

SCHEDULE 32 Transitional Provisions

Section 1101.

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”.

Income tax: exemption from tax of income from certain scholarships

ITA67 s353; FA97 s11(2)

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.

Corporation tax: exemption from tax of profits of Custom House Docks Development Authority

FA88 s42; FA97 s49(4)

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(2) Subparagraph (1) shall be repealed with effect from the 1st day of May, 1997.

Meaning of “relevant distributions” for the purposes of section 147 in relation to distributions made before 6th April, 1989

FA80 s45(1) and (2)

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 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,

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(6) 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

(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—

$$G \times S \times H / J$$

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—

$$V \times H / J$$

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) 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—

$$G \times S$$

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—

$$K \times L / M \times N / P$$

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—

$$K \times L / M$$

where—

K, L, and M have the same meanings as in subclause (I), and

(ii) the amount of the corporation tax) 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 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.

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

(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.

Allowance for certain capital expenditure on construction of multi-storey car-parks

FA81 s25; FA86 s51(2); FA88 s49

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) 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).

Allowance for certain capital expenditure on roads, bridges, etc

FA81 s26; FA84 s39; FA89 s17

10. (1) In this paragraph—

“chargeable period” and “chargeable period or its basis period” 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.

(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.

Urban Renewal Scheme, 1986— capital allowances in relation to certain commercial premises in designated areas other than the Custom House Docks Area

FA86 s42

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 of the Finance Act, 1978), by virtue of section 42 of the Finance Act, 1986 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.

Urban Renewal Scheme, 1986— allowances to owner-occupiers in relation to certain residential premises in designated areas other than the Custom House Docks Area

FA86 s44

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.

Urban Renewal Scheme, 1986— double rent allowance in relation to certain premises in designated areas other than the Custom House Docks Area

FA86 s45

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.

Rented residential accommodation— deduction for expenditure incurred on construction, conversion or refurbishment in areas other than the Custom House Docks Area

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 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 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.

Relief in respect of unrelieved losses and capital allowances carried forward from the year 1975-76

CTA76 s182 (apart from clauses (b) and (c) of proviso to (3)); FA80 s47(1); FA97 s59 and Sch6 Ptl par2(1) and (3)

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 , 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 made wholly and exclusively for the purposes of the trade, and

(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 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 Ptl 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 , 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.

(b) Relief shall not be allowed against corporation tax payable for any accounting period against the profits of which , 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 percent, 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

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) 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 , 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 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.

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 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).

Relief for investment in films in respect of certain sums

FA96 s31(2) (a), (3) and (4); FA97 s30(2)

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 (1 A) 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—

(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

(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 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 farmyard 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 1985¹, 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 programme under Council Regulation (EEC) No. 2052/88 of 24 June 1988¹,

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:

“(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.

Transitional provisions arising from amendments made to the system of taxation of life assurance companies by Finance Act, 1993

FA93 s12(2) (b)

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) 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) of that accounting period for the purposes of computing the relief due under section 713.

Disposals in the year 1993-94 of units in certain unit trusts

CGTA75 s31(5); FA94 s64(2)

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.

Application of section 774(6) in certain circumstances

FA72 s16(4); CTA76 s140(1) and Sch2 Ptl par 31

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

(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,

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 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 disponent and who, for the whole of the year of assessment, is resident with, and shares the normal household expenses with, the disponent.

(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 disponent 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 disponent 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

(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.

(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

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

1O.J. No. L 93 of 30.3.1985, p.1. 1O.J. No. L 185 of 15.7.1988, p.9.