

-
- (2) The lesser of—
- (a) the capital expenditure incurred on the construction of the agricultural building, and
 - (b) the capital sum paid by the purchaser,
- is qualifying expenditure. 5
- (3) For the purposes of subsections (1) and (2)—
- (a) capital expenditure incurred on construction of the agricultural building does not include any amount excluded from being taken into account under section 4.3.1(3) to (5), and
 - (b) the capital sum paid by the purchaser for the relevant interest does not include any amount which, on a just and reasonable apportionment, is attributable to assets representing expenditure in respect of which an allowance cannot be made under this Part. 10
- (4) Subsection (3)(b) does not affect sections 12.5.1 to 12.5.2 (general provisions about apportionment). 15
- (5) The qualifying expenditure is to be treated as incurred when the capital sum became payable.
- (6) If the relevant interest is sold more than once before the building is first used, subsection (2) has effect only in relation to the last of those sales.
- 4.3.3 Different relevant interests in different parts of the related agricultural land** 20
- If a person is entitled to different relevant interests in different parts of the related agricultural land—
- (a) the expenditure is apportioned between those parts on a just and reasonable basis, and
 - (b) this Part applies as if the person had incurred the expenditure apportioned to each part separately. 25

CHAPTER 4.4

WRITING-DOWN ALLOWANCES

4.4.1 Entitlement to writing-down allowance

- (1) A person is entitled to a writing-down allowance for a chargeable period if— 30
- (a) qualifying expenditure has been incurred,
 - (b) at any time during that chargeable period he is entitled to the relevant interest in relation to the qualifying expenditure, and
 - (c) that time falls within the writing-down period.
- (2) The writing-down period, in relation to qualifying expenditure incurred by a person, is 25 years beginning with the first day of the chargeable period of that person in which the qualifying expenditure was incurred. 35
- (3) A person claiming a writing-down allowance may require the allowance to be reduced to a specified amount.

4.4.2 Basic rule for calculating amount of allowance

- (1) The basic rule is that the writing-down allowance for a chargeable period is 40

4% of the qualifying expenditure.

- (2) The allowance is proportionately increased or reduced if the chargeable period is more or less than a year.

4.4.3 First use of building not for purposes of husbandry etc.

- (1) No writing-down allowance is to be made under section 4.4.1 if, when the agricultural building comes to be used, it is not used for the purposes of husbandry. 5
- (2) Any writing-down allowance which has been made in respect of an agricultural building which has not been used is to be withdrawn if—
- (a) when the building comes to be used, it is not used for the purposes of husbandry, or 10
- (b) the person to whom the allowance was made sells the relevant interest before the building is first used.
- (3) All such adjustments, by assessment or otherwise, are to be made as are necessary to give effect to this section. 15

4.4.4 Effect of acquisition of relevant interest after first use of building

- (1) This section applies if—
- (a) a person (“the former owner”) would be entitled to an allowance under this Part in respect of any expenditure if he continued to be the owner of the relevant interest, and 20
- (b) another person (“the new owner”) acquires the relevant interest in the whole or a part of the related agricultural land.
- (2) For the purposes of subsection (1)(b), it is immaterial whether the relevant interest is acquired by transfer, by operation of law or otherwise.
- (3) The former owner— 25
- (a) is not entitled to an allowance for any chargeable period after that in which the acquisition occurs, and
- (b) if the acquisition occurs during a chargeable period, is entitled only to an appropriate part of any writing-down allowance for that period.
- (4) The new owner— 30
- (a) is entitled to allowances for the chargeable period in which the acquisition occurs and for subsequent chargeable periods falling wholly or partly within the writing-down period, and
- (b) if the acquisition occurs during a chargeable period, is entitled only to an appropriate part of any writing-down allowance for that period. 35
- (5) If the new owner acquires the relevant interest in part only of the related agricultural land, subsections (3) and (4) apply to so much only of the allowance as is properly referable to that part of the agricultural land as if it were a separate allowance.

4.4.5 Calculation of allowance after acquisition 40

- (1) This section applies if—
- (a) section 4.4.4 applies, and

- (b) the acquisition is a balancing event under section 4.5.2 (as a result of an election made in accordance with section 4.5.3).
- (2) The writing-down allowance for a chargeable period ending after the event is—

$$RQE \times \frac{A}{B} \quad 5$$

where—

RQE is the residue of qualifying expenditure immediately after the event,

A is the length of the chargeable period, and

B is the length of the period from the date of the event to the end of the writing-down period. 10

- (3) On any later balancing event to which this section applies, the writing-down allowance is further adjusted in accordance with this section.
- (4) The residue of qualifying expenditure immediately after a balancing event is calculated as mentioned in section 4.5.7, taking into account any balancing adjustment falling to be made on the event. 15
- (5) For this purpose any balancing allowance on that or any previous balancing event which is reduced or denied under section 4.5.10 (sale subject to subordinate interest) is to be treated as having been made in full.
- (6) The allowance is proportionately reduced if the person entitled to the allowance is not entitled to the relevant interest in the related agricultural land in relation to the expenditure in question during part of the chargeable period. 20

4.4.6 Chargeable period when balancing adjustment made

A person is not entitled to a writing-down allowance for a chargeable period in which a balancing allowance or balancing charge is made to or on him in respect of the qualifying expenditure. 25

4.4.7 Allowance limited to residue of qualifying expenditure

- (1) The amount of a writing-down allowance for a chargeable period is limited to the residue of qualifying expenditure. 30
- (2) For this purpose the residue is ascertained immediately before the allowance is made or would, apart from this section, be made.

4.4.8 Final writing-down allowance

- (1) In this section “the final writing-down allowance” means the writing-down allowance which is made— 35
- (a) to the person entitled to the relevant interest in the related agricultural land when the writing-down period ends, and
- (b) for the chargeable period in which it ends.
- (2) If the final writing-down allowance would, apart from this section, be less than the residue of qualifying expenditure immediately before it is made, the allowance is increased to that amount. 40

- (3) In determining the residue of qualifying expenditure for this purpose, it is assumed that all such writing-down allowances have been made to the persons who have been entitled to the relevant interest in the related agricultural land during the writing-down period as could have been made if each of them — 5
- (a) had claimed the full amount of the allowance, and
 - (b) had been within the charge to tax.

CHAPTER 4.5

BALANCING ADJUSTMENTS

General 10

4.5.1 When balancing adjustments are made

- (1) A balancing adjustment is made if —
- (a) qualifying expenditure has been incurred, and
 - (b) a balancing event occurs in a chargeable period for which a person would (apart from this section) be entitled to a writing-down allowance. 15
- (2) A balancing adjustment is either a balancing allowance or a balancing charge and is made for the chargeable period in which the balancing event occurs.
- (3) A balancing allowance or balancing charge is made to or on the person entitled to the relevant interest in relation to the qualifying expenditure immediately before the balancing event. 20

4.5.2 Balancing events (on making an election)

- (1) Any event described in subsection (2) is a balancing event, but only if an election is made in accordance with section 4.5.3 for it to be treated as such.
- (2) The events are — 25
- (a) the relevant interest is acquired as mentioned in section 4.4.4;
 - (b) the agricultural building is demolished or destroyed;
 - (c) the agricultural building ceases altogether to be used (without being demolished or destroyed).

4.5.3 Requirements as to elections 30

- (1) An election relating to an event within section 4.5.2(2)(a) must be made jointly by the former owner and the new owner.
- (2) No election relating to such an event may be made if it appears that the sole or main benefit which might have been expected to accrue to the parties, or any of them, from — 35
- (a) the acquisition, or
 - (b) transactions of which the acquisition is one,
- is the obtaining of an allowance, or a greater allowance, under this Part.
- (3) In determining for the purposes of subsection (2) what benefit might have been expected to accrue, sections 12.5.5, 12.5.6 and 12.6.3 (sales treated as 40

- being at market value) are to be disregarded.
- (4) An election relating to an event within section 4.5.2(2)(b) or (c) must be made by the person entitled to the relevant interest immediately before the event.
- (5) No election relating to any event may be made if any person by whom the election is to be made is not within the charge to tax. 5
- (6) The election must be made by notice given to the Inland Revenue—
- (a) for income tax purposes, on or before the normal time limit for amending a tax return for the tax year in which the relevant chargeable period ends;
- (b) for corporation tax purposes, within two years from the end of the relevant chargeable period. 10
- (7) “The relevant chargeable period” means the chargeable period in which the event in question occurs.

4.5.4 Proceeds from balancing events

- (1) References in this Part to the proceeds from a balancing event are to the amounts received or receivable in connection with the event shown in the following Table— 15

TABLE
 BALANCING EVENTS AND PROCEEDS

<i>1. Balancing event</i>	<i>2. Proceeds from event</i>	
The sale of the relevant interest.	The net proceeds of the sale.	20
The acquisition of the relevant interest under section 4.2.5(3) (ending of lease where incoming lessee makes payment to outgoing lessee).	The net amount of the payment to the outgoing lessee.	25
The demolition or destruction of the agricultural building.	The net amount received for the remains of the building, together with—	
	(a) any insurance money received in respect of the demolition or destruction, and	30
	(b) any other compensation of any description received in respect of the demolition or destruction, in so far as that compensation consists of capital sums.	35
The agricultural building ceases altogether to be used.	Any compensation of any description received in respect of the event, in so far as the compensation consists of capital sums.	40

- (2) The amounts referred to in column 2 of the Table are those received or receivable by the person whose entitlement to a balancing allowance or liability to a balancing charge is in question.

4.5.5 Exclusion of proportion of proceeds

- (1) The amounts referred to in column 2 of the Table in section 4.5.4(1) do not include any amount which, on a just and reasonable apportionment, is attributable to assets representing expenditure in respect of which an allowance cannot be made under this Part. 5
- (2) If the qualifying expenditure in respect of which the balancing adjustment is made was restricted as a result of — 10
- (a) subsection (3) or (4) of section 4.3.1 (restrictions on expenditure on farmhouse), or
- (b) subsection (5) of that section (restriction on expenditure on buildings to be used partly for purposes other than husbandry),
- a corresponding proportion only of the amounts referred to in the Table in section 4.5.4(1) is to be treated as proceeds from the balancing event. 15
- (3) If subsections (1) and (2) both apply, subsection (1) applies first and subsection (2) applies to the resulting amounts.
- (4) Subsection (1) does not affect sections 12.5.1 to 12.5.2 (general provisions about apportionment). 20

Calculation of balancing adjustments

4.5.6 Calculation of balancing adjustment

- (1) A balancing allowance is made if —
- (a) there are no proceeds from the balancing event, or
- (b) the proceeds from the balancing event are less than the residue of qualifying expenditure immediately before the event. 25
- (2) The amount of the balancing allowance is the amount of —
- (a) the residue (if there are no proceeds);
- (b) the difference (if the proceeds are less than the residue).
- (3) A balancing charge is made if the proceeds from the balancing event are more than the residue of qualifying expenditure immediately before the event. 30
- (4) The amount of the balancing charge is the amount of the difference.

4.5.7 The residue of qualifying expenditure

The residue of qualifying expenditure at any time is —

$$QE + B - A \quad 35$$

where —

- QE* is the amount of qualifying expenditure,
- B* is the total amount of balancing charges previously made under this Part in respect of the expenditure, and
- A* is the total amount of any allowances (including balancing 40

allowances) previously made under this Part in respect of that expenditure (whether to the same or to different persons).

