTION BETWEEN THE GOVERNMENT OF IRELAND AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of Ireland and the Government of the United States of America,

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have appointed for that purpose as their Plenipotentiaries:

The Government of Ireland:  
Patrick McGilligan, Minister for Finance;  
Seán MacBride, Minister for External Affairs;

The Government of the United States of America;  
George A. Garrett, Envoy Extraordinary and Minister Plenipotentiary of the United States of America at Dublin;

Who, having exhibited their respective full powers, found in good and due form, have agreed as follows:—

#### Article I

(1) The taxes which are the subject of the present Convention are:—

(a) In the United States of America:

The Federal income taxes, including surtaxes (hereinafter referred to as United States tax).

(b) In Ireland:

The income tax (including surtax) and the corporation profits tax (hereinafter referred to as Irish tax).

(2) The present Convention shall also apply to any other taxes of a substantially similar character imposed by either Contracting Party subsequently to the date of the signature of the present Convention.

## Article II

(1) In the present Convention, unless the context otherwise requires—

(a) The term “United States” means the United States of America, and when used in a geographical sense means the States, the Territories of Alaska and of Hawaii, and the District of Columbia.

(b) The term “Ireland” means the Republic of Ireland and the term “Irish” has a corresponding meaning.

(c) The terms “territory of one of the Contracting Parties” and “territory of the other Contracting Party” mean the United States or Ireland as the context requires.

(d) The term “United States corporation” means a corporation, association or other like entity created or organised in or under the laws of the United States.

(e) The term “Irish corporation” means any kind of juridical person created under the laws of Ireland.

(f) The terms “corporation of one Contracting Party” and “corporation of the other Contracting Party” mean a United States corporation or an Irish corporation as the context requires.

(g) The term “resident of Ireland” means any person (other than a citizen of the United States or a United States corporation) who is resident in Ireland for the purposes of Irish tax and not resident in the United States for the purposes of United States tax. A corporation is to be regarded as resident in Ireland if its business is managed and controlled in Ireland.

(h) The term “resident of the United States” means any individual who is resident in the United States for the purposes of United States tax and not resident in Ireland for the purposes of Irish tax, and any United States corporation and any partnership created or organised in or under the laws of the United States, being a corporation or partnership which is not resident in Ireland for the purposes of Irish tax.

(i) The term “Irish enterprise” means an industrial or commercial enterprise or undertaking carried on by a resident of Ireland.

(j) The term “United States enterprise” means an industrial or commercial enterprise or undertaking carried on by a resident of the United States. SCH.25

(k) The terms “enterprise of one of the Contracting Parties” and “enterprise of the other Contracting Party” mean a United States enterprise or an Irish enterprise, as the context requires.

(l) The term “permanent establishment” when used with respect to an enterprise of one of the Contracting Parties means a branch, management, factory or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. An enterprise of one of the Contracting Parties shall not be deemed to have a permanent establishment in the territory of the other Contracting Party merely because it carries on business dealings in the territory of such other Contracting Party through a *bona fide* commission agent or broker acting in the ordinary course of his business as such. The fact that an enterprise of one of the Contracting Parties maintains in the territory of the other Contracting Party a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute such fixed place of business a permanent establishment of such enterprise. The fact that a corporation of one Contracting Party has a subsidiary corporation which is a corporation of the other Contracting Party or which is engaged in trade or business in the territory of such other Contracting Party (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary corporation a permanent establishment of its parent corporation.

(2) For the purposes of Articles VI, VII, VIII, IX and XIV, a resident of Ireland shall not be deemed to be engaged in trade or business in the United States in any taxable year unless such resident has a permanent establishment situated therein in such taxable year. The same principle shall be applied, *mutatis mutandis*, by Ireland in the case of a resident of the United States.

(3) In the application of the provisions of the present Convention by one of the Contracting Parties any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting Party relating to the taxes which are the subject of the present Convention.

### Article III

(1) An Irish enterprise shall not be subject to United States tax in respect of its industrial or commercial profits unless it is engaged in trade or business in the United States through a permanent establishment situated therein. If it is so engaged, United States tax may be imposed upon the entire income of such enterprise from all sources within the United States.

(2) A United States enterprise shall not be subject to Irish tax in respect of its industrial or commercial profits unless it is engaged in

[No. 39.] *Taxes Consolidation Act, 1997.* [1997.]

trade or business in Ireland through a permanent establishment situated therein. If it is so engaged, Irish tax may be imposed upon the entire income of such enterprise from all sources within Ireland.

(3) Where an enterprise of one of the Contracting Parties is engaged in trade or business in the territory of the other Contracting Party through a permanent establishment situated therein, there shall be attributed to such permanent establishment the industrial or commercial profits which it might be expected to derive if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment, and the profits so attributed shall, subject to the law of such other Contracting Party, be deemed to be income from sources within the territory of such other Contracting Party.

(4) In determining the industrial or commercial profits from sources within the territory of one of the Contracting Parties of an enterprise of the other Contracting Party, no profits shall be deemed to arise from the mere purchase of goods or merchandise within the territory of the former Contracting Party by such enterprise.

#### Article IV

Where an enterprise of one of the Contracting Parties, by reason of its participation in the management, control or capital of an enterprise of the other Contracting Party, makes with or imposes on the latter, in their commercial or financial relations, conditions different from those which would be made with an independent enterprise, any profits which would normally have accrued to one of the enterprises but by reason of those conditions have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

#### Article V

(1) Notwithstanding the provisions of Articles III and IV of the present Convention, profits which an individual resident of Ireland or an Irish corporation derives from operating ships documented or aircraft registered under the laws of Ireland, shall be exempt from United States tax.

(2) Notwithstanding the provisions of Articles III and IV of the present Convention, profits which a citizen of the United States not resident in Ireland or a United States corporation derives from operating ships documented or aircraft registered under the laws of the United States, shall be exempt from Irish tax.

(3) This Article shall not be deemed to affect the arrangement between Ireland and the United States, providing for reciprocal exemption of shipping profits from income tax, effected between the Government of the United States and the Government of Ireland by exchange of Notes dated August 24, 1933, and January 8, 1934.

#### Article VI

(1) The rate of United States tax on dividends derived from a United States corporation by a resident of Ireland who is subject to Irish tax on such dividends and not engaged in trade or business in the United States shall not exceed 15 per cent.; provided that such rate of tax shall not exceed five per cent. if such a resident is a corporation controlling, directly or indirectly, at least 95 per cent. of the entire voting power in the corporation paying the dividend, and not

more than 25 per cent. of the gross income of such paying corporation is derived from interest and dividends, other than interest and dividends received from its own subsidiary corporations. Such reduction of the rate to five per cent. shall not apply if the relationship of the two corporations has been arranged or is maintained primarily with the intention of securing such reduced rate. SCH.25

(2) Dividends derived from sources within Ireland by an individual who is (a) a resident of the United States, (b) subject to United States tax with respect to such dividends, and (c) not engaged in trade or business in Ireland, shall be exempt from Irish surtax.

(3) Either of the Contracting Parties may terminate this Article by giving written notice of termination to the other Contracting Party, through diplomatic channels, on or before the thirtieth day of June in any calendar year after the calendar year in which the exchange of the instruments of ratification takes place and in such event paragraph (1) hereof shall cease to be effective as to United States tax on and after the first day of January, and paragraph (2) hereof shall cease to be effective as to Irish tax on and after the sixth day of April, in the calendar year next following that in which such notice is given.

#### Article VII

(1) Interest (on bonds, securities, notes, debentures, or on any other form of indebtedness) derived from sources within the United States by a resident of Ireland who is subject to Irish tax on such interest and not engaged in trade or business in the United States, shall be exempt from United States tax; but such exemption shall not apply to such interest paid by a United States corporation to a corporation resident in Ireland controlling, directly or indirectly, more than 50 per cent. of the entire voting power in the paying corporation.

(2) Interest (on bonds, securities, notes, debentures, or on any other form of indebtedness) derived from sources within Ireland by a resident of the United States who is subject to United States tax on such interest and not engaged in trade or business in Ireland, shall be exempt from Irish tax; but such exemption shall not apply to such interest paid by a corporation resident in Ireland to a United States corporation controlling, directly or indirectly, more than 50 per cent. of the entire voting power in the paying corporation.

#### Article VIII

(1) Royalties and other amounts paid as consideration for the use of, or for the privilege of using, copyrights, patents, designs, secret processes and formulae, trademarks, and other like property, and derived from sources within the United States by a resident of Ireland who is subject to Irish tax on such royalties or other amounts and not engaged in trade or business in the United States, shall be exempt from United States tax.

(2) Royalties and other amounts paid as consideration for the use of, or for the privilege of using, copyrights, patents, designs, secret processes and formulae, trademarks, and other like property, and derived from sources within Ireland by a resident of the United States who is subject to United States tax on such royalties or other amounts and not engaged in trade or business in Ireland shall be exempt from Irish tax.

[No. 39.] *Taxes Consolidation Act, 1997.* [1997.]

SCH.25

(3) For the purposes of this Article the term “royalties” shall be deemed to include rentals in respect of motion picture films.

#### Article IX

(1) The rate of United States tax on royalties in respect of the operation of mines or quarries or of other extraction of natural resources, and on rentals from real property or from an interest in such property, derived from sources within the United States by a resident of Ireland who is subject to Irish tax with respect to such royalties or rentals and not engaged in trade or business in the United States, shall not exceed 15 per cent.: provided that any such resident may elect for any taxable year to be subject to United States tax as if such resident were engaged in trade or business in the United States.

(2) Royalties in respect of the operation of mines or quarries or of other extraction of natural resources, and rentals from real property or from an interest in such property, derived from sources within Ireland by an individual who is (a) a resident of the United States, (b) subject to United States tax with respect to such royalties and rentals, and (c) not engaged in trade or business in Ireland, shall be exempt from Irish surtax.

#### Article X

(1) Any salary, wage, similar remuneration, or pension, paid by the Government of the United States to an individual (other than a citizen of Ireland who is not also a citizen of the United States) in respect of services rendered to the United States in the discharge of governmental functions, shall be exempt from Irish tax.

(2) Any salary, wage, similar remuneration, or pension, paid by the Government of Ireland to an individual (other than a citizen of the United States who is not also a citizen of Ireland) in respect of services rendered to Ireland in the discharge of governmental functions, shall be exempt from United States tax.

(3) The provisions of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the Contracting Parties for purposes of profit.

#### Article XI

(1) An individual who is a resident of Ireland shall be exempt from United States tax upon compensation for personal (including professional) services performed during the taxable year within the United States if (a) he is present within the United States for a period or periods not exceeding in the aggregate 183 days during such taxable year, and (b) such services are performed for or on behalf of a person resident in Ireland.

(2) An individual who is a resident of the United States shall be exempt from Irish tax upon profits, emoluments or other remuneration in respect of personal (including professional) services performed within Ireland in any year of assessment if (a) he is present within Ireland for a period or periods not exceeding in the aggregate 183 days during that year, and (b) such services are performed for or on behalf of a person resident in the United States.

#### Article XII

(1) Any pension (other than a pension to which Article X applies),

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and any life annuity, derived from sources within the United States SCH.25  
by an individual who is a resident of Ireland shall be exempt from  
United States tax.

(2) Any pension (other than a pension to which Article X applies),  
and any life annuity, derived from sources within Ireland by an indi-  
vidual who is a resident of the United States shall be exempt from  
Irish tax.

(3) The term "life annuity" means a stated sum payable period-  
ically at stated times, during life or during a specified or ascertainable  
period of time, under an obligation to make the payments in con-  
sideration of money paid.

#### Article XIII

(1) Subject to section 131 of the United States Internal Revenue  
Code as in effect on the day on which this Convention shall have  
come into effect, Irish tax shall be allowed as a credit against United  
States tax. For this purpose, the recipient of a dividend paid by a  
corporation which is a resident of Ireland shall be deemed to have  
paid the Irish income tax appropriate to such dividend if such recipi-  
ent elects to include in his gross income for the purposes of United  
States tax the amount of such Irish income tax. For the purposes  
only of this Article, income derived from sources in the United  
Kingdom by an individual who is resident in Ireland shall be deemed  
to be income from sources in Ireland if such income is not subject to  
United Kingdom income tax.

(2) Subject to such provisions (which shall not affect the general  
principle hereof) as may be enacted in Ireland, United States tax  
payable in respect of income from sources within the United States  
shall be allowed as a credit against any Irish tax payable in respect  
of that income. Where such income is an ordinary dividend paid by  
a United States corporation, such credit shall take into account (in  
addition to any United States income tax deducted from or imposed  
on such dividend) the United States income tax imposed on such  
corporation in respect of its profits, and where it is a dividend paid  
on participating preference shares and representing both a dividend  
at the fixed rate to which the shares are entitled and an additional  
participation in profits, such tax on profits shall likewise be taken  
into account in so far as the dividend exceeds such fixed rate.

(3) For the purposes of this Article, compensation, profits, emolu-  
ments and other remuneration for personal (including professional)  
services shall be deemed to be income from sources within the terri-  
tory of the Contracting Party where such services are performed.

#### Article XIV

A resident of Ireland not engaged in trade or business in the  
United States shall be exempt from United States tax on gains from  
the sale or exchange of capital assets.

#### Article XV

(1) Dividends and interest paid, on or after the first day of January  
in the calendar year in which the exchange of instruments of ratifica-  
tion takes place, by an Irish corporation shall be exempt from United  
States tax except where the recipient is a citizen of or a resident in  
the United States or a United States corporation.

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(2) Dividends and interest paid, on or after the sixth day of April of the first year of assessment specified in Article XXII (2) (b) (i) of this Convention, by a United States corporation shall be exempt from Irish tax except where the recipient is a resident of Ireland.

#### Article XVI

An Irish corporation shall be exempt from United States tax on its accumulated or undistributed earnings, profits, income or surplus, if individuals who are residents of Ireland control, directly or indirectly, throughout the latter half of the taxable year, more than 50 per cent. of the entire voting power in such corporation.

#### Article XVII

(1) The United States income tax liability for any taxable year beginning prior to January 1, 1936, of any individual (other than a citizen of the United States) resident in Ireland, or of any Irish corporation, remaining unpaid on the date of signature of the present Convention, may be adjusted on a basis satisfactory to the United States Commissioner of Internal Revenue: provided that the amount to be paid in settlement of such liability shall not exceed the amount of the liability which would have been determined if—

- (a) the United States Revenue Act of 1936 (except in the case of an Irish corporation in which more than 50 per cent. of the entire voting power was controlled, directly or indirectly, throughout the latter half of the taxable year, by citizens or residents of the United States), and
- (b) Article XV and XVI of the present Convention,

had been in effect for such year. If the taxpayer was not, within the meaning of such Revenue Act, engaged in trade or business in the United States and had no office or place of business therein during the taxable year, the amount of interest and penalties shall not exceed 50 per cent. of the amount of the tax with respect to which such interest and penalties have been computed.

(2) The United States income tax unpaid on the date of signature of the present Convention for any taxable year beginning after the thirty-first day of December, 1935, and prior to the first day of January in the calendar year in which the exchange of instruments of ratification takes place in the case of an individual resident of Ireland or in the case of any Irish corporation shall be determined as if the provisions of Articles XV and XVI of the present Convention had been in effect for such taxable year.