4.5.8 Overall limit on balancing charge

The amount of a balancing charge made on a person in respect of any qualifying expenditure must not exceed the total allowances made under this Part to the person in respect of the expenditure for chargeable periods ending before the balancing event. 5

4.5.9 Acquisition of relevant interest in part of land, etc.

- (1) This section applies if a balancing event relates to—
 - (a) the acquisition of the relevant interest in part only of the related agricultural land in which the interest subsisted when the qualifying expenditure was incurred, or 10
 - (b) only part of the agricultural building.
- (2) Entitlement or liability to, and the amount of, the balancing adjustment, are determined by reference to the part of the qualifying expenditure that is properly attributable to the part of the related agricultural land or (as the case may be) the agricultural building. 15
- (3) Section 4.4.6 (no writing-down allowance for qualifying expenditure for the chargeable period in which a balancing adjustment is made) applies to the part of the qualifying expenditure referred to in subsection (2). 20

4.5.10 Balancing allowances restricted where sale subject to subordinate interest etc.

- (1) This section applies if—
 - (a) the relevant interest in the related agricultural land is sold subject to a subordinate interest, 25
 - (b) the person entitled to the relevant interest immediately before the sale (“the former owner”) would, apart from this section, be entitled to a balancing allowance under this Chapter as a result of the sale, and
 - (c) condition A or B is met.
- (2) Condition A is that— 30
 - (a) the former owner,
 - (b) the person who acquires the relevant interest, and
 - (c) the person to whom the subordinate interest was granted,or any two of them, are connected persons.
- (3) Condition B is that it appears that the sole or main benefit which might have been expected to accrue to the parties or any of them from the sale or the grant, or transactions including the sale or grant, was the obtaining of an allowance under this Part. 35
- (4) For the purpose of deciding what balancing adjustment is to be made in a case to which this section applies, the net proceeds of the sale to the former owner are to be increased— 40
 - (a) by an amount equal to any premium receivable by him for the grant of the subordinate interest, and

-
- (b) if no rent, or no commercial rent, is payable in respect of the subordinate interest, by the amount by which the proceeds would have been greater if a commercial rent had been payable and the relevant interest had been sold in the open market.
- (5) But the net proceeds of the sale are not to be treated as being greater than the amount which secures that no balancing allowance is made. 5
- (6) If the terms on which a subordinate interest is granted are varied before the sale of the relevant interest –
- (a) any capital consideration for the variation is to be treated for the purposes of this section as a premium for the grant of the interest, and 10
- (b) the question whether any, and if so what, rent is payable in respect of the interest is to be determined by reference to the terms in force immediately before the sale.
- (7) If this section applies in relation to a sale to deny or reduce a balancing allowance, the residue of qualifying expenditure immediately after the sale is nevertheless calculated as if the balancing allowance had been made or not reduced. 15
- 4.5.11 Interpretation of section 4.5.10**
- (1) In section 4.5.10 –
- “commercial rent” means such rent as may reasonably be expected to have been required in respect of the subordinate interest (having regard to any premium payable for the grant of the interest) if the transaction had been at arm’s length; 20
- “premium” includes any capital consideration, except so much of any sum as corresponds to an amount of rent or profits falling to be calculated by reference to that sum under section 34 of ICTA; 25
- “subordinate interest” means an interest in or right over the related agricultural land, whether granted by the former owner or anyone else.
- (2) In section 4.5.10 and this section – 30
- “capital consideration” means consideration which consists of a capital sum or would be a capital sum if it had consisted of a money payment, and
- “rent” includes any consideration which is not capital consideration.

CHAPTER 4.6 35

SUPPLEMENTARY PROVISIONS

Giving effect to allowances and charges

4.6.1 Trades

An allowance or charge to which a person is entitled or liable under this Part is to be given effect in calculating the profits of that person’s trade, by treating – 40

- (a) the allowance as an expense of the trade, and
- (b) the charge as a receipt of the trade.

4.6.2 Schedule A businesses

- (1) This section applies if a person who is entitled or liable to an allowance or charge for a chargeable period was not carrying on a trade in that period.
- (2) If the person was carrying on a Schedule A business at any time in that period, the allowance or charge is to be given effect in calculating the profits of that business, by treating—
 - (a) the allowance as an expense of that business, and
 - (b) the charge as a receipt of that business.
- (3) If the person was not carrying on a Schedule A business at any time in that period, the allowance or charge is to be given effect by treating him as if he had been carrying on such a business in that period and as if—
 - (a) the allowance were an expense of that business, and
 - (b) the charge were a receipt of that business.

Meaning of “lease” etc.

4.6.3 Meaning of “lease” etc.

- (1) In this Part “lease” includes—
 - (a) an agreement for a lease if the term to be covered by the lease has begun, and
 - (b) any tenancy,but does not include a mortgage (and “lessee”, “lessor” and “leasehold interest” are to be read accordingly).
- (2) In the application of this Part to Scotland—
 - (a) “leasehold interest” means the interest of a tenant in property subject to a lease, and
 - (b) any reference to an interest which is reversionary on a leasehold interest or on a lease is to be read as a reference to the interest of the landlord in the property subject to the leasehold interest or lease.

PART 5

MINERAL EXTRACTION ALLOWANCES

CHAPTER 5.1

INTRODUCTION

5.1.1 Mineral extraction allowances

- (1) Allowances are available under this Part if a person carries on a mineral extraction trade and incurs qualifying expenditure.
- (2) In this Part “mineral extraction trade” means a trade which consists of, or includes, the working of a source of mineral deposits.
- (3) In this Part “mineral deposits” includes any natural deposits capable of being lifted or extracted from the earth.

For this purpose geothermal energy in any form is to be treated as a natural deposit.

- (4) Any reference in this Part to mineral deposits is to mineral deposits of a wasting nature.
- (5) In this Part “source of mineral deposits” includes a mine, an oil well and a source of geothermal energy. 5

5.1.2 Qualifying expenditure

- (1) In this Part “qualifying expenditure” means—
 - (a) expenditure on mineral exploration and access which is qualifying expenditure under Chapter 5.2, 10
 - (b) expenditure on acquiring a mineral asset which is qualifying expenditure under Chapter 5.3,
 - (c) expenditure which is treated as qualifying expenditure on mineral exploration and access under Chapter 5.4, and
 - (d) expenditure which is qualifying expenditure under Chapter 5.5 15
 (expenditure on works likely to become valueless and post-trading restoration expenditure).

But this is subject to subsections (2) and (3).

- (2) Expenditure is not qualifying expenditure if it is excluded from being qualifying expenditure by section 5.1.6. 20
- (3) Chapter 5.4 contains provisions limiting in certain cases the amount of expenditure which is qualifying expenditure.

5.1.3 Meaning of “mineral exploration and access”

- (1) In this Part “mineral exploration and access” means—
 - (a) searching for or discovering and testing the mineral deposits of a source, or 25
 - (b) winning access to such deposits.
- (2) Expenditure on seeking planning permission necessary to enable—
 - (a) mineral exploration and access to be undertaken at any place, or
 - (b) any mineral deposits to be worked, 30
 is treated as expenditure on mineral exploration and access if planning permission is not granted.
- (3) “Seeking planning permission” includes pursuing an appeal against a refusal to grant planning permission.

5.1.4 Meaning of “mineral asset” 35

In this Part “mineral asset” means—

- (a) any mineral deposits or land comprising mineral deposits, or
- (b) any interest in or right over such deposits or land.

5.1.5 Relationship between main types of qualifying expenditure

Subject to Chapter 5.4, expenditure on— 40

-
- (a) the acquisition of, or of rights over, the site of a source of mineral deposits, or
(b) the acquisition of, or of rights over, mineral deposits,
is to be treated as expenditure on acquiring a mineral asset and not as expenditure on mineral exploration and access. 5

5.1.6 Expenditure excluded from being qualifying expenditure

- (1) Expenditure on the provision of plant or machinery is not qualifying expenditure except as provided by section 5.2.3 (pre-trading expenditure on plant or machinery).
- (2) Expenditure on works constructed wholly or mainly for subjecting the raw product of a source to any process is not qualifying expenditure, unless the process is designed for preparing the raw product for use as such. 10
- (3) Expenditure on buildings or structures provided for occupation by, or for the welfare of, workers is not qualifying expenditure except as provided by section 5.5.2. 15
- (4) Expenditure on a building is not qualifying expenditure if the whole of the building was constructed for use as an office.
- (5) Subsection (6) applies if part of a building or structure has been constructed for use as an office.
- (6) The expenditure on the office part is not qualifying expenditure if it was more than 10% of the capital expenditure incurred on the construction of the whole. 20

CHAPTER 5.2

QUALIFYING EXPENDITURE ON MINERAL EXPLORATION AND ACCESS

5.2.1 Qualifying expenditure on mineral exploration and access 25

- (1) Expenditure on mineral exploration and access is qualifying expenditure if—
(a) it is capital expenditure, and
(b) it is incurred for the purposes of a mineral extraction trade.
- (2) Expenditure on mineral exploration and access incurred by a person in connection with a mineral extraction trade which that person carries on then or subsequently is to be treated as incurred for the purposes of that trade. 30
- (3) But pre-trading expenditure on mineral exploration and access is qualifying expenditure only to the extent provided by—
section 5.2.2 (pre-trading exploration expenditure), or
section 5.2.3 (pre-trading expenditure on plant or machinery). 35
- (4) Any pre-trading expenditure that is qualifying expenditure under either of those sections is to be treated as incurred on the first day of trading.
- (5) In this Chapter—
(a) “pre-trading expenditure” means capital expenditure incurred before the day on which a person begins to carry on a mineral extraction trade, and 40

- (b) “the first day of trading”, in relation to a person’s pre-trading expenditure, means the day on which that person begins to carry on the mineral extraction trade.

5.2.2 Pre-trading exploration expenditure

- (1) This section applies if— 5
- (a) a person incurs pre-trading expenditure on mineral exploration and access at a source, and
- (b) the expenditure is not incurred on the provision of plant or machinery.
- (2) The amount of the expenditure (“pre-trading exploration expenditure”) that is qualifying expenditure depends on whether mineral exploration and access is continuing at the source on the first day of trading. 10
- (3) If it is, so much of the pre-trading exploration expenditure as exceeds any relevant receipts is qualifying expenditure.
- (4) If it is not, only so much of the pre-trading exploration expenditure as— 15
- (a) was incurred within 6 years ending on the first day of trading, and
- (b) exceeds any relevant receipts,
- is qualifying expenditure.
- (5) “Relevant receipts” means capital sums received—
- (a) by the person incurring the pre-trading exploration expenditure referred to in subsection (3) or (4), and 20
- (b) before the first day of trading,
- so far as they are reasonably attributable to that expenditure.

5.2.3 Pre-trading expenditure on plant or machinery

- (1) This section applies if— 25
- (a) a person incurs pre-trading expenditure on the provision of plant or machinery for mineral exploration and access,
- (b) the plant or machinery was used in connection with mineral exploration and access at a source, and
- (c) before the first day of trading, the plant or machinery is sold, demolished, destroyed or abandoned. 30
- (2) The amount of the expenditure (“pre-trading expenditure on plant or machinery”) that is qualifying expenditure depends on whether mineral exploration and access is continuing at the source on the first day of trading.
- (3) If it is, so much of the pre-trading expenditure on plant or machinery as exceeds any relevant receipts is qualifying expenditure. 35
- (4) If it is not, only so much of the pre-trading expenditure on plant or machinery as—
- (a) was incurred within 6 years ending on the first day of trading, and
- (b) exceeds any relevant receipts, 40
- is qualifying expenditure.
- (5) “Relevant receipts” means any sale, insurance, salvage or compensation money resulting from the sale, demolition, destruction or abandonment of

the plant or machinery.

CHAPTER 5.3

QUALIFYING EXPENDITURE ON ACQUIRING A MINERAL ASSET

5.3.1 Qualifying expenditure on acquiring a mineral asset

- (1) Expenditure on acquiring a mineral asset is qualifying expenditure if— 5
 - (a) it is capital expenditure, and
 - (b) it is incurred for the purposes of a mineral extraction trade.
- (2) Subsection (1) is subject to—
 - section 5.3.2 (exclusion of undeveloped market value of land), and
 - section 5.3.4 (reduction where premium relief previously allowed). 10
- (3) In this Chapter “the buyer”, in relation to the acquisition of a mineral asset, means the person acquiring it.

5.3.2 Exclusion of undeveloped market value of land

- (1) If the mineral asset is an interest in land, so much of the buyer’s expenditure on acquiring the asset as is equal to the undeveloped market value of the interest is not qualifying expenditure. 15
- (2) “The undeveloped market value of the interest” means the amount that, at the time of the acquisition, the interest might reasonably be expected to fetch on a sale in the open market assuming—
 - (a) that no source of mineral deposits existed on or in the land, and 20
 - (b) that it would only ever be lawful to carry out development which at that time—
 - (i) had been, or had begun to be, lawfully carried out, or
 - (ii) could lawfully be carried out under planning permission granted by a general development order in force at that time. 25
- (3) In applying subsection (2) to land outside the United Kingdom—
 - (a) whether development has been or has begun to be lawfully carried out is to be determined according to the law of the territory in which the land is situated, and
 - (b) whether planning permission has been granted by a general development order in force at a particular time shall be determined as if the land were in England. 30
- (4) References in this section to the time of acquisition are not affected by section 5.7.3 (expenditure incurred before trade carried on).
- (5) This section does not apply to the buyer’s expenditure if an election under section 12.5.7 (sales between connected persons, etc.: election for continuity) is made in relation to the acquisition. 35

5.3.3 Qualifying expenditure where buildings or structures cease to be used

- (1) This section applies if—
 - (a) section 5.3.2 (exclusion of undeveloped market value of land) applies to limit the buyer’s qualifying expenditure on acquiring the mineral 40

- asset,
- (b) the undeveloped market value of the interest in land includes the value of any buildings or structures on the land, and
- (c) at the time of the acquisition, or at any later time when the interest in land is owned by the buyer, those buildings or structures permanently cease to be used for any purpose. 5
- (2) If this section applies, the buyer is to be treated –
- (a) as having incurred qualifying expenditure, on acquiring a mineral asset, of an amount equal to the unrelieved value of the buildings or structures, and 10
- (b) as having incurred it when the buildings or structures permanently cease to be used for any purpose.
- (3) The unrelieved value of the buildings or structures is –
- $$V - (A - B)$$
- where – 15
- V* is the value of the buildings or structures at the date of the acquisition (disregarding any value properly attributable to the land on which they stand),
- A* is the amount of any allowances made to the buyer under the provisions of this Act other than Part 10 (assured tenancy allowances) in respect of – 20
- (a) the buildings or structures, or
- (b) assets in the buildings or structures, and
- B* is the amount of any balancing charges made on the buyer under those provisions in respect of those buildings or structures or assets in them. 25
- (4) References in this section to the time of acquisition are not affected by section 5.7.3 (time when expenditure incurred).

5.3.4 Reduction where premium relief previously allowed

- (1) This section applies if –
- (a) the mineral asset is or includes an interest in land, and 30
- (b) for chargeable periods previous to the chargeable period for which the buyer first becomes entitled to an allowance under this Part in respect of the expenditure on acquiring the mineral asset, deductions are made under section 87 of ICTA (deductions in calculating trading profits where premiums etc. taxable). 35
- (2) If this section applies, the amount of the expenditure on the acquisition of the mineral asset that is qualifying expenditure is reduced by –

$$D \times \frac{E}{T}$$

where –

- D* is the total of the deductions made under section 87 of ICTA in the earlier chargeable periods mentioned in subsection (1)(b), 40
- E* is the amount of the capital expenditure on the acquisition of the interest in land that would have been qualifying expenditure if the buyer had been entitled to allowances under this Part in those earlier periods, and 45

T is the total amount of the capital expenditure on the acquisition of the interest in land.

CHAPTER 5.4

QUALIFYING EXPENDITURE: SECOND-HAND ASSETS

Assets reflecting expenditure on mineral exploration and access

5

5.4.1 Acquisition of mineral asset owned by previous trader

- (1) This section applies if—
 - (a) a person carrying on a mineral extraction trade (“the buyer”) incurs capital expenditure on acquiring a mineral asset (“asset X”) for the purposes of that trade, and 10
 - (b) the conditions in subsection (3) are met.
- (2) In this section “the buyer’s expenditure” means the expenditure referred to in subsection (1)(a), less any amount which, under section 5.3.2 (exclusion of undeveloped market value of land), is not qualifying expenditure on the acquisition of the mineral asset. 15
- (3) The conditions are that—
 - (a) expenditure was previously incurred on acquiring asset X or bringing it into existence by—
 - (i) the person from whom the buyer acquired asset X, or
 - (ii) an earlier owner of asset X, 20in connection with a mineral extraction trade carried on by the person incurring that expenditure,
 - (b) part of the value of asset X is properly attributable to expenditure (“E1”) on mineral exploration and access by the previous trader, and
 - (c) it is just and reasonable to attribute part of the buyer’s expenditure (“E2”) to that part of the value of asset X. 25
- (4) In arriving at E1, any expenditure that is or has been deducted in calculating, for tax purposes, the profits of a trade carried on by the previous trader must be excluded.
- (5) If this section applies— 30
 - (a) so much of the buyer’s expenditure as is equal to the lesser of E1 and E2 is to be treated as qualifying expenditure on mineral exploration and access, and
 - (b) the buyer’s expenditure on acquiring the mineral asset is reduced by the same amount. 35
- (6) “The previous trader” means—
 - (a) the person incurring the expenditure mentioned in subsection (3)(a), or
 - (b) if there has been more than one such person, the last before the buyer acquired asset X. 40
- (7) In this section references to asset X include—
 - (a) two or more assets which together make up asset X, and
 - (b) one asset from which, or two or more assets from the combination of

which, asset X is derived.

5.4.2 Acquisition of oil licence from non-trader

- (1) This section applies if—
- (a) a person carrying on a mineral extraction trade (“the buyer”) incurs capital expenditure on acquiring an interest in an oil licence for the purposes of that trade, 5
 - (b) the person from whom the interest was acquired (“the seller”) disposed of the interest without having carried on a mineral extraction trade,
 - (c) part of the value of the interest is attributable to expenditure (“E1”) on mineral exploration and access by the seller, and 10
 - (d) it is just and reasonable to attribute part of the buyer’s expenditure (“E2”) to that part of the value of the interest.
- (2) If this section applies—
- (a) so much of the buyer’s expenditure as is equal to the lesser of E1 and E2 is to be treated as qualifying expenditure on mineral exploration and access, and 15
 - (b) the buyer’s expenditure on acquiring the interest in the oil licence is reduced by an amount equal to E2.
- (3) In this section “oil licence” and “interest in an oil licence” have the same meaning as in Chapter 12.3. 20

5.4.3 Acquisition of other assets from non-traders

- (1) This section applies if—
- (a) a person carrying on a mineral extraction trade (“the buyer”) incurs capital expenditure on acquiring any assets for the purposes of that trade, 25
 - (b) the person from whom the assets were acquired (“the seller”) disposed of the assets without having carried on a mineral extraction trade,
 - (c) the assets represent expenditure on mineral exploration and access incurred by the seller, and 30
 - (d) section 5.4.2 (acquisition of oil licence from non-trader) does not apply in relation to the acquisition.
- (2) If this section applies, the buyer’s expenditure is qualifying expenditure only to the extent that it does not exceed the amount of the seller’s expenditure on mineral exploration and access that is represented by the assets. 35
- (3) The references in this section to assets representing expenditure on mineral exploration and access include references to any results obtained from any search, exploration or inquiry on which the expenditure was incurred.

Qualifying expenditure on assets limited by reference to historic costs 40

5.4.4 UK oil licence: limit is original licence payment

- (1) This section applies if a person carrying on a mineral extraction trade (“the buyer”) incurs capital expenditure on acquiring a mineral asset which is a UK

oil licence, or an interest in such a licence, for the purposes of that trade.

- (2) If this section applies, the buyer's expenditure is qualifying expenditure only to the extent that it does not exceed—
- (a) the original licence payment, or
 - (b) if the mineral asset is an interest in a UK oil licence, such part of the original licence payment as it is just and reasonable to attribute to the interest.
- (3) In this section “the original licence payment” means the amount paid to the relevant authority for the purpose of obtaining the licence by the person to whom the licence was granted.
- (4) This section does not affect any expenditure that is treated as qualifying expenditure on mineral exploration and access under—
section 5.4.1 (acquisition of mineral asset owned by previous trader), or
section 5.4.2 (acquisition of oil licence from non-trader).
- (5) In this section “UK oil licence” and “the relevant authority” have the same meaning as in Chapter 12.3.

5.4.5 Assets generally: limit is previous trader's unrelieved qualifying expenditure

- (1) This section applies if—
- (a) a person carrying on a mineral extraction trade (“the buyer”) incurs capital expenditure on acquiring an asset (“asset X”) for the purposes of that trade, and
 - (b) expenditure was previously incurred on acquiring asset X or bringing it into existence by—
 - (i) the person from whom the buyer acquired asset X, or
 - (ii) an earlier owner of asset X,in connection with a mineral extraction trade carried on by the person incurring that expenditure.
- (2) In this section “the buyer's expenditure” means the expenditure referred to in subsection (1)(a) less any amount which, under section 5.3.2 (exclusion of undeveloped market value of land), is not qualifying expenditure on the acquisition of the mineral asset.
- (3) If this section applies, the buyer's expenditure is qualifying expenditure only to the extent that it does not exceed the previous trader's unrelieved qualifying expenditure.
- (4) The previous trader's unrelieved qualifying expenditure is—

$$QE - (A - B)$$

where—

- QE* is so much of the expenditure incurred by the previous trader on the acquisition or bringing into existence of asset X as constitutes qualifying expenditure for the purposes of this Part,
- A* is the total of any allowances made under this Part in respect of the previous trader's qualifying expenditure, and
- B* is the total of any balancing charges made under this Part in respect of the previous trader's qualifying expenditure.