(3) The provisions of paragraphs (1) of this Article shall not apply—

- (a) unless the taxpayer files with the Commissioner of Internal Revenue on or before the thirty-first day of December of the second calendar year following the calendar year in which the exchange of the instruments of ratification takes place a request that such tax liability be so adjusted and furnishes such information as the Commissioner may require; or
- (b) in any case in which the Commissioner is satisfied that any deficiency in tax is due to fraud with intent to evade the tax.

A professor or teacher from the territory of one of the Contracting Parties who visits the territory of the other Contracting Party for the purpose of teaching, for a period not exceeding two years, at a university, college, school or other educational institution in the territory of such other Contracting Party shall be exempted by such other Contracting Party from tax on his remuneration for such teaching for such period.

Article XIX

A student or business apprentice from the territory of one of the Contracting Parties who is receiving full-time education or training in the territory of the other Contracting Party shall be exempted by such other Contracting Party from tax on payments made to him by persons within the territory of the former Contracting Party for the purposes of his maintenance, education or training.

Article XX

(1) The taxation authorities of the Contracting Parties shall exchange such information (being information available under the respective taxation laws of the Contracting Parties) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information shall be exchanged which would disclose any trade secret or trade process.

(2) As used in this Article, the term “taxation authorities” means, in the case of the United States, the Commissioner of Internal Revenue or his authorised representative and, in the case of Ireland, the Revenue Commissioners or their authorised representative.

Article XXI

(1) The nationals of one of the Contracting Parties shall not, while resident in the territory of the other Contracting Party, be subjected therein to other or more burdensome taxes than are the nationals of such other Contracting Party resident in its territory.

(2) The term “nationals” as used in this Article means—

(a) In relation to Ireland, all citizens of Ireland; and

(b) In relation to the United States, United States citizens;

and includes all legal persons, partnerships and associations deriving their status as such from, or created or organised under, the laws in force in any territory of the Contracting Parties to which the present Convention applies.

Article XXII

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Washington, District of Columbia, as soon as possible.

[No. 39.] *Taxes Consolidation Act, 1997.* [1997.]

SCH.25

(2) Upon exchange of ratifications, the present Convention shall have effect—

- (a) as respects United States tax, for the taxable years beginning on or after the first day of January in the calendar year in which the exchange of instruments of ratification takes place;
- (b) (i) as respects Irish income tax, for the year of assessment beginning on the 6th day of April in the calendar year in which the exchange of instruments of ratification takes place and subsequent years;
- (ii) as respects Irish surtax, for the year of assessment beginning on the 6th day of April immediately preceding the calendar year in which the exchange of instruments of ratification takes place, and subsequent years; and
- (iii) as respects Irish corporation profits tax, for any chargeable accounting period beginning on or after the first day of April in the calendar year in which the exchange of instruments of ratification takes place, and for the unexpired portion of any chargeable accounting period current at that date.

#### Article XXIII

(1) The present Convention shall continue in effect indefinitely but either of the Contracting Parties may, on or before the 30th day of June in any calendar year following the calendar year in which the exchange of instruments of ratification takes place, give to the other Contracting Party, through diplomatic channels, notice of termination and, in such event, the present Convention shall cease to be effective—

- (a) as respects United States tax, for the taxable years beginning on or after the first day of January in the calendar year next following that in which such notice is given;
- (b) (i) as respects Irish income tax, for any year of assessment beginning on or after the 6th day of April in the calendar year next following that in which such notice is given;
- (ii) as respects Irish surtax, for any year of assessment beginning on or after the 6th day of April in the calendar year in which such notice is given; and
- (iii) as respects Irish corporation profits tax, for any chargeable accounting period beginning on or after the first day of April in the calendar year next following that in which such notice is given and for the unexpired portion of any chargeable accounting period current at that date.

(2) The termination of the present Convention or of any Article thereof shall not have the effect of reviving any treaty or arrangement abrogated by the present Convention or by treaties previously concluded between the Contracting Parties.

IN WITNESS WHEREOF the above-named Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

[1997.] *Taxes Consolidation Act, 1997.* [No. 39.]

Done at Dublin, in duplicate, this thirteenth day of September, 1949. SCH.25

For the Government of Ireland:

P. MCGILLIGAN  
SEAN MacBRIDE

For the Government of the United States of America:

GEORGE A. GARRETT.

## SCHEDULE 26

*Section 842.*

### REPLACEMENT OF HARBOUR AUTHORITIES BY PORT COMPANIES

[FA97 Sch5]

#### *Interpretation*

1. In this Schedule—

“relevant port company” means a company formed pursuant to section 7 or 87 of the Harbours Act, 1996;

“relevant transfer” means—

- (a) the vesting in a relevant port company of assets in accordance with section 96 of the Harbours Act, 1996, and
- (b) the transfer to a relevant port company of rights and liabilities in accordance with section 97 of that Act.

#### *Capital allowances*

2. (1) This paragraph shall apply for the purposes of—

- (a) allowances and charges provided for in *Part 9, section 670, Chapter 1 of Part 29* and *sections 765 and 769*, or any other provision of the Tax Acts relating to the making of allowances or charges under or in accordance with that Part or Chapter or those sections, and
- (b) allowances or charges provided for by *sections 307 and 308*.

(2) The relevant transfer shall not be treated as giving rise to any allowance or charge under any of the provisions referred to in *subparagraph (1)*.

(3) There shall be made to or on the relevant port company in accordance with *sections 307 and 308* all such allowances and charges in respect of an asset acquired by it in the course of a relevant transfer as would have been made if—

- (a) allowances in relation to the asset made to the person from whom the asset was acquired had been made to the relevant port company, and
- (b) everything done to or by that person in relation to the asset had been done to or by the relevant port company.

#### *Capital gains*

3. (1) This paragraph shall apply for the purposes of the Capital

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Gains Tax Acts, and of the Corporation Tax Acts in so far as those Acts relate to chargeable gains.

(2) The disposal of an asset by a person in the course of a relevant transfer shall be deemed to be for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to the person.

(3) Where *subparagraph (2)* has applied in relation to a disposal of an asset, then, in relation to any subsequent disposal of the asset by the relevant port company, the relevant port company shall be treated as if the acquisition or provision of the asset by the person from whom it was acquired by the relevant port company was that company's acquisition or provision of the asset.

(4) For the purposes of *section 597*, the relevant port company and the person from whom an asset was acquired in the course of a relevant transfer shall be treated as if they were the same person.

*Sections 855, 857, 867 and 942.*

## SCHEDULE 27

### FORMS OF DECLARATIONS TO BE MADE BY CERTAIN PERSONS

[ITA67 Sch17;  
F(MP)A68 s3(4)  
and Sch Pt III]

#### PART 1

#### *Form of declaration to be made by Appeal Commissioners acting in respect of tax under Schedule D*

“I, A.B., do solemnly declare, that I will truly, faithfully, impartially and honestly, according to the best of my skill and knowledge, execute the powers and authorities vested in me by the Acts relating to income tax, and that I will exercise the powers entrusted to me by the said Acts in such manner only as shall appear to me necessary for the due execution of the same; and that I will judge and determine upon all matters and things which shall be brought before me under the said Acts without favour, affection, or malice; and that I will not disclose any particular contained in any schedule, statement, return or other document delivered with respect to any tax charged under the provisions relating to Schedule D of the said Acts, or any evidence or answer given by any person who shall be examined, or shall make affidavit or deposition, respecting the same, in pursuance of the said Acts, except to such persons only as shall act in the execution of the said Acts, and where it shall be necessary to disclose the same to them for the purposes of the said Acts, or to the Revenue Commissioners, or in order to, or in the course of, a prosecution for perjury committed in such examination, affidavit or deposition.”

#### *Form of declaration to be made by inspectors*

“I, A.B., do solemnly declare, that in the execution of the Acts relating to income tax I will examine and revise all statements, returns, schedules and declarations delivered within my district, and, in objecting to the same, I will act according to the best of my information and knowledge; and that I will conduct myself without favour, affection, or malice, and that I will exercise the powers entrusted to me by the said Acts in such manner only as shall appear to me to be necessary for the due execution of the same, or as I shall be directed by the Revenue Commissioners; and that I will not disclose any particular contained in any statement, return, schedule or other document, with respect to any tax charged under the provisions relating to Schedule D of the said Acts, or any evidence or answer given by any person who shall be examined, or shall make affidavit or

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deposition, respecting the same, in pursuance of the said Acts, except to such persons only as shall act in the execution of the said Acts, and where it shall be necessary to disclose the same to them for the purposes of the said Acts, or to the Revenue Commissioners, or in order to, or in the course of, a prosecution for perjury committed in such examination, affidavit or deposition.” SCH.27

*Form of declaration to be made by persons appointed under section 854 or section 855 as assessors*

“I, A.B., do solemnly declare, that in the execution of the Acts relating to income tax, I will in all respects act diligently and honestly, and without favour or affection, to the best of my knowledge and belief, and that I will not disclose any particular contained in any statement, return, schedule or other document delivered to me in the execution of the said Acts with respect to any tax charged under the provisions relating to Schedule D of the said Acts, except to such persons only as shall act in the execution of the said Acts, and where it shall be necessary to disclose the same to them for purposes of the said Acts, or in order to, or in the course of, a prosecution for perjury committed in any matter relating to such statement, return, schedule or other document.”

*Form of declaration to be made by the Collector-General and officers for receiving tax*

“I, A.B., do solemnly declare, that in the execution of the Acts relating to income tax, I will not disclose any assessment, or the amount of any sum paid or to be paid by any person, under the said Acts, or the books of assessment which shall be delivered to me in the execution of the said Acts, with respect to any tax charged under the provisions relating to Schedule D of the said Acts, except to such persons only as shall act in the execution of the said Acts, and where it shall be necessary to disclose the same to them for the purposes of the said Acts, or to the Revenue Commissioners, or in order to, or in the course of, a prosecution for perjury committed in relation to the said tax.”

*Form of declaration to be made by the Clerk to the Appeal Commissioners*

“I, A.B., do solemnly declare, that I will diligently and faithfully execute the office of a clerk according to the Acts relating to income tax, to the best of my knowledge and judgment; and that I will not disclose any particular contained in any statement, return, declaration, schedule or other document, with respect to the tax charged under the provisions relating to Schedule D of the said Acts, or any evidence or answer given by any person who shall be examined, or shall make affidavit or deposition, respecting the same, except to such persons only as shall act in the execution of the said Acts, and where I shall be directed so to do by the said Acts, or by the commissioners under whom I act, or by the Revenue Commissioners, or in order to, and in the course of, a prosecution for perjury committed in such examination, affidavit or deposition.”

## PART 2

*Form of declaration to be made by a Commissioner for Offices*

“I, A.B., do solemnly declare, that I will truly, faithfully, impartially and honestly, according to the best of my skill and knowledge, execute the powers and authorities vested in me as a Commissioner for Offices by the Acts relating to income tax, and that I will judge

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and determine upon all matters and things which shall be brought before me under the said Acts without favour, affection or malice.”

Sections 458, 866  
and 867.

## SCHEDULE 28

### STATEMENTS, LISTS AND DECLARATIONS

[ITA67 Sch18 pars  
II to IX; FA69  
s33(1) and Sch4 PtI;  
FA90 s20(1); FA97  
s146(2) and Sch9  
PtII]

1.—BY OR FOR EVERY PERSON CARRYING ON ANY  
TRADE OR EXERCISING ANY PROFESSION TO BE  
CHARGED UNDER SCHEDULE D.

The amount of the profits or gains thereof arising within the year of assessment.

2.—BY EVERY PERSON ENTITLED TO PROFITS OF AN  
UNCERTAIN VALUE NOT BEFORE STATED, OR ANY  
INTEREST, ANNUITY, ANNUAL PAYMENT, DIS-  
COUNT OR DIVIDEND, TO BE CHARGED UNDER  
SCHEDULE D.

The full amount of the profits or gains arising therefrom within the year of assessment.

3.—BY EVERY PERSON ENTITLED TO OR RECEIVING  
INCOME FROM SECURITIES OR POSSESSIONS OUT  
OF THE STATE TO BE CHARGED UNDER SCHEDULE  
D.

(1) The full amount arising within the year of assessment, and the amount of every deduction or allowance claimed in respect thereof, together with the particulars of such deduction and the grounds for claiming such allowance; or

(2) In the case of any such person who satisfies the Revenue Commissioners that he or she is not domiciled in the State, or that being a citizen of Ireland he or she is not ordinarily resident in the State, or in the case of income arising from such securities and possessions aforesaid which form part of the investments of the foreign life assurance fund of an assurance company the full amount of the actual sums received in the State from remittances payable in the State or from property imported, or from money or value arising from property not imported, or from money or value so received on credit or on account in respect of such remittances, property, money or value brought into the State in the year of assessment without any deduction or abatement.

4.—BY EVERY PERSON ENTITLED TO ANY ANNUAL  
PROFITS OR GAINS NOT FALLING UNDER ANY OF  
THE FOREGOING RULES, AND NOT CHARGED BY  
ANY OF THE OTHER SCHEDULES, TO BE CHARGED  
UNDER SCHEDULE D.

The full amount thereof received annually, or according to the average directed to be taken by the inspector on a statement of the nature of such profits or gains and the grounds on which the amount has been computed, and the average taken, to the best of the knowledge and belief of such person.

5.—STATEMENT OF PROFITS OF ANY PUBLIC OFFICE,  
OR EMPLOYMENT OF PROFIT, TO BE CHARGED  
UNDER SCHEDULE E.

The amount of the salary, fees, wages, perquisites and profits of Sch.28  
the year of assessment.

6.—GENERAL DECLARATION BY EACH PERSON  
RETURNING A STATEMENT OF PROFITS OR GAINS  
TO BE CHARGED UNDER SCHEDULES D OR E

Declaring the truth thereof, and that the same is fully stated on every description of property, or profits or gains, included in the Act relating to the said tax, and appertaining to such person, estimated to the best of such person's judgment and belief, according to the provisions of the Income Tax Acts.

7.—LISTS AND DECLARATIONS FOR FACILITATING  
THE EXECUTION OF THE INCOME TAX ACTS IN  
RELATION TO THE TAX CHARGEABLE ON  
OTHERS.

*First.* List containing the name and place of residence of every person in any service or employ, and the payments made to every such person in respect of the service or employment.

*Second.* List to be delivered by every person chargeable on behalf of another person, and by any person whomsoever who, in whatever capacity, is in receipt of any money or value, or of profits or gains, of or belonging to any other person, describing that other person for whom the person acts, and stating that other person's name and address, and the amount of such money, value, profit or gains, and declaring whether that other person is of full age, or a married woman living with her husband, or a married woman whose husband is not accountable for the payment of tax charged on her, or is resident in the State, or is an incapacitated person. The person delivering such list shall also deliver a list containing the names and addresses of any other person or persons acting jointly with such person.

*Third.* Declaration on whom the tax is chargeable in respect of any such money, value, profits or gains.

*Fourth.* List containing the proper description of every body of persons, or trust for which any person is answerable under the Income Tax Acts and where any such person is answerable under the Income Tax Acts for the tax to be charged in respect of the property or profits or gains of other persons, that person shall deliver such lists as aforesaid, together with the required statements of such profits or gains.

8.—LISTS, DECLARATIONS, AND STATEMENTS TO BE  
DELIVERED IN ORDER TO OBTAIN ANY ALLOW-  
ANCE OR DEDUCTION.

*First.* Declaration of the amount of value of property or profits or gains returned, or for which the claimant has been, or is liable to be, assessed.

*Second.* Declaration of the amount of rents, interests, annuities, or other annual payments, in respect of which the claimant is liable to allow the tax, with the names of the respective persons by whom such payments are to be made, distinguishing the amount of each payment.