-
- (5) “The previous trader” means—
- (a) the person incurring the expenditure mentioned in subsection (1)(b), or
 - (b) if there has been more than one such person, the last before the buyer acquired asset X. 5
- (6) In this section references to asset X include—
- (a) two or more assets which together make up asset X, and
 - (b) one asset from which, or two or more assets from the combination of which, asset X is derived.
- (7) For the purposes of subsection (4), if the previous trader incurred expenditure on the acquisition or bringing into existence of one or more assets from which asset X is derived, QE is so much of that expenditure as—
- (a) was qualifying expenditure for the purposes of this Part, and
 - (b) is just and reasonable to attributable to asset X;
- and a similar apportionment is to be made to arrive at A and B. 15
- (8) This section does not affect any expenditure that is treated as qualifying expenditure on mineral exploration and access under—
- section 5.4.1 (acquisition of mineral asset owned by previous trader), or
 - section 5.4.2 (acquisition of oil licence from non-trader).
- 5.4.6 Transfers of mineral assets within group: limit is initial group expenditure** 20
- (1) Subsection (2) applies if a company (“the buyer”) incurs capital expenditure on acquiring a mineral asset (“asset X”) from another company (“the seller”) which is a group company in relation to the buyer at the time of the acquisition.
- (2) If this subsection applies, the buyer’s expenditure on acquiring asset X is to be left out of account for the purposes of this Part to the extent that it exceeds—
- (a) the capital expenditure incurred by the seller on acquiring asset X, or
 - (b) if asset X is an interest or right granted by the seller in a mineral asset acquired by the seller (“asset Y”), so much of the capital expenditure incurred by the seller on that mineral asset as on a just and reasonable apportionment is referable to that interest or right. 30
- (3) If the company which is the seller for the purposes of subsection (1) is also the buyer (an “earlier buyer”) for those purposes in relation to asset X or Y, apply subsection (2) in relation to the earlier buyer before applying it in relation to the later buyer; and so on in relation to any previous acquisition, until it is established that there is no earlier buyer. 35
- (4) Subsections (5) and (6) apply if the buyer is carrying on a mineral extraction trade and asset X is an interest in land; and in those subsections—
- (a) “the group acquisition” means the seller’s acquisition or, if subsection (3) applies, the acquisition in relation to which it is established that there is no earlier buyer, and
 - (b) “earlier group owner” means the seller or, if subsection (3) applies, any seller back to and including the seller who is not an earlier buyer. 40
- (5) The following provisions— 45
- (a) section 5.3.2 (exclusion of undeveloped market value of land), and

- (b) section 5.3.3 (qualifying expenditure treated as incurred when buildings or structures cease to be used),
apply to the buyer as if the time of the buyer's acquisition of asset X were the time of the group acquisition.
- (6) If an earlier group owner has been treated as having incurred any qualifying expenditure under section 5.3.3— 5
- (a) the buyer is to be treated as having incurred qualifying expenditure equal to the unrelieved value of the buildings and structures, but
 - (b) the unrelieved value is to be calculated under section 5.3.3(4) as if that section required allowances and balancing charges made to or on any earlier group owner to be taken into account. 10
- 5.4.7 Section 5.4.6: supplementary**
- (1) For the purposes of section 5.4.6 a company is a group company in relation to another company if— 15
- (a) it controls, or is controlled by, the other company, or
 - (b) both companies are under the control of another person.
- (2) Section 5.4.6 does not apply if— 20
- (a) the acquisition is a sale in respect of which an election is made under section 12.5.7 (sales between connected persons: election for continuity), or
 - (b) section 5.4.4 (UK oil licences: limit is original licence payment) applies to the acquisition.
- (3) Section 5.4.6 applies regardless of anything in sections 12.5.5 and 12.5.6 (sales between connected persons, etc., or to obtain tax advantage treated as at market value). 25
- (4) Section 5.4.6 does not affect any expenditure that is treated as qualifying expenditure on mineral exploration and access under—
section 5.4.1 (acquisition of mineral asset owned by previous trader), or
section 5.4.2 (acquisition of oil licence from non-trader).

CHAPTER 5.5

30

OTHER KINDS OF QUALIFYING EXPENDITURE

5.5.1 Expenditure on works likely to become valueless

- (1) Expenditure is qualifying expenditure if— 35
- (a) it is capital expenditure on constructing works in connection with the working of a source of mineral deposits,
 - (b) it is incurred for the purposes of a mineral extraction trade, and
 - (c) the works—
- (i) are likely to be of little or no value, when the source is no longer worked, to the last person working the source, or
 - (ii) if the source is worked under a foreign concession, are likely to become valueless, when the concession ends, to the last person working the source under the concession. 40
- (2) For the purposes of subsection (1), expenditure on constructing works does

not include expenditure on acquiring the site of the works or any right in or over the site.

- (3) In subsection (1)(c) “foreign concession” means a right or privilege granted by the government of, or any municipality or other authority in, a territory outside the United Kingdom. 5

5.5.2 Contribution to works for benefit of employees abroad

- (1) Subject to subsection (3), expenditure is qualifying expenditure if—
- (a) it is incurred by a person carrying on a mineral extraction trade outside the United Kingdom and for the purposes of that trade,
 - (b) it is a contribution consisting of a capital sum to the cost of buildings or works to which this section applies, and 10
 - (c) the buildings or works are likely to be of little or no value, when the source is no longer worked, to the last person working the source.
- (2) The buildings or works to which this section applies are—
- (a) buildings to be occupied by persons employed at or in connection with the working of a source outside the United Kingdom; 15
 - (b) works for the supply of water, gas or electricity wholly or mainly to buildings occupied or to be occupied by persons so employed;
 - (c) works to be used to provide other services or facilities wholly or mainly for the welfare of persons so employed or their dependants. 20
- (3) Expenditure is not qualifying expenditure if the person making the contribution—
- (a) acquires an asset as a result of the expenditure, or
 - (b) is entitled to an allowance for the expenditure under any other provision of the Tax Acts. 25

5.5.3 Expenditure on restoration within 3 years of ceasing to trade

- (1) If—
- (a) a person who has ceased to carry on a mineral extraction trade incurs expenditure on the restoration of a relevant site, and
 - (b) the expenditure is incurred within 3 years from the last day of trading and meets the further conditions in subsection (3), 30
- the net cost of the restoration is qualifying expenditure.
- (2) The qualifying expenditure is treated as incurred on the last day of trading.
- (3) The further conditions are that the expenditure—
- (a) has not been deducted in calculating for tax purposes the profits of any trade carried on by that person, and 35
 - (b) would have been—
 - (i) deductible in calculating the profits of the trade, or
 - (ii) capable of being qualifying expenditure under this Chapter, 40
 if the expenditure had been incurred while the trade was being carried on.
- (4) If any expenditure incurred by a person is qualifying expenditure under this section—
- (a) none of the expenditure on the restoration (not just its net cost) is to be

- deducted in calculating the person's income for any tax purposes, and
- (b) none of the amounts subtracted to produce the net cost is to be treated as that person's income for any tax purposes.
- (5) "Restoration" includes –
- (a) landscaping, 5
- (b) in relation to land in the United Kingdom, the carrying out of any works required as a condition of granting planning permission for development consisting of the winning and working of minerals, and
- (c) in relation to land outside the United Kingdom, the carrying out of any works required by any equivalent condition imposed under the law of the territory in which the land is situated. 10
- (6) A "relevant site" means –
- (a) the site of a source to the working of which the mineral extraction trade related, or
- (b) land used in connection with working such a source. 15
- (7) "The net cost of the restoration" means the amount of the expenditure incurred on the restoration less any amounts –
- (a) received within 3 years from the last day of trading, and
- (b) attributable to the restoration of the relevant site (for instance, amounts for spoil or other assets removed from the site or for tipping rights). 20
- (8) All such adjustments are to be made, by way of discharge or repayment of tax or otherwise, as are necessary to give effect to this section.

CHAPTER 5.6

ALLOWANCES AND CHARGES

25

Writing-down and balancing allowances and balancing charges

5.6.1 Determination of entitlement or liability

- (1) Whether a person is entitled to a writing-down allowance or a balancing allowance, or liable to a balancing charge, in respect of qualifying expenditure for a chargeable period depends on – 30
- (a) how much of that expenditure is available qualifying expenditure for that period ("AQE"), and
- (b) the total of any disposal receipts to be brought into account for that period ("TDR") by reference to that expenditure.
- (2) If AQE exceeds TDR, the person is entitled to a writing-down allowance or a balancing allowance for that period. 35
- (3) If TDR exceeds AQE, the person is liable to a balancing charge for that period.
- (4) The entitlement under subsection (2) is to a writing-down allowance except in cases for which sections 5.6.10 to 5.6.15 provide for a balancing allowance.

5.6.2 Amount of allowances and charges

40

- (1) The amount of the writing-down allowance to which a person is entitled for

-
- any chargeable period is—
- (a) in the case of qualifying expenditure on the acquisition of a mineral asset, 10% of the amount by which AQE exceeds TDR;
 - (b) in the case of other qualifying expenditure, 25% of the amount by which AQE exceeds TDR. 5
- (2) If the chargeable period is more or less than a year, the amount of the writing-down allowance is proportionately increased or reduced.
- (3) If the mineral extraction trade has been carried on for part only of the chargeable period, the amount of the writing-down allowance is proportionately reduced. 10
- (4) The amount of the balancing charge to which a person is liable for a chargeable period is—
- (a) the amount by which TDR exceeds AQE, or
 - (b) if less, the net amount of the allowances made for earlier chargeable periods. 15
- (5) The net amount of the allowances made for earlier chargeable periods is—

$$A - B$$

where—

A is the total of those allowances, and

B is the total of any balancing charges made for those earlier periods because of disposal receipts brought into account in respect of that expenditure. 20

- (6) The amount of a balancing allowance to which a person is entitled for a chargeable period is the amount by which AQE exceeds TDR.

Available qualifying expenditure 25

5.6.3 Available qualifying expenditure

- (1) A person's available qualifying expenditure—
- (a) for the chargeable period in which the expenditure is incurred, is the whole of the qualifying expenditure, or
 - (b) for any subsequent chargeable period, is the amount of unrelieved qualifying expenditure carried forward from the previous chargeable period. 30
- (2) The amount of unrelieved qualifying expenditure carried forward from a chargeable period is—

$$AQE - TDR - WDA$$
35

where—

AQE is the available qualifying expenditure for that period,

TDR is the total of any disposal receipts for that period, and

WDA is the writing-down allowance (if any) made for that period.

- (3) No amount may be carried forward as unrelieved qualifying expenditure after entitlement to a balancing allowance has arisen. 40

Disposal values

5.6.4 Meaning of “disposal receipt”

In sections 5.6.1 to 5.6.3 “disposal receipt” means a disposal value that a person is required to bring into account in accordance with—

- (a) sections 5.6.5 to 5.6.8, or 5
- (b) paragraph 11 of Schedule 12 to the Finance Act 1997 (finance lease or loan: receipt of major lump sum).

5.6.5 Disposal of, or ceasing to use, asset

- (1) This section applies if—
 - (a) a person has incurred qualifying expenditure on providing assets (including the construction of works), and 10
 - (b) any of those assets is disposed of or otherwise permanently ceases to be used by that person for the purposes of a mineral extraction trade.
- (2) The person is required to bring the disposal value of the asset into account for the chargeable period in which the disposal or cessation occurs. 15

5.6.6 Use of asset otherwise than for permitted development etc.

- (1) This section applies if—
 - (a) a person has acquired a mineral asset,
 - (b) the asset begins to be used (by that person or another) in a way which constitutes development, and 20
 - (c) the development is not—
 - (i) existing permitted development, or
 - (ii) development for the purposes of a mineral extraction trade carried on by that person.
- (2) The person is required to bring the disposal value of the mineral asset into account for the chargeable period in which the use begins. 25
- (3) In subsection (1) “existing permitted development” means development—
 - (a) which had been or begun to be lawfully carried on before the acquisition, or
 - (b) for which planning permission was granted by a general development order in force at the time of the acquisition. 30
- (4) In applying subsection (3) to land outside the United Kingdom—
 - (a) whether development has been or begun to be lawfully carried out is to be determined according to the law of the territory where the land is, and 35
 - (b) whether planning permission has been granted by a general development order in force at a particular time is to be determined as if the land were in England.