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*Third.* Declaration of the amount of interest, annuities, or other annual payments to be made out of the property or profits or gains assessed on the claimant, distinguishing each source.

*Fourth.* Statement of the amount of income derived according to the 3 preceding declarations.

*Fifth.* Statement of any tax which the claimant may be entitled to deduct, retain or charge against any other person.

SCHEDULE 29

*Sections 1052, 1053 and 1054.*

PROVISIONS REFERRED TO IN SECTIONS 1052, 1053 AND 1054

[ITA67 Sch15; F(MP)A68 s5(2); FA72 s13(4) and Sch1 PtIII par3; FA73 s33(7) and Sch 3 par2 and s39 and Sch5 par10; FA74 s59(6) and s73(5); FA75 s22(2) and Sch2 PtII; FA76 s11(4); FA81 s29(4); FA82 s4(8), s5(2)(b) and s51(8); FA83 s20(5), s21(3), and s22(3); FA84 s24(9) and s29(6); FA85 s19(4); FA86 s9(11)(b) and s40(1); FA88 s10(12) and s73(7)(a); FA89 s18(5)(b), s19(4) and Sch 1 par3(1); FA91 s68(4); FA92 s226(7); WCTIPA93 s12; FA95 s7(9)(b) and s236(7); FA97 s13(2)]

Column 1	Column 2	Column 3
section 121	section 128(11)	section 123(6)
section 473 or Regulations under that section	section 183	section 238(3)
section 477	section 258(2)	section 257(1)
section 531 and Regulations under that section	section 505(3) and (4)	section 505(1) and (2)
section 877	section 510(7)	section 531 and Regulations under that section
section 878	section 645	section 734(5)
section 879(2)	section 804(4)	section 876
section 880	section 808	section 885
section 951(1) and (2)	section 812(4)	section 893(3)
paragraphs (a)(iii)(I) and (c) of subsection (2) and paragraphs (a)(i) and (b)(i) of subsection (4) of section 1002	section 815	section 904
section 1023	section 881	section 972
Waiver of Certain Tax, Interest and Penalties Act, 1993, sections 2(3)(a) and 3(6)(b)	section 888	Schedule 2, paragraph 14
	section 890	Schedule 23, paragraph 3(2)(a)
	section 891	Waiver of Certain Tax, Interest and Penalties Act, 1993, sections 2(3)(a) and 3(6)(b)
	section 892	
	section 893(2)	
	section 894(3)	
	section 897	
	section 898	
	section 900	
	section 909	
	section 935	
	section 947	
	Schedule 1, paragraph 1	
	Schedule 9, paragraph 8	
	Schedule 18, paragraph 1(2)	
	Schedule 23, paragraphs 2, 3(2)(b) and 3(3)	

SCHEDULE 30

REPEALS

Number and year (1)	Short title (2)	Extent of repeal (3)
No. 11 of 1928.	Finance Act, 1928.	Section 34(2).
No. 6 of 1967.	Income Tax Act, 1967.	The whole Act, in so far as it is unrepealed.
No. 7 of 1967.	Income Tax (Amendment) Act, 1967.	The whole Act, in so far as it is unrepealed.
No. 17 of 1967.	Finance Act, 1967.	Part I, in so far as it is unrepealed. Section 25, in so far as it relates to income tax. Section 27(2) and (6). Third Schedule, Part I, in so far as it relates to income tax.
No. 7 of 1968.	Finance (Miscellaneous Provisions) Act, 1968.	Parts I and IV, in so far as they are unrepealed. Sections 25 to 27. Section 29(2). Schedule, Parts I to IV.
No. 33 of 1968.	Finance Act, 1968.	Part I, in so far as it is unrepealed. Sections 37 to 39. Section 48(2) and (5).
No. 37 of 1968.	Finance (No. 2) Act, 1968.	Sections 8 and 11(4), in so far as they are unrepealed.
No. 21 of 1969.	Finance Act, 1969.	Parts I and II, in so far as they are unrepealed. Section 63, in so far as it is unrepealed. Sections 64 and 65(1). Section 67(2) and (7). Fourth Schedule, Part I. Fifth Schedule, Part I.
No. 14 of 1970.	Finance Act, 1970.	Part I, in so far as it is unrepealed. Sections 57 to 59. Section 62(2) and (7).
No. 25 of 1970.	Finance (No. 2) Act, 1970.	Section 1. Section 8(2) and (5).
No. 23 of 1971.	Finance Act, 1971.	Part I, in so far as it is unrepealed. Section 55(2) and (6).
No. 19 of 1972.	Finance Act, 1972.	Part I, in so far as it is unrepealed. Section 42. Section 43, in so far as it is unrepealed. Section 46, in so far as it relates to income tax. Section 48(2) and (5). First Schedule, in so far as it is unrepealed. Third Schedule, in so far as it relates to income tax. Fourth Schedule, in so far as it relates to income tax.
No. 19 of 1973.	Finance Act, 1973.	Part I, in so far as it is unrepealed. Section 92, except in so far as it relates to death duties and stamp duty. Section 98(2) and (6). Third Schedule. Fifth Schedule.

Number and year (1)	Short title (2)	Extent of repeal (3)
No. 17 of 1974.	Finance (Taxation of Profits of Certain Mines) Act, 1974.	The whole Act, in so far as it is unrepealed.
No. 27 of 1974.	Finance Act, 1974.	Part I, in so far as it is unrepealed. Section 86. Section 88(2) and (5). First Schedule. Second Schedule.
No. 6 of 1975.	Finance Act, 1975.	Part I, in so far as it is unrepealed. Section 57(2) and (5). First Schedule. Second Schedule.
No. 19 of 1975.	Finance (No. 2) Act, 1975.	Sections 1 and 4(2).
No. 20 of 1975.	Capital Gains Tax Act, 1975.	The whole Act, in so far as it is unrepealed.
No. 7 of 1976.	Corporation Tax Act, 1976.	The whole Act, in so far as it is unrepealed.
No. 16 of 1976.	Finance Act, 1976.	Part I, in so far as it is unrepealed. Section 81(1) and (3)(a). Section 83(2) and (6). First Schedule. Fifth Schedule, Part I.
No. 18 of 1977.	Finance Act, 1977.	Part I, in so far as it is unrepealed. Section 53. Section 54, in so far as it relates to income tax, corporation tax and capital gains tax. Section 56(2) and (7). First Schedule. Second Schedule, in so far as it relates to income tax, corporation tax and capital gains tax.
No. 21 of 1978.	Finance Act, 1978.	Part I, in so far as it is unrepealed. Section 46, in so far as it relates to income tax, corporation tax and capital gains tax. Sections 47, 52(1) and 54(2) and (8). First Schedule. Second Schedule. Fourth Schedule, Part I.
No. 33 of 1978.	Capital Gains Tax (Amendment) Act, 1978.	The whole Act, in so far as it is unrepealed.
No. 11 of 1979.	Finance Act, 1979.	Part I, in so far as it is unrepealed. Section 59(2) and (6). First Schedule. Second Schedule.
No. 14 of 1980.	Finance Act, 1980.	Part I, in so far as it is unrepealed. Sections 89 and 96(2) and (7). First Schedule.
No. 16 of 1981.	Finance Act, 1981.	Part I, in so far as it is unrepealed. Sections 52 and 54(2) and (7). First Schedule.
No. 14 of 1982.	Finance Act, 1982.	Part I, in so far as it is unrepealed. Sections 105(2) and (7). First Schedule. Second Schedule. Third Schedule.

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Number and year (1)	Short title (2)	Extent of repeal (3)
No. 15 of 1983.	Finance Act, 1983.	Part I, in so far as it is unpealed. Part V. Section 120, in so far as it relates to income tax, corporation tax and capital gains tax. Section 122(2) and (6). Fourth Schedule, in so far as it relates to income tax, corporation tax and capital gains tax.
No. 9 of 1984.	Finance Act, 1984.	Part I, in so far as it is unpealed. Section 116(2) and (7). First Schedule. Second Schedule.
No. 10 of 1985.	Finance Act, 1985.	Part I. Sections 69 and 71(2) and (7). First Schedule.
No. 13 of 1986.	Finance Act, 1986.	Part I, in so far as it is unpealed. Sections 112 to 116. Sections 118(2), (7) (in so far as it relates to income tax, corporation tax and capital gains tax) and (8). First Schedule. Second Schedule. Third Schedule. Fourth Schedule.
No. 34 of 1986.	Income Tax (Amendment) Act, 1986.	The whole Act.
No. 10 of 1987.	Finance Act, 1987.	Part I. Sections 52 and 55(2) and (7).
No. 12 of 1988.	Finance Act, 1988.	Part I, in so far as it is unpealed. Sections 70 to 74. Sections 77(2), (7) (except in so far as it relates to the Local Loans Fund) and (8). First Schedule. Second Schedule. Third Schedule.
No. 6 of 1989.	Judicial Separation and Family Law Reform Act, 1989.	Section 26.
No. 10 of 1989.	Finance Act, 1989.	Part I, in so far as it is unpealed. Sections 86 to 89. Sections 95, 98 and 100(2), (7) (except in so far as it relates to capital acquisitions tax) and (8). First Schedule.
No. 10 of 1990.	Finance Act, 1990.	Part I. Sections 131, 136, 137, 138 and 140(2) and (8). First Schedule. Second Schedule. Third Schedule. Fourth Schedule. Fifth Schedule. Sixth Schedule.
No. 13 of 1991.	Finance Act, 1991.	Part I, in so far as it is unpealed. Sections 126, 128, 130 and 132(2) and (8). First Schedule. Second Schedule.

Number and year (1)	Short title (2)	Extent of repeal (3)
No. 3 of 1992.	Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices Act, 1992.	Section 4.
No. 9 of 1992.	Finance Act, 1992.	Part I, in so far as it is unrepealed. Part VII, except section 248 in so far as it relates to residential property tax. Section 254(2), (8) (except in so far as it relates to residential property tax) and (9). First Schedule. Second Schedule.
No. 28 of 1992.	Finance (No. 2) Act, 1992.	Part I. Section 30(2).
No. 13 of 1993.	Finance Act, 1993.	Part I, in so far as it is unrepealed. Sections 140 and 143(2) and (8). First Schedule.
No. 24 of 1993.	Waiver of Certain Tax, Interest and Penalties Act, 1993.	Sections 10 to 13.
No. 13 of 1994.	Finance Act, 1994.	Part I, in so far as it is unrepealed. Part VII, Chapter I. Section 161, except in so far as it relates to stamp duty. Sections 162, 163(2), 164 and 166(2) and (8). First Schedule. Second Schedule.
No. 8 of 1995.	Finance Act, 1995.	Part I, in so far as it is unrepealed. Part VII, Chapter I. Sections 172 to 177. Section 179(2), (8) and (9). First Schedule. Second Schedule. Third Schedule. Fourth Schedule.
No. 26 of 1995.	Family Law Act, 1995.	Section 37.
No. 9 of 1996.	Finance Act, 1996.	Part I, in so far as it is unrepealed. Part VI. Sections 139 and 143(2), (7) and (8). First Schedule. Fifth Schedule.
No. 25 of 1996.	Disclosure of Certain Information for Taxation and Other Purposes Act, 1996.	Sections 5, 6, 10, 11 and 12.
No. 31 of 1996.	Criminal Assets Bureau Act, 1996.	Sections 23 and 24(1) and (2).
No. 33 of 1996.	Family Law (Divorce) Act, 1996.	Section 31.
No. 22 of 1997.	Finance Act, 1997.	Parts I and VII. Sections 157, 158, 159, 160(1) and 166(2), (8) and (9). First Schedule. Second Schedule. Third Schedule. Fourth Schedule. Fifth Schedule. Sixth Schedule. Ninth Schedule. Tenth Schedule.

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Section 1100.

CONSEQUENTIAL AMENDMENTS

In the enactments specified in *Column (1)* of the following Table for the words set out or referred to in *Column (2)* there shall be substituted the words set out in the corresponding entry in *Column (3)*.

Enactment amended (1)	Words to be replaced (2)	Words to be substituted (3)
The Stamp Act, 1891:  section 13(1), in the definition of "Appeal Commissioners"  section 13(4)	section 156 of the Income Tax Act, 1967  Part XXVI (Appeals) of the Income Tax Act, 1967	section 850 of the Taxes Consolidation Act, 1997  Chapter 1 of Part 40 (Appeals) of the Taxes Consolidation Act, 1997
The Finance (1909-10) Act, 1910:  section 49, in the first proviso to subsection (1)  section 49, in the second proviso to subsection (1)  section 49, in paragraph (a) of subsection (1A)	section 242 of the Finance Act, 1992  section 242 (as amended by the Finance Act, 1993) of the Finance Act, 1992  section 242 of the Finance Act, 1992  subsection (6) of the said section 242	section 1094 of the Taxes Consolidation Act, 1997  section 1094 of the Taxes Consolidation Act, 1997  section 1094 of the Taxes Consolidation Act, 1997  subsection (7) of that section
The Betting Act, 1931, the proviso to section 7 (3)	section 242 (as amended) by the Finance Act, 1993) of the Finance Act, 1992	section 1094 of the Taxes Consolidation Act, 1997
The Auctioneers and House Agents Act, 1947:  section 8, in the proviso to subsection (1)  section 9, in the proviso to subsection (1)  section 10, in the proviso to subsection (1)	section 242 (as amended by the Finance Act, 1993) of the Finance Act, 1992  section 242 (as amended by the Finance Act, 1993) of the Finance Act, 1992  section 242 (as amended by the Finance Act, 1993) of the Finance Act, 1992	section 1094 of the Taxes Consolidation Act, 1997  section 1094 of the Taxes Consolidation Act, 1997  section 1094 of the Taxes Consolidation Act, 1997
The Finance Act, 1952, section 19(2)	section 156 of the Corporation Tax Act, 1976	section 9 of the Taxes Consolidation Act, 1997
The Gaming and Lotteries Act, 1956, the proviso to section 19	section 242 (as amended by the Finance Act, 1993) of the Finance Act, 1992	section 1094 of the Taxes Consolidation Act, 1997
The Civil Service Commissioners Act, 1956, section 27(3)	section 156(1) of the Income Tax Act, 1967	section 850(1) of the Taxes Consolidation Act, 1997
The Income Tax (Purchased Life Annuities) Regulations, 1959 (S.I. No. 152 of 1959):  Regulation 2, in the definition of "the principal section"  Regulation 5	section 22 of the Finance Act, 1959  subsection (3)  subsection (4)	section 788 of the Taxes Consolidation Act, 1997  subsection (5)  subsection (6)

Enactment amended (1)	Words to be replaced (2)	Words to be substituted (3)
The Income Tax (Purchased Life Annuities) Regulations, 1959 (S.I. No. 152 of 1959): — <i>contd.</i>		
Regulation 7	Subsection (3) of section 5 of the Finance Act, 1929 (No. 32 of 1929), as amended by section 3 of the Finance Act, 1958 (No. 25 of 1958)	Subsection (3) of section 933 of the Taxes Consolidation Act, 1997
Regulation 9	Sections 149 and 196 of the Income Tax Act, 1918	Sections 941 and 942 of the Taxes Consolidation Act, 1997
Regulation 17	Rule 17 of the General Rules	Section 1023 of the Taxes Consolidation Act, 1997
The Income Tax (Employments) Regulations, 1960 (S.I. No. 28 of 1960):		
Regulation 2, in paragraph (1)	“the Act” means the Finance (No. 2) Act, 1959 (No. 42 of 1959)	“the Act” means the Taxes Consolidation Act, 1997
Regulation 2, paragraph (1), in the definition of “emoluments”	Part II of the Act	Chapter 4 of Part 42 of the Act
Regulation 36, in paragraph (2)	Section 7 of the Finance Act, 1923 (No. 21 of 1923), as applied by section 11 of the Act	Section 962 of the Act, as applied by section 993 of the Act
Regulation 36, in paragraph (3)	Section 11 of the Finance Act, 1924 (No. 27 of 1924), as applied by section 11 of the Act	Section 963 of the Act, as applied by section 993 of the Act
Regulation 59	section 222 or 223 of the Income Tax Act, 1967 (No. 6 of 1967) or by virtue of section 16, 17 or 25 of the Finance Act, 1972 (No. 19 of 1972)	section 774 or 776 of the Act
Regulation 60	Chapter IV of Part V of the Income Tax Act, 1967	Chapter 4 of Part 42 of the Act
The Income Tax (Construction Contracts) Regulations, 1971 (S.I. No. 1 of 1971):		
Regulation 2, in the definition of “certified sub-contractor”	subsection (9)(a) of the principal section	subsection (13)(a) of section 531 of the Act
Regulation 2, in the definition of “principal”	the principal section	section 530 of the Act
	subsection (2) of that section	section 531 of the Act
Regulation 2	“principal section” means section 17 (inserted by the Finance Act, 1976 (No. 16 of 1976)) of the Finance Act, 1970 (No. 14 of 1970);	“the Act” means the Taxes Consolidation Act, 1997;
Regulation 2, in the definition of “relevant contract”	the principal section	section 530 of the Act

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Enactment amended (1)	Words to be replaced (2)	Words to be substituted (3)
The Income Tax (Construction Contracts) Regulations, 1971 (S.I. No. 1 of 1971): — <i>contd.</i>		
Regulation 2, in the definition of “repayment period”	subsection (4) of the principal section	subsection (5) of section 531 of the Act
Regulation 2, in the definition of “sub-contractor”	subsection (2) of the principal section	subsection (1) of section 531 of the Act
Regulation 2, in the definition of “sub-contractor’s certificate”	subsection (7) of the principal section	subsection (11) of section 531 of the Act
Regulation 4	subsection (8)(a) of the principal section	subsection (12)(a) of section 531 of the Act
Regulation 4A, in paragraph (1)	subsection (8)(a) of the principal section	subsection (12)(a) of section 531 of the Act
Regulation 4A, in paragraph (2)(c)	section 103(5) of the Corporation Tax Act, 1976	section 433(4) of the Act
	subsection (1) of the principal section	subsection (1) of section 530 of the Act
Regulation 4B, in paragraph (4)	subsection (8)(a) of the principal section	subsection (12)(a) of section 531 of the Act
Regulation 4C, in paragraph (2)(a)(ii)	subsection (7) of the principal section	subsection (11) of section 531 of the Act
Regulation 4C, in paragraph (2)(b)	subsection (5)(a)(i) of the principal section	subsection (6)(a)(i) of section 531 of the Act
Regulation 4C, in paragraph (2)(c)	the principal section	section 530 of the Act
Regulation 4C, in paragraph (2)(d)	subsection (7) of the principal section	subsection (11) of section 531 of the Act
Regulation 6, in paragraph (3)	subsection (8) of the principal section	subsection (12) of section 531 of the Act
Regulation 8, in paragraph (1)	subsection (2) of the principal section	subsection (1) of section 531 of the Act
Regulation 10, in paragraph (1)	the principal section	section 531 of the Act
Regulation 11, in paragraph (1)	the principal section	section 531 of the Act
	sections 480, 485, 486, 488 and 491 of the Income Tax Act, 1967	sections 962, 963, 966 and 998 of the Act
Regulation 12, in paragraph (1)	the principal section	section 531 of the Act
Regulation 13, in paragraph (1)	subsection (2) of the principal section	subsection (1) of section 531 of the Act
Regulation 13, in paragraph (3)	subsection (4)(c)(ii) of the principal section	subsection (5)(c)(ii) of section 531 of the Act
Regulation 14	Chapter IV of Part V of the Income Tax Act, 1967	Chapter 4 of Part 42 of the Act
Regulation 19, in paragraph (1)	subsection (8)(a) of the principal section	subsection (12)(a) of section 531 of the Act

Enactment amended (1)	Words to be replaced (2)	Words to be substituted (3)
The Income Tax (Construction Contracts) Regulations, 1971 (S.I. No. 1 of 1971): — <i>contd.</i>		
Regulation 20	subsection (9)(a) of the principal section  the said subsection (9)(a)	subsection (13)(a) of section 531 of the Act  subsection (13)(a) of section 531 of the Act
Regulation 21, in paragraph (3)	Chapter III of Part IV of the Income Tax Act, 1967 (No. 6 of 1967)	Part 43 of the Act
The Finance Act, 1969, section 49(2B)(c)	section 94 of the Finance Act, 1983	section 1078 of the Taxes Consolidation Act, 1997
The Value-Added Tax Act, 1972:		
section 1, in the definition of “Appeal Commissioners”	section 156 of the Income Tax Act, 1967	section 850 of the Taxes Consolidation Act, 1997
section 1, in the definition of “Collector-General”	section 162 of the Income Tax Act, 1967	section 851 of the Taxes Consolidation Act, 1997
section 1, in the definition of “inspector of taxes”	section 161 of the Income Tax Act, 1967	section 852 of the Taxes Consolidation Act, 1997
section 1, in the definition of “secretary”	section 207(2) of the Income Tax Act, 1967	section 1044(2) of the Taxes Consolidation Act, 1997
section 1(2)(bb)	section 73 of the Finance Act, 1988	section 1002 of the Taxes Consolidation Act, 1997
section 1(2)(c)(i)	Chapter III of Part I of the Finance Act, 1987	Chapter 1 of Part 18 of the Taxes Consolidation Act, 1997
section 1(2)(c)(ii)	section 17 of the Finance Act, 1970	Chapter 2 of Part 18 of the Taxes Consolidation Act, 1997
section 18(1)(a)(iia)	section 94 (as amended by section 243 of the Finance Act, 1992) of the Finance Act, 1983	section 1078 of the Taxes Consolidation Act, 1997
section 24(1)(b)	sections 480, 485, 486, 487, 488 and 491 of the Income Tax Act, 1967	sections 962, 963, 964(1), 966, 967 and 998 of the Taxes Consolidation Act, 1997
section 24(5)	under section 485 of the Income Tax Act, 1967	under section 962 of the Taxes Consolidation Act, 1997
section 27(11)	section 485	section 962
section 31	section 94 (as amended by section 243 of the Finance Act, 1992) of the Finance Act, 1983	section 1078 of the Taxes Consolidation Act, 1997
section 31	section 512 of the Income Tax Act, 1967	section 1065 of the Taxes Consolidation Act, 1997
First Schedule, in paragraph (i)(g)	section 18 of the Finance Act, 1989	section 734 of the Taxes Consolidation Act, 1997

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Enactment amended (1)	Words to be replaced (2)	Words to be substituted (3)
The Imposition of Duties (No. 21) (Excise Duties) Order, 1975 (S.I. No. 307 of 1975), the proviso to paragraph 12 (12)	section 242 (as amended by the Finance Act, 1993) of the Finance Act, 1992	section 1094 of the Taxes Consolidation Act, 1997
The Capital Acquisitions Tax Act, 1976:		
section 16(2), in the definition of "private company"	section 95 of the Corporation Tax Act, 1976	section 431 of the Taxes Consolidation Act, 1997
	subsection (1)	subsection (3)
	subsection (4)	subsection (6)
section 52(1), in the definition of "Appeal Commissioners"	section 156 of the Income Tax Act, 1967	section 850 of the Taxes Consolidation Act, 1997
section 58(2)(b)	section 142 of the Income Tax Act, 1967	section 466 of the Taxes Consolidation Act, 1997
section 63(9)	sections 128(4), 507, 508, 510, 511, 512, 517 and 518 of the Income Tax Act, 1967	sections 987(4), 1061, 1062, 1063, 1064, 1065, 1066 and 1068 of the Taxes Consolidation Act, 1997
Second Schedule, Part I, paragraph 9, in the definition of "investment income"	section 2 of the Income Tax Act, 1967	section 3 of the Taxes Consolidation Act, 1997
The Value-Added Tax Regulations, 1979 (S.I. No. 63 of 1979):		
Regulation 15, in paragraph (2)	Section 485 of the Income Tax Act, 1967	Section 962 of the Taxes Consolidation Act, 1997
	the words from "modifications in subsection (1)" to the end of the paragraph	modification in subsection (1), namely, the words "any sum which may be levied on that person in respect of income tax" shall be construed as referring to value-added tax payable by the person concerned
Regulation 15, in paragraph (3)	Section 486 of the Income Tax Act, 1967	Section 963 of the Taxes Consolidation Act, 1997
Regulation 15, in paragraph (3)(a)	income tax or sur-tax	income tax
Regulation 15, in paragraph (3)(b)	the Collector or other officer of the Revenue Commissioners, duly authorised to collect the said tax	the Collector-General or other officer of the Revenue Commissioners duly authorised to collect the tax
	the Collector or other officer under this section	the Collector-General or other officer under this section
Regulation 15, in paragraph (4)	Section 487 of the Income Tax Act, 1967	Section 964(1) of the Taxes Consolidation Act, 1997
Regulation 15, in paragraph (5)	Section 488 of the Income Tax Act, 1967	Section 966 of the Taxes Consolidation Act, 1997
Regulation 15, in paragraph (5)(a)	income tax or sur-tax	income tax
Regulation 15, in paragraph (5)(b)	references to an inspector and to the Collector	references to an inspector and to the Collector-General

Enactment amended (1)	Words to be replaced (2)	Words to be substituted (3)
<p>The Value-Added Tax Regulations, 1979 (S.I. No. 63 of 1979): — <i>contd.</i></p> <p>Regulation 15, in paragraph (6)</p>	<p>Section 491 of the Income Tax Act, 1967</p> <p>income tax or sur tax</p>	<p>Section 998 of the Taxes Consolidation Act, 1997</p> <p>income tax</p>
<p>The Health Contributions Act, 1979:</p> <p>section 1, in the definition of “the Collector-General”</p> <p>section 1, in the definition of “emoluments”</p> <p>section 7A</p>	<p>section 162 of the Income Tax Act, 1967</p> <p>Chapter IV of Part V of the Income Tax Act, 1967, but without regard to section 192 of that Act</p> <p>section 3 of the Finance Act, 1983</p>	<p>section 851 of the Taxes Consolidation Act, 1997</p> <p>Chapter 4 of Part 42 of the Taxes Consolidation Act, 1997, but without regard to section 1015 of that Act</p> <p>section 1025 of the Taxes Consolidation Act, 1997</p>
<p>The Health Contribution Regulations, 1979 (S.I. No. 107 of 1979):</p> <p>Regulation 3, in the definition of “the Collector”</p> <p>Regulation 3, in the definition of “excepted farmer”</p> <p>Regulation 3, in the definition of “farm land occupied by the individual”</p> <p>Regulation 4</p> <p>Regulation 6</p>	<p>section 162 of the Income Tax Act, 1967 (No. 6 of 1967)</p> <p>“an individual to whom section 16 applies” within the meaning of Chapter II of Part I of the Finance Act, 1974 (No. 27 of 1974), if paragraphs (b) and (d) of section 16(1), and section 16(2), of that Act did not apply</p> <p>section 13(1) of the Finance Act, 1974</p> <p>Chapter IV of Part V of the Income Tax Act, 1967, applies but without regard to Chapter I of Part IX of that Act</p> <p>Chapter I (inserted by the Finance Act, 1980) (No. 14 of 1980) of Part IX of the Income Tax Act, 1967 (No. 6 of 1987)</p> <p>section 33 of the Finance Act, 1975 (No. 6 of 1975)</p>	<p>section 851 of the Taxes Consolidation Act, 1997</p> <p>“an individual to whom subsection (1) applies” within the meaning of section 657 of the Taxes Consolidation Act, 1997, if paragraphs (b) and (d) of the definition of “an individual to whom subsection (1) applies” in subsection (1) of that section of that Act and subsection (2) of that section of that Act did not apply</p> <p>section 654 of the Taxes Consolidation Act, 1997</p> <p>Chapter 4 of Part 42 of the Taxes Consolidation Act, 1997, applies but without regard to sections 1015 to 1024 of that Act</p> <p>sections 1015 to 1024 of the Taxes Consolidation Act, 1997</p> <p>the definition of “capital allowance” in section 2(1) of the Taxes Consolidation Act, 1997</p>
<p>The Youth Employment Agency Act, 1981:</p> <p>section 1 (1), in the definition of “the Collector-General”</p> <p>section 1 (1), in the definition of “emoluments”</p> <p>section 18A</p>	<p>section 162 of the Income Tax Act, 1967</p> <p>Chapter IV of Part V of the Income Tax Act, 1967 (but without regard to Chapter I (inserted by the Finance Act, 1980) of Part IX of that Act)</p> <p>section 3 of the Finance Act, 1983</p>	<p>section 851 of the Taxes Consolidation Act, 1997</p> <p>Chapter 4 of Part 42 of the Taxes Consolidation Act, 1997 (but without regard to sections 1015 to 1024 of that Act)</p> <p>section 1025 of the Taxes Consolidation Act, 1997</p>

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Enactment amended (1)	Words to be replaced (2)	Words to be substituted (3)
The Youth Employment Levy Regulations 1982, (S.I. No. 84 of 1982):		
Regulation 3, in the definition of "the Collector"	section 162 of the Income Tax Act, 1967 (No. 6 of 1967)	section 851 of the Taxes Consolidation Act, 1997
Regulation 3, in the definition of "excepted farmer"	an individual to whom section 16 applies within the meaning of Chapter II of Part I of the Finance Act, 1974 (No. 27 of 1974), if paragraph (b) and (d) of subsection (1) and subsection (2) of section 16 of that Act did not apply	an individual to whom subsection (1) applies within the meaning of section 657 of the Taxes Consolidation Act, 1997, if paragraphs (b) and (d) of the definition of "an individual to whom subsection (1) applies" in subsection (1) of that section of that Act and subsection (2) of that section of that Act did not apply
Regulation 3, in the definition of "farm land occupied by the individual"	section 13(1) of the Finance Act, 1974	section 654 of the Taxes Consolidation Act, 1997
Regulation 6	Chapter I (inserted by the Finance Act, 1980 (No. 14 of 1980)) of Part IX of the Income Tax Act, 1967 (No. 6 of 1967)	sections 1015 to 1024 of the Taxes Consolidation Act, 1997
	section 33 of the Finance Act, 1975 (No. 6 of 1975)	the definition of "capital allowance" in section 2(1) of the Taxes Consolidation Act, 1997
Regulation 16	section 195 of the Income Tax Act, 1967	section 1018 of the Taxes Consolidation Act, 1997
The Income Tax (Rent Relief) Regulations, 1982 (S.I. No. 318 of 1982):		
Regulation 2	Chapter IV of Part IV of the Income Tax Act, 1967 (No. 6 of 1967)	Chapter 8 of Part 4 of the Taxes Consolidation Act, 1997
	section 142A (inserted by section 5 of the Finance Act, 1982 (No. 14 of 1982)) of the Income Tax Act, 1967	section 473 of the Taxes Consolidation Act, 1997
Regulation 3	subsection (5)(a)(i)	subsection (6)(a)(i)
Regulation 5	section 6 of the Finance Act, 1968 (No. 33 of 1968), and section 34 of the Finance Act, 1976 (No. 16 of 1976)	sections 886 and 905
The Finance Act, 1984, section 108(1)(b)(ii)	subsection (9) of section 235 of the Income Tax Act, 1967	subsection (1) of section 783 of the Taxes Consolidation Act, 1997
	section 235A	section 785
The Finance Act, 1986:		
section 94(1)(a), in the definition of "Corporation Tax Acts"	section 155(1) of the Corporation Tax Act, 1976	section 1 of the Taxes Consolidation Act, 1997
section 94(1)(a), in the definition of "relevant interest"	section 84(2)(d) of the Corporation Tax Act, 1976	section 130(2)(d) of the Taxes Consolidation Act, 1997