5.6.7 Sections 5.6.5 and 5.6.6: amount of disposal value to be brought into account

- (1) The disposal value to be brought into account under section 5.6.5 or 5.6.6 depends on the event requiring it to be brought into account, as shown in the following Table— 40

TABLE
 DISPOSAL VALUE FOR SECTIONS 5.6.5 AND 5.6.6

<i>1. Event</i>	<i>2. Disposal value</i>	
1. Sale of the asset, except in a case where item 2 applies.	The net proceeds of the sale, together with—	5
	(a) any insurance money received in respect of the asset as a result of an event affecting the price obtainable on the sale, and	10
	(b) any other compensation of any description so received, so far as it consists of capital sums.	
2. Sale of the asset where—	The market value of the asset at the time of the sale.	15
(a) the sale is at less than market value,		
(b) there is no charge to tax under Schedule E, and		
(c) the condition in subsection (3) is met by the buyer.		20
3. Demolition or destruction of the asset.	The net amount received for the remains of the asset, together with—	
	(a) any insurance money received in respect of the demolition or destruction, and	25
	(b) any other compensation of any description so received, so far as it consists of capital sums.	30
4. Permanent loss of the asset otherwise than as a result of its demolition or destruction.	Any insurance money received in respect of the loss, and any other compensation of any description so received, so far as that compensation consists of capital sums.	35
5. Permanent discontinuance of the trade followed by the occurrence of an event within item 1, 2, 3 or 4.	The same amount of disposal value as is specified for the item in question.	40
6. Any event not falling within any of items 1 to 5.	The market value of the asset at the time of the event.	

(2) The amounts referred to in column 2 of the Table are those received by the person required to bring the disposal value into account. 45

-
- (3) The condition referred to in item 2 of the Table is met by the buyer if—
- (a) the buyer's expenditure on the acquisition of the asset cannot be qualifying expenditure under Part 2 or 6 (plant and machinery and research and development allowances), or
 - (b) the buyer's expenditure can be such expenditure but the buyer is a dual resident investing company which is connected with the seller. 5

5.6.8 Disposal value restricted in case of interest in land

- (1) If the asset in relation to which a disposal value is required to be brought into account under section 5.6.5 or 5.6.6 is an interest in land, the disposal value is restricted by excluding the undeveloped market value of the interest. 10
- (2) The undeveloped market value of the interest is the amount that, at the time of the disposal, the interest might reasonably be expected to fetch on a sale in the open market on the assumption that—
- (a) no source of mineral deposits existed on or in the land, and
 - (b) it would only ever be lawful to carry out development which at that time— 15
 - (i) had been, or had begun to be, lawfully carried out, or
 - (ii) could lawfully be carried out under planning permission granted by a general development order in force at that time.
- (3) In applying subsection (2) to land outside the United Kingdom— 20
- (a) whether development has been or has begun to be lawfully carried out is to be determined according to the law of the territory where the land is, and
 - (b) whether planning permission has been granted by a general development order in force at a particular time is to be determined as if the land were in England. 25

5.6.9 Receipt of capital sum

- (1) This section applies if a person—
- (a) has incurred qualifying expenditure, and
 - (b) receives a capital sum which, in whole or in part, it is reasonable to attribute to that expenditure. 30
- (2) The person is required to bring into account as a disposal value so much of the capital sum as is reasonably attributable to the qualifying expenditure for the chargeable period in which the capital sum is received.
- (3) This section does not apply if the capital sum falls to be brought into account under section 5.6.5 or 5.6.6. 35

Cases in which a person is entitled to a balancing allowance

5.6.10 Pre-trading expenditure

- A person is entitled to a balancing allowance for a chargeable period if—
- (a) the expenditure is qualifying expenditure under— 40
 - (i) section 5.2.2(4) (pre-trading exploration expenditure where exploration etc. has ceased before first day of trading), or

-
- (ii) section 5.2.3 (pre-trading expenditure on plant or machinery),
and
 - (b) the first day of trading occurs in that chargeable period.

5.6.11 Giving up exploration, search or inquiry

- A person is entitled to a balancing allowance for a chargeable period if— 5
- (a) the qualifying expenditure is expenditure on mineral exploration and access,
 - (b) he gives up the exploration, search or inquiry to which the expenditure related in that chargeable period, and
 - (c) he does not then or subsequently carry on a mineral extraction trade 10
which consists of or includes the working of mineral deposits to which the expenditure related.

5.6.12 Ceasing to work mineral deposits

- (1) A person is entitled to a balancing allowance for a chargeable period if—
 - (a) in that chargeable period he permanently ceases to work particular 15
mineral deposits, and
 - (b) the qualifying expenditure is expenditure incurred—
 - (i) on mineral exploration and access relating solely to those
deposits, or
 - (ii) on acquiring a mineral asset consisting of those deposits or 20
part of them.
- (2) If the person carrying on the mineral extraction trade is entitled to two or
more mineral assets which at any time—
 - (a) were comprised in a single mineral asset, or
 - (b) were otherwise derived from a single mineral asset, 25
 subsection (1) does not apply until such time as that person permanently
ceases to work the deposits comprised in all the mineral assets concerned
taken together.
- (3) For the purposes of subsection (2), if a mineral asset relates to, but does not
actually consist of, mineral deposits, the deposits to which the asset relates 30
are to be treated as comprised in the asset.

5.6.13 Buildings etc. for benefit of employees abroad ceasing to be used

- A person is entitled to a balancing allowance for a chargeable period if—
- (a) the expenditure is qualifying expenditure under section 5.5.2 35
(contributions to buildings or works for benefit of employees abroad),
and
 - (b) in that chargeable period the buildings or works permanently cease to
be used for the purposes of or in connection with the mineral
extraction trade.

5.6.14 Disposal of asset, etc. 40

- (1) A person is entitled to a balancing allowance for a chargeable period if—
 - (a) the qualifying expenditure was incurred on the provision of an asset,
and

- (b) in that chargeable period the asset is disposed of or otherwise ceases to be used for the purposes of the mineral extraction trade.
- (2) A person is entitled to a balancing allowance for a chargeable period in relation to an asset representing qualifying expenditure incurred by him if in that chargeable period—
 - (a) the person loses possession of the asset in circumstances where it is reasonable to assume that the loss is permanent;
 - (b) the asset ceases to exist as such (as a result of destruction, dismantling or otherwise);
 - (c) the asset begins to be used wholly or partly for purposes other than those of the mineral extraction trade carried on by the person.

5.6.15 Discontinuance of trade

A person is entitled to a balancing allowance for the chargeable period in which the mineral extraction trade is permanently discontinued.

CHAPTER 5.7

SUPPLEMENTARY PROVISIONS

5.7.1 Giving effect to allowances and charges

An allowance or charge to which a person is entitled or liable under this Part is to be given effect in calculating the profits of that person's mineral extraction trade, by treating—

- (a) the allowance as an expense of the trade, and
- (b) the charge as a receipt of the trade.

5.7.2 Treatment of demolition costs

- (1) The net cost to a person of demolishing an asset which represents qualifying expenditure is added to that qualifying expenditure in determining the amount of any balancing allowance or balancing charge for the chargeable period in which the demolition occurs.
- (2) "The net cost of the demolition" means the amount, if any, by which the cost of the demolition exceeds any money received for the remains of the asset.
- (3) If this section applies, the cost or net cost of the demolition is not treated as expenditure incurred on any other asset which replaces the demolished asset.

5.7.3 Time when expenditure incurred

- (1) For the purposes of this Part, expenditure incurred for the purposes of a mineral extraction trade by a person about to carry it on is treated as incurred by that person on the first day on which that person does carry it on.
- (2) Subsection (1) does not apply to pre-trading expenditure on mineral exploration and access (for which specific provision is made by section 5.2.1(4)).

5.7.4 Shares in assets

- (1) This Part applies in relation to a share in an asset as it applies (under section 12.6.1) in relation to a part of an asset.
- (2) For the purposes of those provisions, a share in an asset is treated as used for the purposes of a trade so long as, and only so long as, the asset is used for the purposes of the trade. 5

5.7.5 Meaning of “development” etc.

- (1) In this Part—
 - “development”
 - “development order”, 10
 - “general development order”, and
 - “planning permission”,
 have the meaning given by the relevant planning enactment.
- (2) “The relevant planning enactment” means—
 - (a) in relation to land in England or Wales, section 336(1) of the Town and Country Planning Act 1990; 15
 - (b) in relation to land in Scotland, section 277(1) of the Town and Country Planning (Scotland) Act 1997;
 - (c) in relation to land in Northern Ireland, Article 2(2) of the Planning (Northern Ireland) Order 1991. 20

PART 6

RESEARCH AND DEVELOPMENT ALLOWANCES

CHAPTER 6.1

INTRODUCTION

6.1.1 Research and development allowances 25

- (1) Allowances are available under this Part if a person incurs qualifying expenditure on research and development.
- (2) In this Part “research and development” has the meaning given by section 837A of ICTA and includes oil and gas exploration and appraisal.

6.1.2 Expenditure on research and development 30

- (1) Expenditure on research and development includes all expenditure—
 - (a) on carrying out research and development, or
 - (b) on providing facilities for carrying out research and development.
- (2) It does not include expenditure on the acquisition of rights in, or arising out of, research and development. 35
- (3) Any necessary apportionment shall be made, on a just and reasonable basis, of expenditure incurred only partly on research and development.

CHAPTER 6.2

QUALIFYING EXPENDITURE

6.2.1 Qualifying expenditure

- (1) In this Part “qualifying expenditure” means capital expenditure incurred by a person on research and development directly undertaken by the person or on the person’s behalf if—
 - (a) the person is carrying on a trade when the expenditure is incurred, and the research and development relates to that trade, or
 - (b) after incurring the expenditure the person sets up and commences a trade connected with the research.
- (2) The trade by reference to which expenditure is qualifying expenditure is referred to in this Part as “the relevant trade” in relation to that expenditure.
- (3) The same expenditure may not be taken into account as qualifying expenditure in relation to more than one trade.
- (4) Any necessary apportionment shall be made on a just and reasonable basis of expenditure partly within subsection (1) and partly not, or which relates to more than one trade.
- (5) References in this Chapter to research and development related to a trade include research and development which—
 - (a) may lead to or facilitate an extension of that trade, or
 - (b) is of a medical nature and has a special relation to the welfare of workers employed in that trade.

6.2.2 Excluded expenditure: land and dwellings

- (1) Expenditure on the acquisition of land, or rights in or over land, is not qualifying expenditure, except so far as referable to the acquisition of—
 - (a) a building or structure already constructed on the land,
 - (b) plant or machinery which forms part of such a building or structure, or
 - (c) rights in or over such a building or structure.
- (2) Expenditure on the provision of a dwelling is not qualifying expenditure, except where—
 - (a) the part of the building which is not a dwelling is used exclusively for research and development, and
 - (b) no more than 25% of the total capital expenditure referable to the construction or acquisition of the whole building is referable to the construction or acquisition of the dwelling.
- (3) In determining the expenditure referable under subsection (1) or (2) any apportionment shall be made on a just and reasonable basis.

6.2.3 Additional qualifying expenditure: cost of demolition

- (1) If an asset is demolished which—
 - (a) represents qualifying expenditure, and
 - (b) prior to its demolition had not begun to be used for purposes other

than research and development related to the relevant trade,
the cost of the demolition is treated as additional qualifying expenditure
incurred by the person carrying on the trade.