Enactment amended (1)	Words to be replaced (2)	Words to be substituted (3)
The Health Contributions (Amendment) Regulations, 1988 (S.I. No. 51 of 1988), Regulation 3, in paragraph (2)	section 195 of the Income Tax Act, 1967	section 1018 of the Taxes Consolidation Act, 1997
The Finance Act, 1989, the proviso to section 45(3)(b)	section 242 (as amended by the Finance Act, 1993) of the Finance Act, 1992	section 1094 of the Taxes Consolidation Act, 1997
The Finance Act, 1990:		
section 112(5)	section 94 of the Finance Act, 1983	section 1078 of the Taxes Consolidation Act, 1997
section 129(1)	subsection (9) of section 235 of the Income Tax Act, 1967	subsection (1) of section 783 of the Taxes Consolidation Act, 1997
The Finance Act, 1991:		
section 108(1)	section 485 of the Income Tax Act, 1967	section 962 of the Taxes Consolidation Act, 1997
section 109(1)	Sections 128(4), 507, 508, 510, 511, 512, 517 and 518 of the Income Tax Act, 1967	Sections 987(4), 1061, 1062, 1063, 1064, 1065, 1066 and 1068 of the Taxes Consolidation Act, 1997
	Income Tax Act, 1967	Taxes Consolidation Act, 1997
section 129(1), in the definition of "the Collector"	section 162 of the Income Tax Act, 1967	section 851 of the Taxes Consolidation Act, 1997
section 129(3)	Section 187 of the Income Tax Act, 1967	Section 928(1) and 964(2) of the Taxes Consolidation Act, 1997
The Finance Act, 1992:		
section 206(a), (aa) and (c)(ii)	section 18 of the Finance Act, 1989	section 734 of the Taxes Consolidation Act, 1997
section 206(b)	subsection (5A) (inserted by section 34 of the Finance Act, 1977) of section 31 of the Capital Gains Tax Act, 1975	subsection (6) of section 731 of the Taxes Consolidation Act, 1997
section 207(2)	section 18 of the Finance Act, 1989	section 734 of the Taxes Consolidation Act, 1997
The Finance Act, 1993:		
section 106(2)(b)	section 31 of the Finance Act, 1991	section 110 of the Taxes Consolidation Act, 1997
section 109(1), in the definition of "dependent relative"	subsection (9A) (inserted by the Finance Act, 1979) of section 25 of the Capital Gains Tax Act, 1975	subsection (11) of section 604 of the Taxes Consolidation Act, 1997
section 112(a)(i)(A)	section 235(9) of the Income Tax Act, 1967	section 783(1) of the Taxes Consolidation Act, 1997
section 112(a)(i)(B)	section 235 or section 235A	section 784 or section 785
section 112(a)(iii)	section 236 of the Income Tax Act, 1967	section 787 of the Taxes Consolidation Act, 1997
section 112(d), proviso (i)	subsection (1A) of section 142 of the Income Tax Act, 1967	subsection (1) of section 466 of the Taxes Consolidation Act, 1997
section 133(1)	section 36 of the Finance Act, 1988	section 451 of the Taxes Consolidation Act, 1997

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Enactment amended (1)	Words to be replaced (2)	Words to be substituted (3)
The Social Welfare (Consolidation) Act, 1993:		
section 2, in the definition of "Collector-General"	section 162 of the Income Tax Act, 1967	section 851 of the Taxes Consolidation Act, 1997
section 2, in the definition of "reckonable emoluments"	Chapter IV of Part V of the Income Tax Act, 1967	Chapter 4 of Part 42 of the Taxes Consolidation Act, 1997
section 2, in the definition of "reckonable income"	section 2 or section 18 of the Finance Act, 1969	section 195, 231 or 232 of the Taxes Consolidation Act, 1997
	Chapter 1 (inserted by the Finance Act, 1980) of Part IX of the Income Tax Act, 1967	Chapter 1 of Part 44 of the Taxes Consolidation Act, 1997
section 2, in the definition of "reckonable income"	section 33 of the Finance Act, 1975	the definition of "capital allowance" in section 2(1) of the Taxes Consolidation Act, 1997
section 18(1)(b)	section 48(1) of the Finance Act, 1986	section 1084(1) of the Taxes Consolidation Act, 1997
section 20(5)	section 195 of the Income Tax Act, 1967	section 1018 of the Taxes Consolidation Act, 1997
section 212(5)	section 17 (as amended by section 28 of the Finance Act, 1992) of the Finance Act, 1970	Chapter 2 of Part 18 of the Taxes Consolidation Act, 1997
First Schedule, Part III, paragraph 3(a)	section 33 of the Finance Act, 1975	the definition of "capital allowance" in section 2(1) of the Taxes Consolidation Act, 1997
First Schedule, Part III, paragraph 4	Chapter II or III of Part IV of the Income Tax Act, 1967	Chapter 3 of Part 4, or Part 43, of the Taxes Consolidation Act, 1997
First Schedule, Part III, paragraph 6	Chapter II or III of Part IV of the Income Tax Act, 1967	Chapter 3 of Part 4, or Part 43, of the Taxes Consolidation Act, 1997
The Industrial Training (Apprenticeship Levy) Act, 1994, section 1(1)	section 162 of the Income Tax Act, 1967	section 851 of the Taxes Consolidation Act, 1997
The Casual Trading Act, 1995, section 4(2A)	section 161 of the Income Tax Act, 1967	section 852 of the Taxes Consolidation Act, 1997
The Finance Act, 1995:		
section 103	section 156 of the Income Tax Act, 1967	section 850 of the Taxes Consolidation Act, 1997
section 105(3)	Part XXVI (as amended) other than sections 429 and 430 and (in so far as it relates to those sections) section 431, of the Income Tax Act, 1967	Part 40, other than sections 942, 943 and (in so far as it relates to those sections) 944 of the Taxes Consolidation Act, 1997
The Consumer Credit Act, 1995:		
section 93(10)(d)	section 242 (as amended by the Finance Act, 1997) of the Finance Act, 1992	section 1094 of the Taxes Consolidation Act, 1997
section 93(10A)(a)(i)	section 242 of the Finance Act, 1992	section 1094 of the Taxes Consolidation Act, 1997

Enactment amended (1)	Words to be replaced (2)	Words to be substituted (3)
The Consumer Credit Act, 1995: — <i>contd.</i>		
section 93(10A)(a)(ii) section 116(9)(d)	section 242 section 242 (as amended by the Finance Act, 1997) of the Finance Act, 1992	section 1094 section 1094 of the Taxes Consolidation Act, 1997
section 116(9A)(a)(i)	section 242 of the Finance Act, 1992	section 1094 of the Taxes Consolidation Act, 1997
section 116(9A)(a)(ii) section 144(9)(d)	section 242 section 242 (as amended by the Finance Act, 1997) of the Finance Act, 1992	section 1094 section 1094 of the Taxes Consolidation Act, 1997
section 144(9A)(a)(i)	section 242 of the Finance Act, 1992	section 1094 of the Taxes Consolidation Act, 1997
section 144(9A)(a)(ii)	section 242	section 1094
The Finance Act, 1996, section 108(4)	section 94(2)(d) of the Finance Act, 1983	section 1078(2)(d) of the Taxes Consolidation Act, 1997
The Social Welfare (Consolidated Contributions and Insurability) Regulations, 1996 (S.I. No. 312 of 1996):		
Regulation 3, in the definition of “inspector of taxes”	section 161 of the Act of 1967	section 852 of the Act of 1997
Regulation 3, in the definition of “reckonable earnings”	Chapter IV of Part V of the Act of 1967	Chapter 4 of Part 42 of the Act of 1997
	section 192 of that Act the Act of 1967 (other than Chapter IV of Part V)	section 1015 of that Act the Act of 1997 (other than Chapter 4 of Part 42)
	section 192 of that Act the Act of 1967	section 1015 of that Act the Act of 1997
Regulation 3, in the definition of “reckonable income”	Chapter 11 of Part I of the Finance Act, 1972 (No. 19 of 1972)	Chapter 1 of Part 30
Regulation 3, the definition of “the Act of 1967”	“the Act of 1967” means the Income Tax Act, 1967 (No. 6 of 1967);	“the Act of 1997” means the Taxes Consolidation Act, 1997;
Regulation 10, in paragraph (1)	section 129 of the Act of 1967	section 991 of the Act of 1997
Regulation 27	section 8(1) of the Finance Act, 1979 (No. 11 of 1979)	section 125 of the Act of 1997

SCHEDULE 32

TRANSITIONAL PROVISIONS

[ITA67 s472(1)]

*Stock of local authorities*

1. (1) Any stock under section 87 of the Local Government Act, 1946, issued on or after the 13th day of July, 1955, shall be deemed to be securities issued under the authority of the Minister for Finance under section 36, and that section shall apply accordingly.

(2) Section 49 shall apply as if in subsection (1) of that section “or paragraph 1 of Schedule 32” were inserted after “or 41”.

[ITA67 s353; FA97 s11(2)]

*Income tax: exemption from tax of income from certain scholarships*

2. Where a payment of income is made before the 6th day of April, 1998, in respect of a scholarship awarded before the 26th day of March, 1997, section 193 shall apply as if—

(a) in subsection (1) of that section the definitions of “relevant body” and “relevant scholarship” and paragraph (b) were deleted, and

(b) subsections (3) and (4) of that section were deleted.

[FA88 s42; FA97 s49(4)]

*Corporation tax: exemption from tax of profits of Custom House Docks Development Authority*

3. (1) Notwithstanding any provision of the Corporation Tax Acts, profits arising to the Custom House Docks Development Authority in any accounting period ending on or after the 17th day of November, 1986, shall be exempt from corporation tax.

(2) Subparagraph (1) shall be repealed with effect from the 1st day of May, 1997.

[FA80 s45(1) and (2)]

*Meaning of “relevant distributions” for the purposes of section 147 in relation to distributions made before 6th April, 1989*

4. (1) In this paragraph, “relevant accounting period” has the same meaning as it had for the purposes of Chapter VI of Part I of the Finance Act, 1980.

(2) For the purposes of section 147, a distribution made by a company before the 6th day of April, 1989, shall be a relevant distribution if it was made on a day (in this paragraph referred to as “the relevant day”) on or after the 1st day of January, 1981, and if the total amount of the distributions made by the company on that day did not exceed an amount (in this paragraph referred to as “the amount of the primary fund”) determined by the formula—

$$(A - B) + (C - D) + E - F$$

where, subject to sections 46 to 49 of the Finance Act, 1980—

A is the amount of the company’s income the corporation tax in respect of which was reduced under section 41 of that Act for the last relevant accounting period of the company which ended before the relevant day; but where the distribution was not a distribution declared by the company in a general meeting held as an annual general meeting, this definition shall apply as if the

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preceding reference to the last relevant accounting period which ended before the relevant day were a reference to the relevant accounting period of the company in which the distribution was made, SCH.32

B is the amount of the corporation tax as reduced under section 41 of that Act in respect of the amount of income mentioned in the definition of “A”,

C is the aggregate of the amounts of the company’s income the corporation tax in respect of which was reduced under section 41 of that Act for all relevant accounting periods of the company preceding the relevant accounting period which is to be taken into account in the definition of “A”,

D is the aggregate of the amounts of the corporation tax as reduced under section 41 of that Act in respect of the amounts of income comprised in the aggregate amount calculated in accordance with the definition of “C”,

E is the aggregate amount of the relevant distributions received by the company at any time before the relevant day; but a relevant distribution shall not be included within this definition if the distribution, together with the tax credit to which the company is entitled in respect of it, is franked investment income against which relief was given under section 15(4), 25 or 26 of the Corporation Tax Act, 1976, and which relief was not subsequently withdrawn under those sections, and

F is the aggregate amount of the relevant distributions made by the company on any day earlier than the relevant day.

(3) Where in relation to a company the amount of the primary fund was greater than zero but was less than the total amount of the distributions made by the company on the relevant day, a distribution made by the company on that day shall be treated as if it consisted of 2 distributions, being respectively—

(a) a relevant distribution equal to such an amount as bears to the whole of the distribution the same proportion as the amount of the primary fund bore to the total amount of the distributions so made on that day, and

(b) a separate distribution which is not a relevant distribution and which consisted of the balance of the distribution.

*Distributions out of certain income of manufacturing companies — provisions relating to relief for certain losses and capital allowances carried forward from 1975-76*

[FA80 s47; FA88 s32(3) and Sch2 PtII pars1(c) and (d); FA95 s54(2) and Sch4 PtII pars2(1)(a) and (b); FA97 s59(2) and Sch6 PtII par2]

5. (1) In this paragraph, “relevant accounting period” has the same meaning as in *Part 14*.

(2) Where for any accounting period of a company which coincides with or includes a relevant accounting period—

(a) the corporation tax referable to the income of the company from the sale in the course of a trade of goods for the relevant accounting period is to be reduced under *section 448*, and

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- (b) a reduced relief under *paragraph 16* is allowed as respects the accounting period in accordance with *subparagraph (3)(ii)* of that paragraph,

then—

- (i) the amount of the company's income which apart from this clause is to be taken into account in the definitions in *section 147(1)* of "A", in respect of the relevant accounting period, and of "R", in respect of the accounting period, shall be reduced as follows—

- (I) as respects A, by the amount determined by the formula—

$$G \times S \times \frac{H}{J}$$

where—

G is the amount of the reduction in the relief in respect of the trade for the accounting period under *paragraph 16(3)(ii)*,

H is the income of the accounting period within the meaning of *paragraph 18(4)(a)(i)*,

J is the relevant corporation tax for the accounting period within the meaning of *paragraph 16*, and

S is—

- (A) as respects accounting periods beginning before the 1st day of April, 1997, 38/28, and

- (B) as respects accounting periods beginning on or after that date, 36/26,

and

- (II) as respects R, by an amount determined by the formula—

$$V \times \frac{H}{J}$$

where—

H and J have the same meanings respectively as in *subclause (I)*, and

V is the amount of the relief for the accounting period under *paragraph 16* before any reduction in that relief under *subparagraph (3)(ii)* of that paragraph, and

- (ii) the amount of the corporation tax (as reduced under *section 448*) which apart from this clause is to be taken into account in the definition of "B" in *section 147(1)* in respect of the relevant accounting period shall be reduced by an amount determined by the formula—

where—

G has the same meaning as in *clause (i)(I)*, and

S is—

(I) as respects accounting periods beginning before the 1st day of April, 1997, 10/28, and

(II) as respects accounting periods beginning on or after that date, 10/26.

(3) (a) For the purposes of *subparagraph (2)*, where an accounting period begins before the 1st day of April, 1997, and ends on or after that day, it shall be divided into one part beginning on the day on which the accounting period begins and ending on the 31st day of March, 1997, and another part beginning on the 1st day of April, 1997, and ending on the day on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods.

(b) Where under *clause (a)* a part of an accounting period is treated as a separate accounting period, the corporation tax charged for the part which is so treated shall, in so far as it is affected by the rate of corporation tax which is taken to have been charged, be taken for the purposes of this paragraph to be the corporation tax which would have been charged if that part were a separate accounting period.

*Distributions out of certain income of manufacturing companies — provisions relating to relief for certain corporation profits tax losses*

[FA80 s48; FA88 s32(3) and Sch2 PtII pars1(e) and (f); FA95 s54(2) and Sch4 PtII par2(1)(c); FA97 s59(2) and Sch6 PtII par2]

6. (1) In this paragraph, “relevant accounting period” has the same meaning as in *Part 14*.

(2) Where for any accounting period of a company which coincides with or includes a relevant accounting period—

(a) the corporation tax referable to the income of the company from the sale in the course of the trade of goods for the relevant accounting period is to be reduced under *section 448*, and

(b) a reduced relief under *paragraph 18* is allowed as respects the accounting period in accordance with *subparagraph (4)(c)* of that paragraph,

then—

(i) the amount of the company’s income which apart from this clause is to be taken into account in the definition in *section 147(1)* of “A”, in respect of the relevant accounting period, and of “R”, in respect of the accounting period, shall be reduced as follows—

(I) as respects A, by an amount determined by the formula—

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$$K \times \frac{L}{M} \times \frac{N}{P}$$

where—

K is the amount of the relief for the accounting period under *paragraph 18* before any reduction in that relief under *subparagraph (4)(c)* of that paragraph,

L is the income of the accounting period within the meaning of *paragraph 18(4)(a)(i)*,

M is the relevant corporation tax within the meaning of *paragraph 16* in relation to the accounting period,

N is the income from the sale of goods within the meaning of *section 448* for the relevant accounting period, and

P is the total income brought into charge to corporation tax for the accounting period, and

(II) as respects R, by an amount determined by the formula—

$$K \times \frac{L}{M}$$

where—

K, L, and M have the same meanings as in *subclause (I)*, and

(ii) the amount of the corporation tax (as reduced under *section 448*) which apart from this clause is to be taken into account in the definition of “B” in *section 147(1)* in respect of the relevant accounting period shall be reduced by an amount determined by the formula—

$$Q \times S$$

where—

Q is the amount of the reduction in the relief for the accounting period under *paragraph 18(4)(c)*, and

S is—

(a) as respects accounting periods beginning before the 1st day of April, 1997, 10/28, and

(b) as respects accounting periods beginning on or after that date, 10/26.

(3) (a) For the purposes of *subparagraph (2)*, where an accounting period begins before the 1st day of April, 1997, and ends on or after that day, it shall be divided into one part beginning on the day on which the accounting period begins and ending on the 31st day of March, 1997, and another part beginning on the 1st day of April, 1997, and

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ending on the day on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods. SCH.32

- (b) Where under *clause (a)* a part of an accounting period is treated as a separate accounting period, the corporation tax charged for the part which is so treated shall, in so far as it is affected by the rate of corporation tax which is taken to have been charged, be taken for the purposes of this paragraph to be the corporation tax which would have been charged if that part were a separate accounting period.

*Approved share option schemes*

[FA86 s10(1) and  
(2)(a) and (b);  
FA92 s12]

7. (1) This paragraph shall apply where on or after the 6th day of April, 1986, an individual obtains a right to acquire shares in a body corporate—

- (a) by reason of his or her office or employment as a director or employee of that or any other body corporate, and  
(b) in accordance with the provisions of a scheme approved under the Second Schedule to the Finance Act, 1986;

but neither this paragraph nor that Schedule shall apply in relation to such a right obtained on or after the 29th day of January, 1992.

(2) Where the individual exercises the right in accordance with the provisions of the scheme referred to in *subparagraph (1)(b)* at a time when it is approved under the Second Schedule to the Finance Act, 1986—

- (a) income tax shall not be chargeable under *section 128* in respect of any gain realised by the exercise of the right, and  
(b) if but for this clause *section 547* would apply, that section shall not apply in calculating the consideration for the acquisition of the shares by the individual or for any corresponding disposal of them to the individual.  
(3) (a) This paragraph shall apply notwithstanding that the Second Schedule to the Finance Act, 1986, is not re-enacted by this Act, and accordingly this Act shall apply with any modifications necessary to give effect to this paragraph.  
(b) Without prejudice to the generality of *clause (a)*, *sections 1052, 1053 and 1054* shall apply for the purposes of that clause as if in *Schedule 29* there were included in *Column 2* a reference to paragraph 14 of the Second Schedule to the Finance Act, 1986.

*Interest on certain loans: relief from corporation tax*

[CTA76 s177]

8. (1) For the purposes of this paragraph, “permanent loan” means a loan of a permanent character made under an agreement entered into before the 27th day of November, 1975, and which under the agreement is—

- (a) secured by mortgage or debenture or otherwise on the assets or income of a company, and

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(b) if subject to repayment, is subject to repayment at not less than 3 months' notice;

but a loan shall not be regarded as a permanent loan for the purposes of this paragraph if under the terms of the loan agreement the rate of interest or other conditions of the loan may be altered during the currency of the loan.

(2) Where for the purposes of corporation tax the income of a company for an accounting period includes interest payable in respect of a permanent loan, the company shall be entitled on a due claim to have its liability to corporation tax for the accounting period reduced as provided by *subparagraph (3)*.

(3) The reduction referred to in *subparagraph (2)* shall be determined in accordance with *subparagraph (4)* (apart from *clause (c)*) of *paragraph 18* as if the interest were a relevant deficiency within the meaning of *subparagraph (1)* of that paragraph.

(4) Where in computing the reduction provided for by *subparagraph (3)* the appropriate amount as determined in accordance with *paragraph 18(4)(a)(ii)* is the company's income for the accounting period, the excess of such interest as is mentioned in *subparagraph (2)* for the accounting period over that income shall for the purposes of this paragraph be aggregated with the amount of any such interest for the next accounting period and relief shall be allowed for that period in respect of the aggregated amount and, if that aggregated amount exceeds the income for that period, the excess shall be carried forward to the accounting period succeeding that period and so on.

(5) A claim under this paragraph shall be made to the inspector within 2 years from the end of the accounting period.

[FA81 s25; FA86 s51(2); FA88 s49]

*Allowance for certain capital expenditure on construction of multi-storey car-parks*

9. (1) In this paragraph—

“multi-storey car-park” means a building or structure consisting of 3 or more storeys wholly in use for the purpose of providing, for members of the public generally without preference for any particular class of person, on payment of an appropriate charge, parking space for mechanically propelled vehicles;

“relevant expenditure” means capital expenditure incurred on or after the 29th day of January, 1981, and before the 1st day of April, 1991, on the construction of a multi-storey car-park.

(2) The provisions of the Tax Acts (other than *section 273*) relating to the making of allowances or charges in respect of capital expenditure on the construction of an industrial building or structure shall apply to relevant expenditure as if it were expenditure incurred on the construction of a building or structure in respect of which an allowance is to be made for the purposes of income tax or corporation tax, as the case may be, under *Part 9* by reason of its use for a purpose specified in *section 268(1)(a)*.

[FA81 s26; FA84 s39; FA89 s17]

*Allowance for certain capital expenditure on roads, bridges, etc*

10. (1) In this paragraph—

[1997.] *Taxes Consolidation Act, 1997.* [No. 39.]

“chargeable period” and “chargeable period or its basis period” Sch.32 have the same meanings as in *section 321(2)*;

“qualifying period” means the period commencing on the 29th day of January, 1981, and ending on the 31st day of March, 1989, or, in the case of a relevant agreement entered into on or after the 6th day of April, 1987, ending on the 31st day of March, 1992;

“relevant agreement” means an agreement between a road authority and another person under section 9 of the Local Government (Toll Roads) Act, 1979, by virtue of which that other person incurs relevant expenditure;

“relevant expenditure” means capital expenditure incurred by a person during the qualifying period by virtue of a relevant agreement including, in the case of a relevant agreement entered into on or after the 6th day of April, 1987, interest on money borrowed to meet such capital expenditure, but does not include any expenditure in respect of which any person is entitled to a deduction, relief or allowance under any provision of the Tax Acts other than this paragraph;

“relevant income” means income which arises to a person by virtue of a relevant agreement;

“road authority” has the meaning assigned to it by the Local Government (Toll Roads) Act, 1979.

(2) Where in the case of a relevant agreement entered into before the 6th day of April, 1987, a person, having made a claim in that behalf, proves as respects a chargeable period that relevant income was receivable by such person in that chargeable period or its basis period and that such person has incurred relevant expenditure, then, such person shall, subject to *subparagraph (4)*, be entitled, for the purpose only of ascertaining the amount (if any) of relevant income on which such person is to be charged to tax for the chargeable period, to an allowance equal to 50 per cent of the relevant expenditure; but the aggregate amount of all allowances made to that person under this subparagraph in relation to any relevant expenditure shall not exceed an amount equal to 50 per cent of that expenditure.

(3) Where a person, having made a claim in that behalf, proves as respects a chargeable period that relevant income was receivable and relevant expenditure was incurred by such person in the chargeable period or its basis period by virtue of the relevant agreement (being a relevant agreement entered into on or after the 6th day of April, 1987) giving rise to the relevant income, such person shall, subject to *subparagraph (4)*, be entitled, for the purpose only of ascertaining the amount (if any) of that relevant income on which such person is to be charged to tax—

- (a) to an allowance equal to 50 per cent of the relevant expenditure for that chargeable period, and
- (b) to an allowance equal to 10 per cent of the relevant expenditure for each of the next 5 chargeable periods in which that relevant income is receivable by such person;

and, for the purposes of this subparagraph, all relevant expenditure so incurred before the chargeable period in which relevant income is first receivable shall be deemed to have been incurred on the first day of that chargeable period.

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(4) Where an allowance to which a person is entitled under this paragraph cannot be given full effect for any chargeable period by reason of a want or deficiency of relevant income, then (so long as the person has relevant income), the amount unallowed shall be carried forward to the succeeding chargeable period and the amount so carried forward shall be treated for the purposes of this paragraph, including any further application of this subparagraph, as the amount of a corresponding allowance for that period.

(5) An appeal to the Appeal Commissioners shall lie on any question arising under this paragraph in the like manner as an appeal would lie against an assessment to income tax or corporation tax, and the provisions of the Tax Acts relating to appeals shall apply accordingly.

[FA86 s42]

*Urban Renewal Scheme, 1986 — capital allowances in relation to certain commercial premises in designated areas other than the Custom House Docks Area*

11. Where but for the repeal by this Act of the repealed enactments an allowance or charge would be made to or on a person for any chargeable period under Chapter II of Part XV, or Chapter I of Part XVI, of the Income Tax Act, 1967 (including any such allowance as increased under section 25 of the Finance Act, 1978), by virtue of section 42 of the Finance Act, 1986 (in so far as that section applied to areas other than the Custom House Docks Area within the meaning section 41 of that Act), then, notwithstanding that that section as it so applied is not re-enacted by this Act, that allowance or charge shall be made to or on the person under this Act, and accordingly this Act shall apply with any modifications necessary to give effect to this paragraph.

[FA86 s44]

*Urban Renewal Scheme, 1986 — allowances to owner-occupiers in relation to certain residential premises in designated areas other than the Custom House Docks Area*

12. Where but for the repeal by this Act of the repealed enactments a person would, in the computation of his or her total income for any year of assessment, be entitled to a deduction under section 44 of the Finance Act, 1986 (in so far as that section applied to areas other than the Custom House Docks Area within the meaning of section 41 of that Act), then, notwithstanding that that section as it so applied is not re-enacted by this Act, the person shall be entitled to that deduction for that year of assessment under this Act, and accordingly this Act shall apply with any modifications necessary to give effect to this paragraph.

[FA86 s45]

*Urban Renewal Scheme, 1986 — double rent allowance in relation to certain premises in designated areas other than the Custom House Docks Area*

13. Where but for the repeal by this Act of the repealed enactments a further deduction on account of rent in respect of any premises would be made to a person under section 45 of the Finance Act, 1986 (in so far as that section applied to areas other than the Custom House Docks Area within the meaning of section 41 of that Act), in the computation of the amount of the profits or gains of the person's trade or profession, then, notwithstanding that that section as it so applied is not re-enacted by this Act, that further deduction shall be made to the person under this Act, and accordingly this Act shall apply with any modifications necessary to give effect to this paragraph.

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*Rented residential accommodation — deduction for expenditure incurred on construction, conversion or refurbishment in areas other than the Custom House Docks Area*

SCH.32  
[FA81 s23 and s24;  
FA85 s21 and s22;  
FA91 s56, s57 and  
s58]

14. Where, in computing the amount of a surplus or deficiency in respect of rent from any premises in any area other than the Custom House Docks Area (within the meaning of section 41 of the Finance Act, 1986), a person would, but for the repeal by this Act of the repealed enactments—

- (a) be entitled to a deduction, or
- (b) be deemed to have received an amount as rent,

under—

- (i) section 23 of the Finance Act, 1981,
- (ii) section 23 of the Finance Act, 1981, as applied by virtue of section 24 of that Act or section 22 of the Finance Act, 1985, or
- (iii) section 23 of the Finance Act, 1981, as applied by section 21 of the Finance Act, 1985,

in so far as those sections applied to areas other than the Custom House Docks Area (within the meaning of section 41 of the Finance Act, 1986), then, notwithstanding that those sections as they so applied are not re-enacted by this Act, the person shall be entitled to that deduction or be deemed to have received that amount as rent, as the case may be, under this Act, and accordingly this Act shall apply with any modifications necessary to give effect to this paragraph.

*Loss relief, etc*

15. The substitution of this Act for the corresponding enactments repealed by this Act shall not alter the effect of any provision enacted before this Act (whether or not there is a corresponding provision in this Act) in so far as it determines whether and to what extent—

- (a) losses or expenditure incurred in, or an excess of deficiencies over surpluses in, or other amounts referable to, a year of assessment or accounting period earlier than a year of assessment or accounting period to which this Act applies may be taken into account for any tax purposes in a year of assessment or accounting period to which this Act applies, or
- (b) losses or expenditure incurred in, or an excess of deficiencies over surpluses in, or other amounts referable to, a year of assessment or accounting period to which this Act applies may be taken into account for any tax purposes in a year of assessment or accounting period earlier than a year of assessment or accounting period to which this Act applies.

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SCH.32  
[CTA76 s182 (apart  
from clauses (b)  
and (c) of proviso  
to (3)); FA80  
s47(1); FA97 s59  
and Sch6 Pt1  
par2(1) and (3)]

*Relief in respect of unrelieved losses and capital allowances carried forward from the year 1975-76*

16. (1) In this paragraph—

“relevant amount”, in relation to a company, means the aggregate of the following amounts—

- (a) such part of a loss, including any amount to be treated as a loss under section 316 of the Income Tax Act, 1967, incurred by the company in a trade before the date on which the company comes within the charge to corporation tax in respect of the trade and which, but for the Corporation Tax Act, 1976, could have been carried forward to the year 1976-77 under section 309 of the Income Tax Act, 1967, and
- (b) such part of any capital allowance to which the company which carries on the trade was entitled in charging the profits or gains of the trade for years before the year 1976-77 and to which effect has not been given by means of relief before that year;

“relevant corporation tax”, in relation to an accounting period, means the corporation tax (other than an amount which by virtue of sections 239, 241, 440 and 441 is to be treated as corporation tax of an accounting period) which, apart from this paragraph, *paragraph 18* and *section 448*, would be chargeable for the accounting period exclusive of the corporation tax chargeable on the part of the company's profits attributable to chargeable gains for that period, and that part shall be taken to be the amount brought into the company's profits for that period for the purposes of corporation tax in respect of chargeable gains before any deduction for charges on income, expenses of management or other amounts which can be deducted from or set against or treated as reducing profits of more than one description.