- (2) The additional qualifying expenditure is treated as incurred –
 - (a) when the demolition occurs or, 5
 - (b) if that is after the date on which the relevant trade is permanently discontinued, in the last chargeable period in which the trade was carried on.
- (3) This section does not apply if the demolition is an event that gives rise to a balancing allowance or balancing charge under Part 2 (plant and machinery allowances) or Part 3 (industrial buildings allowances). 10
- (4) If this section applies the cost of the demolition is not treated as expenditure on any asset that replaces the demolished asset.

CHAPTER 6.3

ALLOWANCES AND CHARGES 15

6.3.1 Allowances

- (1) A person who incurs qualifying expenditure is entitled to an allowance in respect of that expenditure for the relevant chargeable period equal to the amount by which the qualifying expenditure exceeds any disposal values required to be brought into account for that period. 20
- (2) The relevant chargeable period is –
 - (a) if the expenditure was incurred before the person incurring it begins to carry on the relevant trade, the chargeable period in which the person begins to carry on the trade;
 - (b) otherwise, the chargeable period in which the expenditure is incurred. 25

6.3.2 Balancing charges

- (1) This section applies if –
 - (a) an allowance has been made to a person for the relevant chargeable period in respect of qualifying expenditure,
 - (b) the person is required to bring a disposal value (or disposal values) into account for a later chargeable period in respect of that expenditure, and 30
 - (c) the disposal event does not give rise to a balancing charge under Part 2 or 3 (plant and machinery allowances and industrial buildings allowances). 35
- (2) The person is liable to a balancing charge for the later chargeable period in respect of the qualifying expenditure.
- (3) The amount of the balancing charge is –
 - (a) the amount by which the disposal value (or the total of the disposal values) to be brought into account for the period exceeds the unrelieved qualifying expenditure, or 40
 - (b) if less, the allowance made in respect of the qualifying expenditure less any balancing charges made in respect of that expenditure for

periods before the later chargeable period.

- (4) The unrelieved qualifying expenditure is the amount of any qualifying expenditure in respect of which an allowance has not been claimed.

6.3.3 Disposal events and disposal values

- (1) A person is required to bring a disposal value into account for a chargeable period in respect of qualifying expenditure incurred by him if— 5
- (a) he ceases to own an asset representing that expenditure, or
 - (b) an asset representing that expenditure is demolished or destroyed at a time when he owns the asset.
- (2) A person is also required to bring a disposal value into account by— 10
- section 6.4.3 (additional VAT rebate generates disposal value), and
 - section 12.3.4 (disposal of oil licence with exploitation value).
- (3) The disposal value to be brought into account under subsection (1) depends on the nature of the disposal event, as shown in the following Table—

TABLE 15
 DISPOSAL VALUES

<i>1. Disposal event</i>	<i>2. Disposal value</i>	
1. Sale of the asset at not less than market value.	The proceeds of the sale.	
2. Demolition or destruction of the asset.	The net amount received for the remains of the asset, together with—	20
	(a) any insurance money received in respect of the demolition or destruction, and	25
	(b) any other compensation of any description so received, so far as it consists of capital sums.	30
3. Any event not falling within any of items 1 or 2.	The market value of the asset at the time of the event.	

- (4) The disposal value to be brought into account if section 6.4.3 or 12.3.4 applies is given in that section.
- (5) Subsection (3) is subject to section 12.3.2 (nil value in case of disposal of oil licence relating to undeveloped area). 35
- (6) In this Chapter “disposal event” means—
- (a) the event as a result of which the person ceases to own the asset representing qualifying expenditure,
 - (b) the demolition or destruction of the asset, or 40
 - (c) the making of the additional VAT rebate (as to which see section 6.4.3) or the disposal of the interest in the oil licence (as to which see section

12.3.4).

6.3.4 Chargeable period for which a disposal value is to be brought into account

- (1) The chargeable period for which the disposal value is to be brought into account is –
 - (a) if the disposal event occurs before the chargeable period for which the allowance is made, that chargeable period, and 5
 - (b) otherwise, the chargeable period given by subsection (2).
- (2) The chargeable period is –
 - (a) if the disposal event occurs when the person is carrying on the relevant trade, the chargeable period in which the event occurs; 10
 - (b) if the disposal event occurs before that person begins to carry on the relevant trade, the chargeable period in which the person carries on the trade,
 - (c) if the disposal event occurs after that person has ceased to carry on the relevant trade, the last chargeable period in which the person carried on the trade. 15

CHAPTER 6.4

ADDITIONAL VAT LIABILITIES AND REBATES

6.4.1 Circumstances in which this Chapter applies

- (1) This Chapter applies if – 20
 - (a) a person has incurred qualifying expenditure (“the original expenditure”), and
 - (b) the person incurs an additional VAT liability or an additional VAT rebate is made to the person in respect of that expenditure.
- (2) This Chapter does not apply if by the time the liability is incurred or the rebate is made the asset in question – 25
 - (a) has been demolished or destroyed, or
 - (b) has ceased to be owned by the person who incurred the original expenditure.
- (3) In this Chapter – 30
 - (a) “additional VAT liability” and “additional VAT rebate” have the meaning given by section 12.2.2,
 - (b) references to the time when a person incurs an additional VAT liability or an additional VAT rebate is made to a person are to be read in accordance with section 12.2.3, and 35
 - (c) references to a chargeable period in which, or to the time when, an additional VAT liability or an additional VAT rebate accrues are references to the chargeable period in which, or to the time when, the liability or rebate is treated as accruing under section 12.2.4.

6.4.2 Additional VAT liability treated as additional expenditure etc. 40

- (1) If this Chapter applies because a person incurs an additional VAT liability, the liability is treated as additional capital expenditure incurred on the same research and development as the original expenditure.

- (2) An additional VAT liability or rebate is to be disregarded in applying section 6.2.2(2)(b) (expenditure on dwelling not qualifying expenditure unless it is no more than 25% of total).
- (3) Any allowance arising as a result of this section is to be made for—
 - (a) the chargeable period in which the additional VAT liability accrues, or 5
 - (b) if the time when the liability accrues is before the setting up and commencement of the trade, the chargeable period beginning with that setting up and commencement.

6.4.3 Additional VAT rebate generates disposal value

- (1) If this Chapter applies because an additional VAT rebate is made to a person, the person must bring the amount of the rebate into account as a disposal value for the chargeable period in which the rebate accrues. 10
- (2) Subsection (1) does not apply if the making of the rebate gives rise to a balancing charge under Part 2 or 3 (plant and machinery allowances and industrial buildings allowances). 15

CHAPTER 6.5

SUPPLEMENTARY PROVISIONS

6.5.1 Giving effect to allowances and charges

An allowance or charge to which a person is entitled or liable under this Part is to be given effect in calculating the profits of the relevant trade, by treating— 20

- (a) the allowance as an expense of that trade, and
- (b) the charge as a receipt of that trade.

6.5.2 Sales: time of cessation of ownership

Any reference in this Part to the time when a person ceases to own an asset is to be read, in the case of a sale, as a reference to whichever is the earlier of— 25

- (a) the time of completion, or
- (b) the time when possession is given.

PART 7

KNOW-HOW ALLOWANCES

30

CHAPTER 7.1

INTRODUCTION

7.1.1 Know-how allowances

- (1) Allowances are available under this Part if a person incurs qualifying expenditure on the acquisition of know-how. 35
- (2) In this Part “know-how” means any industrial information or techniques

-
- likely to assist in—
- (a) manufacturing or processing goods or materials,
 - (b) working a source of mineral deposits (including searching for, discovering or testing mineral deposits or obtaining access to them),
or 5
 - (c) carrying out any agricultural, forestry or fishing operations.
- (3) In subsection (2)(b)—
- (a) “mineral deposits” includes any natural deposits capable of being lifted or extracted from the earth and for this purpose geothermal energy is to be treated as a natural deposit, and 10
 - (b) “source of mineral deposits” means a mine, oil well or other source of mineral deposits.
- 7.1.2 Know-how as property**
- (1) Know-how is deemed to be property for the purposes of this Act.
 - (2) References in this Act to the purchase or sale of property include references to the acquisition or disposal of know-how. 15
- 7.1.3 Acquisition of know-how together with a trade**
- (1) If a person disposes of know-how used in a trade together with that trade or part of it, any consideration received by him for the know-how is to be treated, for the purposes of this Act, in relation to— 20
 - (a) that person, and
 - (b) the person acquiring the know-how, if that person provided the consideration,
 as a payment for goodwill (and not as a payment for know-how).
 - (2) Subsection (1) does not apply in the case of the disposal of know-how used in a trade— 25
 - (a) to either of the persons concerned if they so elect jointly, or
 - (b) to the person acquiring the know-how, if the trade in question was, before the acquisition, carried on wholly outside the United Kingdom.
 This is subject to subsection (3). 30
 - (3) Subsection (1) applies to a sale of know-how, regardless of subsection (2), if— 35
 - (a) the buyer is a body of persons over whom the seller has control,
 - (b) the seller is a body of persons over whom the buyer has control, or
 - (c) the buyer and the seller are both bodies of persons and another person has control over both of them.
 - (4) Any election under subsection (2) must be made by notice to the Inland Revenue within two years of the disposal.
 - (5) In subsection (3) “body of persons” includes a partnership.

CHAPTER 7.2

QUALIFYING EXPENDITURE

7.2.1 Qualifying expenditure

- (1) In this Part “qualifying expenditure” means, subject to section 7.2.2, capital expenditure incurred on the acquisition of know-how by a person if – 5
 - (a) the person is carrying on a trade when the expenditure is incurred, and the know-how is acquired for use in that trade,
 - (b) the person acquires the know-how and thereafter sets up and commences a trade in which it is used,
 - (c) the person acquires the know-how together with the trade in which the know-how was used, or a part of that trade, and the parties to the acquisition make an election under section 7.1.3(2)(a), or 10
 - (d) the person acquires the know-how together with the trade in which the know-how was used, or a part of that trade, and that trade was, before the acquisition, carried on wholly outside the United Kingdom. 15
- (2) The trade by reference to which expenditure is qualifying expenditure is referred to in this Part as “the relevant trade” in relation to that expenditure.
- (3) Qualifying expenditure incurred before the setting up and commencement of the relevant trade is treated for the purposes of this Part as incurred when the trade is set up and commenced. 20

7.2.2 Excluded expenditure

- (1) Expenditure on the acquisition of know-how is not qualifying expenditure to the extent that it is otherwise deducted for the purposes of income tax or corporation tax.
- (2) Expenditure on the acquisition of know-how is not qualifying expenditure if the know-how is – 25
 - (a) acquired by a body of persons over whom the person disposing of the know-how has control,
 - (b) disposed of by a body of persons over whom the person acquiring the know-how has control, or 30
 - (c) disposed of by a body of persons and acquired by a body of persons, in a case where another person has control over both of them.
- (3) In subsection (2) “body of persons” includes a partnership.

CHAPTER 7.3

ALLOWANCES AND CHARGES

35

7.3.1 Pooling of expenditure

- (1) Qualifying expenditure has to be pooled for the purpose of determining a person’s entitlement to writing-down allowances and balancing allowances and liability to balancing charges.
- (2) If a person carries on more than one trade, expenditure relating to the different trades must not be allocated to the same pool. 40

7.3.2 Determination of entitlement or liability

- (1) Whether a person is entitled to a writing-down allowance or a balancing allowance, or liable to a balancing charge, for a chargeable period is determined separately for each pool of qualifying expenditure and depends on— 5
 - (a) the available qualifying expenditure in that pool for that period (“AQE”), and
 - (b) the total of any disposal values to be brought into account for that period (“TDV”).
- (2) If AQE exceeds TDV, the person is entitled to an allowance for that period. 10
- (3) If TDV exceeds AQE, the person is liable to a balancing charge for that period.
- (4) The entitlement under subsection (2) is to a writing-down allowance except for the final chargeable period when it is to a balancing allowance.
- (5) The final chargeable period is the chargeable period in which the relevant trade is permanently discontinued. 15

7.3.3 Amount of allowances and charges

- (1) The amount of the writing-down allowance to which a person is entitled for any chargeable period is 25% of the amount by which AQE exceeds TDV.
- (2) If the chargeable period is more or less than a year, the amount is proportionately increased or reduced. 20
- (3) If the relevant trade has been carried on for part only of the chargeable period, the amount is proportionately reduced.
- (4) The amount of the balancing charge to which a person is liable for a chargeable period is the amount by which TDV exceeds AQE.
- (5) The amount of the balancing allowance to which a person is entitled for the final chargeable period is the amount by which AQE exceeds TDV. 25

7.3.4 Available qualifying expenditure

- (1) A person’s available qualifying expenditure for a chargeable period is the total of—
 - (a) any qualifying expenditure incurred by that person during the current chargeable period, 30
 - (b) any qualifying expenditure incurred by that person at a previous time, other than expenditure which, or part of which, has formed part of that person’s qualifying expenditure for a previous chargeable period, and 35
 - (c) any unrelieved qualifying expenditure carried forward from the previous chargeable period.
- (2) The amount of unrelieved qualifying expenditure carried forward from a chargeable period is—

$$\text{AQE} - \text{TDV} - \text{WDA} \quad \text{40}$$

where —

AQE is the available qualifying expenditure for that period,

TDV is the total of any disposal values to be brought into account for that period, and

WDA is the writing-down allowance (if any) made for that period.

- (3) No amount may be carried forward as unrelieved qualifying expenditure from the final chargeable period. 5

7.3.5 Disposal values

- (1) A person is required to bring a disposal value into account for the chargeable period in which he sells know-how.
- (2) The disposal value to be brought into account is the net proceeds of the sale, so far as they consist of capital sums. 10
- (3) No disposal value need be brought into account for a chargeable period in respect of the sale by a person of know-how if none of the expenditure incurred by that person on the purchase of the know-how is or has been taken into account in determining that person's available qualifying expenditure for that or any previous chargeable period. 15
- (4) No disposal value need be brought into account if the consideration received for the sale is treated as a payment for goodwill under section 7.1.3.

7.3.6 Giving effect to allowances and charges

An allowance or charge to which a person is entitled or liable under this Part is to be given effect in calculating the profits of the relevant trade, by treating— 20

- (a) the allowance as an expense of that trade, and
(b) the charge as a receipt of that trade.

PART 8

PATENT ALLOWANCES 25

CHAPTER 8.1

INTRODUCTION

8.1.1 Patent allowances

- (1) Allowances are available under this Part if a person incurs qualifying expenditure on the purchase of patent rights. 30
- (2) "Patent rights" means the right to do or authorise the doing of anything which would, but for that right, be an infringement of a patent.

8.1.2 Acquisition of future patent rights

- (1) References in this Part to expenditure incurred on the purchase of patent rights include expenditure incurred on obtaining a right to acquire in the future patent rights in respect of an invention in respect of which the patent has not yet been granted. 35

-
- (2) If a person—
- (a) incurs expenditure on obtaining a right to acquire in the future patent rights in respect of an invention in respect of which the patent has not yet been granted, and
 - (b) then acquires those rights, 5
- any expenditure on the earlier purchase counts as expenditure on the purchase of those rights.
- (3) References in this Part to the proceeds of a sale of patent rights include a sum which, in relation to the person paying it, is treated as expenditure incurred on the purchase of patent rights under this section. 10

8.1.3 Grant of licences

- (1) The acquisition of a licence in respect of a patent is treated as the purchase of patent rights.
- (2) The grant of an exclusive licence by a person entitled to patent rights for the period remaining until those rights come to an end is treated as a sale of the whole of those rights. 15
- An “exclusive licence” means a licence to exercise the rights to the exclusion of the grantor and all other persons.
- (3) The grant of any other description of licence in respect of patent rights is treated as a sale of part of those patent rights. 20

CHAPTER 8.2

QUALIFYING EXPENDITURE

8.2.1 Qualifying expenditure

- Expenditure is qualifying expenditure only if it is—
- (a) qualifying trade expenditure, or 25
 - (b) qualifying non-trade expenditure.

8.2.2 Qualifying trade expenditure

- (1) “Qualifying trade expenditure” means capital expenditure incurred by a person on the purchase of patent rights for the purposes of a trade within the charge to tax carried on by that person. 30
- (2) Expenditure incurred for the purposes of a trade by a person about to carry on the trade is treated as if incurred on the first day on which that person carries on that trade, unless that person has by then sold all the rights on which the expenditure was incurred.

8.2.3 Qualifying non-trade expenditure 35

- Capital expenditure incurred by a person on the purchase of patent rights is qualifying non-trade expenditure if—
- (a) income receivable by that person in respect of the rights would be liable to tax, and
 - (b) the expenditure is not qualifying trade expenditure. 40

CHAPTER 8.3

ALLOWANCES AND CHARGES

8.3.1 Pooling of expenditure

- (1) Qualifying expenditure has to be pooled for the purpose of determining a person's entitlement to writing-down allowances and balancing allowances and liability to balancing charges. 5
- (2) If a person carries on more than one trade, expenditure relating to the different trades must not be allocated to the same pool.
- (3) If a person has qualifying non-trade expenditure as well as qualifying trade expenditure, the different types of expenditure must not be allocated to the same pool. 10

8.3.2 Determination of entitlement or liability

- (1) Whether a person is entitled to a writing-down allowance or a balancing allowance, or liable to a balancing charge, for a chargeable period is determined separately for each pool of qualifying expenditure and depends on— 15
 - (a) the available qualifying expenditure in that pool for that period ("AQE"), and
 - (b) the total of any disposal receipts to be brought into account for that period ("TDR"). 20
- (2) If AQE exceeds TDR, the person is entitled to an allowance for that period.
- (3) If TDR exceeds AQE, the person is liable to a balancing charge for that period.
- (4) The entitlement under subsection (2) is to a writing-down allowance except for the final chargeable period when it is to a balancing allowance.
- (5) The final chargeable period for a pool containing qualifying expenditure is the period in which the person's trade is permanently discontinued. 25
- (6) The final chargeable period for a pool containing qualifying non-trade expenditure is the period in which the last of the patent rights comes to an end without any of them being revived.

8.3.3 Amount of allowances and charges 30

- (1) The amount of the writing-down allowance to which a person is entitled for any chargeable period is 25% of the amount by which AQE exceeds TDR.
- (2) If the chargeable period is more or less than a year, the amount is proportionately increased or reduced.
- (3) If in the case of qualifying trade expenditure, the trade has been carried on for part only of the chargeable period, the amount is proportionately reduced. 35
- (4) The amount of the balancing charge to which a person is liable for a chargeable period is the amount by which TDR exceeds AQE.
- (5) The amount of the balancing allowance to which a person is entitled for the final chargeable period is the amount of the amount by which AQE exceeds 40

TDR.

8.3.4 Available qualifying expenditure

- (1) A person's available qualifying expenditure for a chargeable period is the total of—
- (a) any qualifying expenditure incurred by that person during the current chargeable period, 5
 - (b) any qualifying expenditure incurred by that person at a previous time, other than expenditure which, or part of which, has formed part of that person's qualifying expenditure for a previous chargeable period, and 10
 - (c) any unrelieved qualifying expenditure carried forward from the previous chargeable period.
- (2) An amount of qualifying expenditure may not be included—
- (a) under subsection (1)(b) as incurred during the current chargeable period, or 15
 - (b) under subsection (1)(c) as incurred in a previous chargeable period, if the rights have come to an end or been disposed of before the beginning of the current chargeable period.
- (3) The amount of unrelieved qualifying expenditure carried forward from a chargeable period is— 20

$$AQE - TDR - WDA$$

where—

AQE is the available qualifying expenditure for that period,
TDR is the total of any disposal receipts to be brought into account for that period, and 25
WDA is the writing-down allowance (if any) made for that period.

- (4) No amount may be carried forward as unrelieved qualifying expenditure from the final chargeable period.

8.3.5 Disposal value of patent rights

- (1) In sections 8.3.2 to 8.3.4 "disposal receipt" means a disposal value that a person is required to bring into account in accordance with— 30
- (a) this section, or
 - (b) paragraph 11 of Schedule 12 to the Finance Act 1997 (finance lease or loan: receipt of major lump sum).
- (2) A person is required to bring a disposal value into account for the chargeable period in which he sells the whole or a part of any patent rights. 35
- (3) Subject to section 8.3.6, the disposal value to be brought into account is the net proceeds of the sale, so far as they consist of capital sums.

8.3.6 Limit on amount of disposal value

- (1) The amount of any disposal value to be brought into account by a person on the sale of the whole of any patent rights is limited to the qualifying expenditure incurred by that person on purchasing the rights. 40

- (2) If a person sells a part of any patent rights, the total amount of the disposal values to be brought into account is limited to the qualifying expenditure incurred by that person on purchasing the rights.
- (3) Subsection (4) applies if a person acquired the patent rights as a result of a transaction which was, or a series of transactions each of which was, between connected persons. 5
- (4) The amount of the disposal value, or in the case of a sale of a part of any patent rights, the total amount of the disposal values, to be brought into account is limited to the amount of the qualifying expenditure on the purchase of the rights incurred by whichever party to the transaction, or to any of those transactions, incurred the greatest such expenditure. 10

8.3.7 Cases in which no disposal value need be brought into account

No disposal value need be brought into account for a chargeable period in respect of the sale by a person of the whole or a part of any patent rights if none of the expenditure incurred by that person on the purchase of the rights is or has been taken into account in determining that person's available qualifying expenditure for that or any previous chargeable period. 15

CHAPTER 8.4

GIVING EFFECT TO ALLOWANCES AND CHARGES

8.4.1 Persons having qualifying trade expenditure 20

An allowance or charge to which a person is entitled or liable under this Part in respect of qualifying trade expenditure is to be given effect in calculating the profits of that person's trade, by treating—

- (a) the allowance as an expense of the trade, and
- (b) the charge as a receipt of the trade. 25

8.4.2 Persons having qualifying non-trade expenditure

- (1) This section applies if a person is entitled or liable to an allowance or charge for a chargeable period in respect of qualifying non-trade expenditure.
- (2) The allowance is to be given effect by deducting it from the person's income from patents in the current period. 30
- (3) "The current period" means—
 - (a) for corporation tax purposes, the chargeable period referred to in subsection (1);
 - (b) for income tax purposes, the tax year in which the allowance or charge falls to be made. 35
- (4) Any charge is to be given effect—
 - (a) if a charge to income tax, by making the charge under Case VI of Schedule D,
 - (b) if a charge to corporation tax, by treating the amount on which the charge is to be made as income of the company from patents. 40
- (5) For the purposes of income tax, if the amount to be deducted under subsection (2) from a person's income for the current period exceeds the

amount of that income, the excess must be deducted from or set off against the person's income from patents for the next tax year, and so on for subsequent tax years.