(2) Relief, as provided in *subparagraph (3)*, shall be allowed in respect of a relevant amount against corporation tax payable by the company and such relief shall be given as far as possible from the tax payable for the first accounting period for which the company is within the charge to corporation tax in respect of the trade and, in so far as it cannot be so given, from the tax payable for the next accounting period and so on.

(3) The relief for an accounting period shall be an amount calculated by applying to that part of the relevant amount in respect of which relief from tax has not been allowed a rate equal to—

- (a) as respects accounting periods beginning before the 1st day of April, 1997, 23 per cent, and
- (b) as respects accounting periods beginning on or after that date, the standard credit rate for the year of assessment in which the accounting period ends;

but—

- (i) the amount to which that rate is applied shall not exceed the amount of income from the trade included in chargeable profits for the accounting period reduced by the amount, if any, included in charges on income paid by the company in the accounting period in respect of payments

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made wholly and exclusively for the purposes of the trade, and SCH.32

- (ii) where the corporation tax payable by the company for an accounting period is reduced by virtue of a claim under *section 448(2)*, the relief to be given under this paragraph for the accounting period shall be reduced in the same proportion as the corporation tax payable by the company for the accounting period in so far as it is attributable to the income from the trade is so reduced; and the corporation tax attributable to the income from the trade shall be an amount equal to the same proportion of the relevant corporation tax for the accounting period as the income from the trade for the accounting period bears to the total income brought into charge to corporation tax.

(4) Relief under this paragraph shall not be allowed against corporation tax payable by a company which by virtue of agreements between the Government and the Government of the United Kingdom in respect of double income tax was entitled to exemption from income tax for the year 1975-76 in respect of income arising in the State.

(5) For the purposes of this paragraph, where an accounting period begins before the 1st day of April, 1997, and ends on or after that day, it shall be divided into one part beginning on the day on which the accounting period begins and ending on the 31st day of March, 1997, and another part beginning on the 1st day of April, 1997, and ending on the day on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods.

*Relief in respect of losses or deficiencies within Case IV or V of Schedule D* [CTA76 s183]

17. (1) Where—

- (a) a company was entitled to relief under section 89 or 310 of the Income Tax Act, 1967, or would have been entitled to relief under section 310 of that Act if section 237(5) of that Act had not been enacted, for the year 1975-76 or an earlier year of assessment in respect of a loss within Case IV of Schedule D or a deficiency or an excess of deficiencies within Case V of Schedule D, with the addition of any associated capital allowances in each case, and
- (b) because of an insufficiency of income of the description concerned, relief could not be fully granted to the company under those sections for any of those years of assessment,

then, the unrelieved amount of loss, deficiency or excess of deficiencies (with the addition of any unrelieved associated capital allowances), as the case may be, shall be treated as if it were a loss in a trade carried on by a company and, if the company so requires, may be relieved under *paragraph 16* against income of the same description of the company within the charge to corporation tax as if that income were income of the same trade, and that paragraph shall apply accordingly with any necessary modifications.

(2) Notwithstanding *subparagraph (1)*—

- (a) a loss within Case IV of Schedule D, with the addition of any associated capital allowances, shall be relieved under

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this paragraph only against income of the company chargeable to corporation tax under Case IV of Schedule D,

- (b) a deficiency or an excess of deficiencies within Case V of Schedule D, with the addition of any associated capital allowances, shall be relieved only against income of the company chargeable to corporation tax under Case V of Schedule D, and
- (c) so much of any deficiency or so much of any amount treated as a loss as, under section 62 of the Finance Act, 1974, could not have been carried forward or set against profits or gains for income tax purposes if that tax had continued shall be treated as not being a deficiency or loss for the purposes of this paragraph.

*Relief in respect of corporation profits tax losses*

[CTA76 s174(3)-  
proviso and s184  
(apart from clauses  
(i), (ii) and (iii) of  
proviso to (3));  
FA80 s48(1); FA97  
s59 and Sch6 PtI  
par2]

18. (1) In this paragraph, “relevant deficiency”, in relation to a company, means, subject to *subparagraph (2)*, the aggregate of the following amounts—

- (a) the total of the amounts which under section 25 of the Finance Act, 1964, could (on the assumption that for corporation profits tax purposes an accounting period of the company ended on the 5th day of April, 1976, and a new accounting period commenced on the 6th day of April, 1976, and the enactments in relation to corporation profits tax mentioned in the Third Schedule to the Corporation Tax Act, 1976, had not been repealed) have been deducted from or set off against profits of the company’s business in an accounting period commencing on the 6th day of April, 1976, and
- (b) the total of the amounts by which under subsections (1) and (3) of section 181 of the Corporation Tax Act, 1976, losses and allowances in respect of capital expenditure were reduced for the purposes of corporation tax;

but any loss or any excess of deficiencies over surpluses which if such loss or excess were a profit or an excess of surpluses over deficiencies would be chargeable to corporation tax on the company for the accounting period shall not be taken into account for the purposes of *clause (a)*.

(2) Where for any accounting period an election was made under section 174(3) of the Corporation Tax Act, 1976, all amounts which under section 25 of the Finance Act, 1964, could be deducted from or set off against profits of the company’s trade or business for that accounting period, computed without regard to section 174(3) of the Corporation Tax Acts, 1976, shall be deemed to have been so deducted or set off and shall not be included in the computation of any relevant deficiency for the purposes of this paragraph.

- (3) (a) Subject to *clause (b)*, relief as provided in *subparagraph (4)* shall be allowed in respect of a relevant deficiency against corporation tax payable by the company and such relief shall be given as far as possible from the tax payable for the first accounting period for which the company is within the charge to corporation tax and, in so far as it cannot be so given, from the tax payable for the next accounting period and so on.

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- (b) Relief shall not be allowed against corporation tax payable SCH.32 for any accounting period against the profits of which (if the Corporation Tax Act, 1976, had not been enacted and if the enactments in relation to corporation profits tax referred to in the Third Schedule of that Act had not been repealed) a loss incurred before the 6th day of April, 1976, could not be set off under section 25 of the Finance Act, 1964.

(4) (a) For the purposes of this subparagraph—

- (i) the income of a company for an accounting period shall be taken to be the amount of its profits for that period on which corporation tax falls finally to be borne exclusive of the part of the profits attributable to chargeable gains, and that part shall be taken to be the amount brought into the company's profits for that period for the purposes of corporation tax in respect of chargeable gains before any deduction for charges on income, expenses of management or other amounts which can be deducted from or set against or treated as reducing profits of more than one description, and
- (ii) the appropriate amount shall be the smaller of the amount of the relevant deficiency in respect of which relief has not been allowed and the amount of the company's income for the accounting period.

(b) Subject to *clause (c)*, relief for an accounting period shall be an amount determined by the formula—

$$(A - B) - (C - D)$$

where—

A is the excess of the amount of corporation tax which, apart from *paragraph 16*, this paragraph and *section 448*, is chargeable for the accounting period,

B is an amount determined by applying a rate equal to—

- (a) as respects accounting periods beginning before the 1st day of April, 1997, 23 per cent, and
- (b) as respects accounting periods beginning on or after that date, the standard credit rate for the year of assessment in which the accounting period ends,

to the amount of the company's income for the accounting period,

C is the excess of the amount of corporation tax which, apart from *paragraph 16*, this paragraph and *section 448*, would be chargeable for the accounting period if the amount of the company's income for the accounting period were reduced by the appropriate amount, and

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D is an amount determined by applying a rate equal to—

- (a) as respects accounting periods beginning before the 1st day of April, 1997, 23 per cent, and
- (b) as respects accounting periods beginning on or after that date, the standard credit rate for the year of assessment in which the accounting period ends,

to the amount of the company's income for the accounting period as reduced by the appropriate amount.

- (c) Notwithstanding *clause (b)*, where the corporation tax payable by a company for an accounting period is reduced by virtue of a claim under *section 448(2)*, the amount of relief to be allowed under the preceding provisions of this paragraph shall be reduced in the same proportion which the amount by which the corporation tax referable to the income from the sale of goods (within the meaning of *section 448*) for that accounting period is so reduced bears to the relevant corporation tax, and for the purposes of this clause "relevant corporation tax" has the same meaning as in *paragraph 16*.
- (5) (a) *Subparagraphs (3) and (4)* shall not apply to a company which by virtue of agreements between the Government and the Government of the United Kingdom in respect of double income tax was entitled to exemption from income tax for the year 1975-76 in respect of income arising in the State; but in such a case the relevant deficiency shall, subject to *clause (b)*, be set off against income coming within the charge to corporation tax for the accounting period commencing on the 6th day of April, 1976, and, in so far as the relevant deficiency cannot be so set off, it shall be set off against income coming within the charge to corporation tax for the next accounting period and so on.
  - (b) A relevant deficiency shall not be set off under *clause (a)* against income arising in any accounting period against the profits of which (if the Corporation Tax Act, 1976, had not been enacted and if the enactments in relation to corporation profits tax mentioned in the Third Schedule to that Act had not been repealed) a loss incurred before the 6th day of April, 1976, could not be set off under section 25 of the Finance Act, 1964.
- (6) (a) For the purposes of this paragraph, where an accounting period begins before the 1st day of April, 1997, and ends on or after that day, it shall be divided into one part beginning on the day on which the accounting period begins and ending on the 31st day of March, 1997, and another part beginning on the 1st day of April, 1997, and ending on the day on which the accounting period ends, and both parts shall be treated as separate accounting periods.
  - (b) Where under *clause (a)* a part of an accounting period is treated as a separate accounting period, the corporation tax charged for the part which is so treated shall, in so

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far as it is affected by the rate of corporation tax which is taken to have been charged, be taken for the purposes of this paragraph to be the corporation tax which would have been charged if that part were a separate accounting period. SCH.32

*Capital gains tax losses accruing before 6th April, 1976* [CTA76 s175]

19. Any losses of a company allowable against chargeable gains for the purposes of capital gains tax in respect of the year of assessment 1974-75 or 1975-76, in so far as they cannot be allowed against chargeable gains for the purposes of that tax, shall be treated for the purposes of corporation tax as if they were allowable losses accruing to the company while within the charge to corporation tax.

*Income tax: relief for expenditure on certain buildings in certain areas* [FA89 s4(1) to (6); FA93 s31]

20. (1) Where a person is immediately before the commencement of this Act, entitled to have a deduction made from his or her total income under section 4 of the Finance Act, 1989, he or she shall not cease to be so entitled by reason only of the repeal by this Act of that section, notwithstanding that that section is not re-enacted by this Act, and accordingly this Act shall apply with any modifications necessary to give effect to any such entitlements.

(2) Notwithstanding the repeal by this Act of section 4 of the Finance Act, 1989, relief given under that section, whether before or after the passing of this Act, may be withdrawn in accordance with subsection (4) of that section where the circumstances set out in that subsection apply; and accordingly this Act shall apply with any modifications necessary to give effect to such withdrawal.

*Income tax: relief for income accumulated under trusts* [ITA67 s154; FA73 s5]

21. (1) Where—

(a) in pursuance of any will or settlement any income arising from any fund is accumulated for the benefit of any person contingently on that person attaining a specified age or marrying, and

(b) the aggregate amount (in this paragraph referred to as “the aggregate yearly income”) in any year of assessment of—

(i) that income,

(ii) the income from any other fund subject to the like trusts for accumulation, and

(iii) the total income of that person from all sources,

is of such an amount only as would entitle an individual either to total exemption from income tax or to relief from income tax,

then, that person shall, on making a claim for the purpose within 6 years after the end of the year of assessment in which the contingency happens, be entitled, on proof of the claim in the manner prescribed by *subsections (3) and (4) of section 459 and paragraph 8 of Schedule 28*, to have repaid to him or her on account of the income

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tax which has been paid in respect of the income during the period of accumulation a sum equal to the aggregate amount of relief to which he or she would have been entitled if his or her total income from all sources for each of the several years of that period had been equal to the aggregate yearly income for that year; but in calculating that sum a deduction shall be made in respect of any relief already received.

(2) For the purposes of *subparagraph (1)*, no account shall be taken of any income tax paid in respect of income for a year of assessment beginning after the year 1972-73 or of any relief to which a person would have been entitled for such a year of assessment in the circumstances mentioned in *subparagraph (1)*.

[FA96 s31(2)(a), (3) and (4); FA97 s30(2)]

*Relief for investment in films in respect of certain sums*

22. (1) Where an allowable investor company has in the period of 12 months ending on the 22nd day of January, 1997, made a relevant investment, the reference in *section 481(4)* to £8,000,000 shall, in respect of that period, be construed as a reference to £6,000,000 or, where the company has in that period paid a sum of money to which *subparagraph (2)* applies, as a reference to £6,000,000 less the amount or, if there are more amounts than one, the aggregate of such amounts of such sums of money.

(2) The amendments effected to section 35 of the Finance Act, 1987, by section 31(1) of the Finance Act, 1996, shall not apply as respects a sum of money paid on or after the 23rd day of January, 1996, and on or before the 31st day of March, 1996, where the sum of money is paid in respect of shares in a qualifying company, and—

- (a) the Minister for Arts, Culture and the Gaeltacht had received before the 23rd day of January, 1996, an application in writing to give a certificate to the company stating, in relation to a film to be produced by the company, that the film is a qualifying film, and
- (b) a certificate given by the Minister to the company after the 23rd day of January, 1996, includes a statement that the Minister had received that application before that date.

(3) Where a sum of money is a sum of money—

- (a) to which the amendments effected to section 35 of the Finance Act, 1987, by section 31(1) of the Finance Act, 1996, do not apply by virtue of *subparagraph (2)*, or
- (b) which is paid before the 23rd day of January, 1996,

the provisions of section 35 of the Finance Act, 1987, which were in force immediately before the 23rd day of January, 1996, (in this paragraph referred to as “the former provisions”) shall, subject to *subparagraph (4)*, continue to apply to that sum of money.

(4) Where the sum of money referred to in *subparagraph (3)* is a sum of money paid on or after the 6th day of April, 1995, or is a sum of money to which *subparagraph (2)* applies, and the sum of money is used for the purpose of enabling the qualifying company to produce a qualifying film in respect of which an application (to give a certificate under subsection (1A) of the former provisions) had not been received by the Minister before the 23rd day of January, 1996, the former provisions shall apply as if—

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(i) subsection (2) of the former provisions was amended by the substitution for “a deduction of the amount of that investment” of “a deduction of an amount equal to 80 per cent of that investment”, and

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(ii) subsection (3A) of the former provisions was amended by the substitution for “a deduction of the amount of that investment” of “a deduction of an amount equal to 80 per cent of that investment”.

(5) *Subparagraphs (2) to (4)* shall apply notwithstanding that the former provisions are not re-enacted by this Act and shall be construed together with the former provisions, and accordingly this Act shall apply with any modifications necessary to give effect to those subparagraphs.

(6) As respects a relevant investment made before the 26th day of March, 1997, *section 481* shall apply as if in *subsection (4)(b)(i)* of that section the reference to £3,000,000 were a reference to £2,000,000.

(7) As respects the 12 months period ending on the 22nd day of January, 1996, *section 481* shall apply as if in *subsection (4)(b)(ii)* of that section the reference to £3,000,000 were a reference to £2,000,000.

(8) In relation to a film in respect of which the Minister has received an application before the 26th day of March, 1997, to enable the Minister to consider whether a certificate should be given under *subsection (2) of section 481*, that subsection shall apply as if *paragraph (c)(ii)(II)* of that subsection were deleted.

*Farming: application of section 658 in relation to expenditure incurred before 27th January, 1994*

[FA74 s22(2); FA77 s14; FA82 s16; FA88 s52(1)(a); FA89 s15; FA90 s77; FA91 s25(a)]

23. (1) *Section 658* shall apply—

(a) as respects capital expenditure incurred before the 27th day of January, 1994, as if the following subsections were substituted for *subsection (2)* of that section:

“(2) (a) Where a person to whom this section applies incurs, for the purpose of a trade of farming land occupied by such person, any capital expenditure on the construction of farm buildings (excluding a building or part of a building used as a dwelling), fences, roadways, holding yards, drains or land reclamation or other works, there shall, subject to *paragraph (b)*, be made to such person during a writing-down period of 10 years beginning with the chargeable period related to that expenditure, writing-down allowances (in this section referred to as ‘farm buildings allowances’) in respect of that expenditure, and such allowances shall be made in taxing the trade.

(b) The farm buildings allowance to be granted for any chargeable period shall, subject to *paragraphs (c) and (d)*, be increased by such amount as is specified in the claim for the

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allowance by the person to whom the allowance is to be made and, in relation to a case in which this paragraph has applied, any reference in the Tax Acts to a farm buildings allowance made under this section shall be construed as a reference to that allowance as increased under this paragraph.

- (c) The maximum farm buildings allowance to be made under this section by means of an allowance increased under *paragraph (b)*—
- (i) in relation to capital expenditure incurred before the 1st day of April, 1989, shall not for any chargeable period exceed 30 per cent of that capital expenditure,
  - (ii) in relation to capital expenditure incurred on or after the 1st day of April, 1989, and before the 1st day of April, 1991, whether claimed in one chargeable period or more than one such period, shall not in the aggregate exceed 50 per cent of that capital expenditure, and
  - (iii) in relation to capital expenditure incurred on or after the 1st day of April, 1991, and before the 1st day of April, 1992, whether claimed in one chargeable period or more than one such period, shall not in the aggregate exceed 25 per cent of that capital expenditure.
- (d) Notwithstanding *paragraph (c)(iii)*, the maximum farm buildings allowances to be made under this section by means of an allowance increased under *paragraph (b)* in relation to capital expenditure incurred—
- (i) on or after the 1st day of April, 1991, and before the 1st day of April, 1993,
  - (ii) for the purposes of the control of farm-yard pollution, and
  - (iii) on works in respect of which grant-aid has been paid under—
    - (I) the programme, as amended, known as ‘the Farm Improvement Programme’ implemented by the Minister for Agriculture and Food pursuant to Council Regulation (EEC) No. 797/85 of 12 March 1985<sup>1</sup>, or
    - (II) the scheme known as ‘the Scheme of Investment Aid for the Control of Farmyard Pollution’ implemented by the Minister for Agriculture and Food pursuant to an operational

<sup>1</sup>O.J. No. L 93 of 30.3.1985, p.1.

programme under Council Regulation (EEC) No. 2052/88 of 24 June 1988<sup>1</sup>, SCH.32

whether claimed for one chargeable period or more than one such period, shall not in the aggregate exceed 50 per cent of that capital expenditure.

- (e) The reference in *paragraph (a)* to roadways, holding yards, drains or land reclamation shall apply only as respects expenditure incurred on or after the 1st day of April, 1989.
- (2A) (a) For the purposes of this subsection, the first relevant year of assessment in relation to expenditure incurred by any person is—
- (i) the year of assessment in the basis period for which that person incurs the expenditure, or
  - (ii) the year of assessment in the basis period for which (if that person's profits or gains from farming for that year of assessment had been chargeable to tax under Case I of Schedule D) that person incurred the expenditure.
- (b) Where any capital expenditure referred to in *subsection (2)(a)* was incurred by a person on or after the 6th day of April, 1971, and before the 6th day of April, 1974, a farm buildings allowance shall for the purposes of this section be deemed—
- (i) to have been made to that person, and
  - (ii) to have been made in charging the profits or gains of the trade for the first relevant year of assessment and for each subsequent year of assessment before the year 1974-75;

but where that expenditure was incurred in the year 1973-74, a farm buildings allowance shall for the purposes of this section be deemed to have been made in charging the profits or gains of the trade for that year of assessment.

(2B) Notwithstanding any other provision of this section other than *subsection (2)(d)*, no farm buildings allowance made in relation to capital expenditure incurred on or after the 1st day of April, 1992, shall be increased under this section.”,

and

- (b) as respects expenditure incurred before the 6th day of May, 1993, as if the following subsection were substituted for *subsection (13)* of that section:

<sup>1</sup>O.J. No. L 185 of 15.7.1988, p.9.

[No. 39.] *Taxes Consolidation Act, 1997.* [1997.]

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“(13) Expenditure shall not be regarded for the purposes of this section as having been incurred by a person in so far as it has been met directly or indirectly by the State, by any board established by statute or by any public or local authority.”

(2) (a) This subparagraph shall apply to expenditure incurred on the construction of fences, roadways, holding yards or drains or on land reclamation.

(b) Where on or after the 6th day of April, 1977, and before the 1st day of April, 1989, a person to whom *section 658* applies incurs capital expenditure to which this subparagraph applies, being expenditure in respect of which the person is entitled to claim an allowance under that section, the allowance to be granted for the chargeable period related to the expenditure or any subsequent chargeable period shall be increased by such amount as is specified by the person to whom the allowance is to be made in making the person’s claim for the allowance, and in relation to a case in which this subsection has applied, any reference in the Tax Acts to a farm buildings allowance made under *section 658* shall be construed as a reference to that allowance as increased under this subparagraph.

[FA93 s12(2)(b)]

*Transitional provisions arising from amendments made to the system of taxation of life assurance companies by Finance Act, 1993*

24. Notwithstanding *section 713*, where chargeable gains and allowable losses accrued on disposals deemed by virtue of section 46A of the Corporation Tax Act, 1976, as applied by section 12(2)(a) of the Finance Act, 1993, to have been made by a life assurance company for the accounting period ended on the 31st day of December, 1992, the amount of any fraction of the difference between the aggregate of such chargeable gains and the aggregate of such allowable losses treated by virtue of *section 720* (being the re-enactment of section 46B of the Corporation Tax Act, 1976) as a chargeable gain of any accounting period ending on or after the 6th day of April, 1997, shall be deducted from the amount of the unrelieved profits (within the meaning of *section 713*) of that accounting period for the purposes of computing the relief due under *section 713*.

[CGTA75 s31(5);  
FA94 s64(2)]

*Disposals in the year 1993-94 of units in certain unit trusts*

25. Where throughout the year of assessment 1993-94 all the assets of a unit trust were assets, whether mentioned in section 19 of the Capital Gains Tax Act, 1975, or in any other provision of that Act, or of any other enactment relating to capital gains tax, to which section 19 of the Capital Gains Tax Act, 1975, applied, the units in the unit trust shall for that year be deemed not to be chargeable assets for the purposes of the Capital Gains Tax Acts.

[FA72 s16(4);  
CTA76 s140(1) and  
Sch2 PtI par 31]

*Application of section 774(6) in certain circumstances*

26. In the case of any employer for a chargeable period, being—

(i) where the chargeable period is an accounting period of a company, an accounting period ending on or before the 21st day of April, 1997, and

[1997.] *Taxes Consolidation Act, 1997.* [No. 39.]

- (ii) where the chargeable period is a year of assessment, any year of assessment the employer's basis period for which ends on a day after that date, SCH.32

section 774 shall apply as if the following subsection were substituted for subsection (6) of that section:

“(6) (a) Any sum paid by an employer by means of contributions under the scheme shall—

- (i) in the case of income tax, for the purposes of Case I or II of Schedule D, be allowed to be deducted as an expense incurred in the year in which the sum is paid, and
- (ii) in the case of corporation tax, for the purposes of Case I or II of Schedule D and the provisions of sections 83 and 707(4) relating to expenses of management, be allowed to be deducted as an expense or expense of management incurred in the accounting period in which the sum is paid.
- (b) The amount of an employer's contributions which may be deducted under paragraph (a) shall not exceed the amount contributed by the employer under the scheme in respect of employees in a trade or undertaking in respect of the profits of which the employer is assessable to income tax or corporation tax, as the case may be.
- (c) A sum not paid by means of an ordinary annual contribution shall for the purposes of this subsection be treated, as the Revenue Commissioners may direct, either as an expense incurred in the year or the accounting period, as the case may be, in which the sum is paid, or as an expense to be spread over such period of years as the Revenue Commissioners think proper.”.

*Settlements: application of section 792 for the year of assessment 1997-98 in relation to certain dispositions to certain individuals residing with, and sharing normal household expenses with, the disponent* [FA95 s13(3)]

27. (1) Where—

- (a) the conditions set out in subparagraph (3) are satisfied, and
- (b) the Revenue Commissioners are satisfied that the application of the amendments to section 439 of the Income Tax Act, 1967, effected by subsections (1) and (2) of section 13 of the Finance Act, 1995, which subsections are re-enacted in subsections (1) and (2) of section 792, would give rise to hardship,

then, those amendments shall not, to the extent that the Revenue Commissioners consider just, apply before the 6th day of April, 1998, in respect of a disposition, to which clause (a) of subparagraph (2) applies, by a person (in this paragraph referred to as “the disponent”), in so far as, by virtue or in consequence of such disposition, income is payable in a year of assessment to or for the benefit of an individual to whom clause (b) of subparagraph (2) applies, and accordingly, notwithstanding that section 439 of the Income Tax Act, 1967, as it stood before its amendment by subsections (1) and (2) of section 13 of the Finance Act, 1995, is not re-enacted by this Act, this Act shall

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 apply with any modifications necessary to give effect to this paragraph.

- (2) (a) This clause shall apply to—
- (i) a disposition made before the 6th day of April, 1993, or
  - (ii) a disposition made on or after the 6th day of April, 1993, to immediately replace a disposition made before that date which has ceased to be effective and only to the extent that the amount payable to or for the benefit of an individual to whom *clause (b)* applies under such later disposition does not exceed the amount payable to or for the benefit of that individual under the earlier disposition.
- (b) This clause shall apply to an individual who is not a child of the disponer and who, for the whole of the year of assessment, is resident with, and shares the normal household expenses with, the disponer.

(3) The conditions referred to in *subparagraph (1)* are:

- (a) the making of the disposition referred to in *subparagraph (2)(a)(i)* shall have been notified to the Revenue Commissioners before the 8th day of February, 1995,
- (b) a child, to whom *subparagraph (4)* applies, of the disponer or of the individual to whom *clause (b)* of *subparagraph (2)* applies or of both of them is resident with them for the whole or substantially the whole of the year of assessment, and
- (c) the child to whom *clause (b)* relates is wholly or mainly maintained by the disponer and the individual jointly at their own expense.

(4) A child to whom this subparagraph applies shall be a child who for a year of assessment—

- (i) is under the age of 16 years, or
- (ii) if over the age of 16 years at the commencement of the year of assessment, is receiving full-time instruction at any university, college, school or other educational establishment.

*Construction of certain references to Ministers of the Government*

28. (1) Subject to *subparagraphs (2)* and *(3)*, a reference in this Act to a Minister of the Government mentioned in *column (1)* of the Table to this paragraph shall, in respect of the period from the commencement of this Act to the date mentioned in *column (3)* of that Table opposite that mention in *column (1)*, be construed as a reference to the Minister of the Government mentioned in *column (2)* of that Table opposite that mention in *column (1)*.

(2) A reference in *Chapter 1* of *Part 24* to the Minister for the Marine and Natural Resources shall—

- (a) in respect of the period from the commencement of this Act to the 11th day of July, 1997, be construed as a reference to the Minister for Transport, Energy and Communications, and

[1997.] *Taxes Consolidation Act, 1997.* [No. 39.]

(b) in respect of the period from the 12th day of July, 1997, to the 14th day of July, 1997, be construed as a reference to the Minister for Public Enterprise. SCH.32

(3) A reference in *Chapter 2 of Part 24* to the Minister for the Marine and Natural Resources shall—

(a) in respect of the period from the commencement of this Act to the 11th day of July, 1997, be construed as a reference to the Minister for Transport, Energy and Communications, and

(b) in respect of the period from the 12th day of July, 1997, to the 30th day of September, 1997, be construed as a reference to the Minister for Public Enterprise.

TABLE

(1)	(2)	(3)
Minister for Justice, Equality and Law Reform	Minister for Justice	8th July, 1997
Minister for Health and Children	Minister for Health	11th July, 1997
Minister for Social, Community and Family Affairs	Minister for Social Welfare	11th July, 1997
Minister for Arts, Heritage, Gaeltacht and the Islands	Minister for Arts, Culture and the Gaeltacht	11th July, 1997
Minister for Enterprise, Trade and Employment	Minister for Enterprise and Employment	11th July, 1997
Minister for Tourism, Sport and Recreation	Minister for Tourism and Trade	11th July, 1997
Minister for Agriculture and Food	Minister for Agriculture, Food and Forestry	11th July, 1997
Minister for the Marine and Natural Resources	Minister for the Marine	11th July, 1997
Minister for Public Enterprise	Minister for Transport, Energy and Communications	11th July, 1997
Minister for the Environment and Local Government	Minister for the Environment	21st July, 1997
Minister for Education and Science	Minister for Education	30th September, 1997

*Construction of certain references to Government Departments*

29. A reference in this Act to a Government Department mentioned in *column (1)* of the Table to this paragraph shall, in respect of the period from the commencement of this Act to the date mentioned in *column (3)* of that Table opposite that mention in *column (1)*, be construed as a reference to the Government Department mentioned in *column (2)* of that Table opposite that mention in *column (1)*.

TABLE

(1)	(2)	(3)
Department of Agriculture and Food	Department of Agriculture, Food and Forestry	11th July, 1997
Department of the Environment and Local Government	Department of the Environment	21st July, 1997

[No. 39.] *Taxes Consolidation Act, 1997.* [1997.]

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*Construction of reference to Secretary General  
of Department of Finance*

30. A reference in this Act to the Secretary General of the Department of Finance shall, in respect of the period from the commencement of this Act to the 31st day of August, 1997, be construed as a reference to the Secretary of the Department of Finance.

*Construction of certain references to educational institutions*

31. A reference in this Act to an educational institution mentioned in *column (1)* of the Table to this paragraph shall, in respect of the period from the commencement of this Act to the date mentioned in *column (3)* of that Table opposite that mention in *column (1)*, be construed as a reference to the educational institution mentioned in *column (2)* of that Table opposite that mention in *column (1)*.

TABLE

(1)	(2)	(3)
National University of Ireland, Dublin	University College, Dublin	15th June, 1997
National University of Ireland, Cork	University College, Cork	15th June, 1997