- (6) For the purposes of corporation tax —
- (a) if the amount to be deducted under subsection (2) from a company's income for the current period exceeds the amount of that income, the excess must (if the company remains within the charge to tax) be carried forward to the succeeding accounting period and deducted from its income from patents for that period, and 5
 - (b) if in the succeeding accounting period the amount to be deducted again exceeds the amount of the income, the excess may be carried forward again (and so on for subsequent accounting periods). 10

CHAPTER 8.5

SUPPLEMENTARY PROVISIONS

Anti-avoidance 15

8.5.1 Limit on qualifying expenditure

- (1) In the following two cases, capital expenditure incurred by a person on the purchase of patent rights is only qualifying expenditure to the extent that it does not exceed the limit specified in subsection (5), (6) or (7). 20
- In this section —
- (a) the person incurring the expenditure is referred to as the buyer,
 - (b) the person from whom the buyer purchases the rights is referred to as the seller, and
 - (c) the transaction in which the buyer purchases the rights is referred to as the sale. 25
- (2) The first case is where the buyer and the seller are connected with each other.
- (3) The second case is where it appears —
- (a) with respect to the sale, or
 - (b) with respect to transactions of which the sale is one,
- that obtaining an allowance under this Part was the sole or main benefit which (but for this section) might have been expected to accrue to the parties. 30
- (4) In these cases the restriction works as follows.
- (5) If a disposal value arises on the sale, the limit is that disposal value.
- (6) If no disposal value arises on the sale, but the seller —
- (a) receives a capital sum on the sale, and 35
 - (b) is chargeable to tax in respect of that sum in accordance with section 524 of ICTA,
- the limit is that sum.
- (7) If neither subsection (5) nor subsection (6) applies, the limit is whichever of the following amounts is the smallest — 40
- (a) the market value of the rights;
 - (b) the total amount of capital expenditure which the seller incurred on

-
- acquiring the rights;
 - (c) if a person connected with the seller incurred capital expenditure on acquiring the rights, the total amount of that capital expenditure.

Interpretation

8.5.2 Capital expenditure and capital sums: special rule 5

- (1) The incurring of expenditure or the paying of a sum in respect of which a deduction falls or may fall to be made under section 348 or 349(1) of ICTA is not prevented from being treated as the incurring of capital expenditure, or the payment of a capital sum, in the case described in subsection (2).
- (2) That case is where the only reason for making a deduction in respect of the expenditure under section 349(1) of ICTA is that section 524(3)(b) of ICTA applies to it because—
 - (a) the expenditure is incurred on the purchase of patent rights from a person who is not resident in the United Kingdom, and
 - (b) the patent is granted under the laws of the United Kingdom. 15

8.5.3 Sums paid for Crown use treated as paid under licence

- (1) Sums paid in respect of an invention which is the subject of a patent are treated as paid under a licence in each of the following cases.
- (2) The first case is where—
 - (a) a sum is paid by a government department, or a person authorised by a government department, 20
 - (b) it is paid in respect of the use of the invention by or for the services of the Crown, and
 - (c) that use takes place under sections 55 to 59 of the Patents Act 1977.In this subsection “use”, “government department”, and “services of the Crown” have the same meaning as in sections 55 to 58 of the Patents Act 1977. 25
- (3) The second case is where a sum is paid in respect of something that would be an infringement of the patent but for the fact that it is done by or for the services of the government of a country outside the United Kingdom under provisions of the law of that country corresponding to the provisions mentioned in subsection (2). 30

8.5.4 Meaning of “income from patents”

For the purposes of this Part a person’s “income from patents” means—

- (a) royalties or other sums paid in respect of the use of a patent,
- (b) balancing charges falling to be made under this Part, and 35
- (c) amounts on which tax is payable under section 524 or 525 of ICTA (taxation of receipts from sale of patent rights).

PART 9

DREDGING ALLOWANCES

CHAPTER 9.1

INTRODUCTION

- 9.1.1 Dredging allowances** 5
- (1) Allowances are available under this Part if qualifying expenditure has been incurred on dredging.
- (2) In this Part “dredging” means the removal in the interests of navigation of anything forming part of or projecting from the bed of the sea or of any inland water — 10
- (a) by whatever means it is removed, and
- (b) whether or not at the time of removal it is wholly or partly above water.
- (3) The expression also includes the widening of an inland waterway in the interests of navigation. 15

CHAPTER 9.2

QUALIFYING EXPENDITURE

- 9.2.1 Qualifying expenditure**
- (1) Expenditure on dredging is qualifying expenditure if — 20
- (a) it is incurred for the purposes of a qualifying trade by the person carrying on the trade,
- (b) it is capital expenditure, and
- (c) either — 25
- (i) the qualifying trade consists of the maintenance or improvement of the navigation of a harbour, estuary or waterway, or
- (ii) the dredging is for the benefit of vessels coming to, leaving or using a dock or other premises occupied by that person for the purposes of the qualifying trade.
- (2) If capital expenditure is incurred partly for the purposes of a qualifying trade and partly for other purposes, subsection (1) applies to so much of the expenditure as on a just and reasonable apportionment is attributable to the purposes of the qualifying trade. 30

9.2.2 Qualifying trades

- (1) In this Part “qualifying trade” means a trade or undertaking the whole or part of which — 35
- (a) consists of the maintenance or improvement of the navigation of a harbour, estuary or waterway, or
- (b) is of a kind listed in Table A or B in section 3.2.1(1) (meaning of qualifying trade for purposes of industrial buildings allowances). 40

- (2) If only part of a trade or undertaking meets one of the conditions set out in paragraphs (a) and (b) of subsection (1), section 9.2.1(2) applies as if the part which meets and the part which does not meet one of those conditions were separate trades.

9.2.3 Trade not yet carried on or premises not yet occupied

5

- (1) This section applies if a person—
- (a) incurs capital expenditure for the purposes of a qualifying trade not yet carried on by that person, but with a view to carrying it on, or
 - (b) incurs capital expenditure in connection with a dock or other premises not yet occupied by that person for the purposes of a qualifying trade, but with a view to occupying the dock or premises for those purposes.
- (2) The expenditure is treated for the purposes of this Part—
- (a) in the case of expenditure within subsection (1)(a), as if it had been incurred on the first day on which that person carries on the qualifying trade;
 - (b) in the case of expenditure within subsection (1)(b), as if it had been incurred on the first day on which that person both carries on the qualifying trade and occupies the dock or other premises for the purposes of that trade.

CHAPTER 9.3

ALLOWANCES

Writing-down allowances

9.3.1 Entitlement to writing-down allowances

- (1) If qualifying expenditure has been incurred for the purposes of a trade, a person is entitled to a writing-down allowance for a chargeable period if—
- (a) during that chargeable period that person is carrying on the trade, and
 - (b) that chargeable period falls wholly or partly within the writing-down period for that expenditure.
- This is subject to the following qualification.
- (2) A person is not entitled to a writing-down allowance for the chargeable period for which an allowance is made under section 9.3.6 or 9.3.7 (balancing allowance on trade being discontinued or sold).

9.3.2 The writing-down period

35

For the purposes of this Part the writing-down period is 25 years beginning with the chargeable period in which the qualifying expenditure was incurred. The chargeable period referred to is that of the person who incurred the qualifying expenditure.

9.3.3 Calculation of amount of writing-down allowance

- (1) The amount of a writing-down allowance is 4% of the qualifying expenditure.
- (2) The allowance is proportionately increased or reduced if the chargeable period is more or less than a year.
- (3) For the purposes of this section a chargeable period which begins before and ends after the end of the writing-down period is treated as ending when that period ends. 5

9.3.4 Claim for a reduced specified amount

A person claiming a writing-down allowance may require the allowance to be reduced to a specified amount. 10

9.3.5 Total of allowances not to exceed qualifying expenditure

- (1) The total amount of the allowances made in respect of any qualifying expenditure, whether made to the same or different persons, must not exceed the amount of that expenditure.
- (2) Those allowances include— 15
 - (a) any initial allowance under section 17 of the Finance Act 1956 or section 67 of the Capital Allowances Act 1968, and
 - (b) any balancing allowance.

Balancing allowances

9.3.6 Balancing allowance where trade discontinued 20

- (1) If qualifying expenditure has been incurred for the purposes of a trade and that trade is permanently discontinued, the person last carrying on that trade is entitled to a balancing allowance for the final chargeable period.
 The “final chargeable period” means the chargeable period of that person in which the trade is permanently discontinued. 25
- (2) For the purposes of subsection (1), a trade is not to be treated as discontinued because of section 113(1) or 337(1) of ICTA.
- (3) Subject to that, the reference in subsection (1) to the permanent discontinuance of a trade includes the occurrence of any event which under any of the provisions of the Tax Acts is treated as equivalent to the permanent discontinuance of a trade. 30

9.3.7 Balancing allowance where trade sold

- (1) If qualifying expenditure has been incurred for the purposes of a trade and that trade is sold, it is treated for the purposes of section 9.3.6 as being permanently discontinued at the time of the sale, unless the sale is within subsection (2) or (3). 35
- (2) A sale is within this subsection if any of the following conditions is met—
 - (a) the buyer is a body of persons over whom the seller has control;
 - (b) the seller is a body of persons over whom the buyer has control;

-
- (c) both the seller and the buyer are bodies of persons and another person has control over both of them;
- (d) the seller and the buyer are connected persons.
- The references above to a body of persons include a partnership.
- (3) A sale is within this subsection if it appears that the sole or main benefit which might be expected to accrue to the parties, or any of them, from — 5
- (a) the sale, or
- (b) transactions of which the sale is one,
- is the obtaining of a tax advantage under any of the provisions of this Act apart from Part 2 (plant and machinery allowances). 10
- (4) This section is subject to section 343(2) of ICTA (which provides for continuity in the case of a company reconstruction without change of ownership).

9.3.8 Calculation of amount of balancing allowance

The amount of the balancing allowance for the final chargeable period is calculated as follows — 15

Step 1

Take the amount of the qualifying expenditure.

Step 2

Work out the total amount of allowances previously made in respect of that expenditure — 20

- (a) whether made to the same or different persons, and
- (b) including any initial allowance under section 17 of the Finance Act 1956 or section 67 of the Capital Allowances Act 1968.

Step 3

Subtract the total amount of allowances under Step 2 from the amount in Step 1. 25

Giving effect to allowances

9.3.9 Giving effect to allowances

Any allowance to which a person is entitled under this Part is to be given effect in calculating the profits of that person's trade, by treating the allowance as an expense of the trade. 30

PART 10

ASSURED TENANCY ALLOWANCES

CHAPTER 10.1

INTRODUCTION

35

10.1.1 Assured tenancy allowances

- (1) Allowances are available under this Part if qualifying expenditure has been

incurred on a building which consists of or includes a qualifying dwelling-house.

- (2) A dwelling house is not a qualifying dwelling-house unless—
- (a) it is let on a tenancy which is for the time being an assured tenancy, or
 - (b) it has been let on an assured tenancy and the conditions in subsection (4) are met. 5
- (3) “Assured tenancy” means—
- (a) an assured tenancy within the meaning of section 56 of the Housing Act 1980, or
 - (b) an assured tenancy (but not an assured shorthold tenancy) for the purposes of the Housing Act 1988. 10
- (4) The conditions referred to in subsection (2)(b) are that—
- (a) the dwelling-house is for the time being subject to a regulated tenancy or a housing association tenancy (each within the meaning of the Rent Act 1977), and 15
 - (b) the landlord under the tenancy is an approved body or was an approved body but has ceased to be such for any reason.
- (5) Further requirements that have to be met for a dwelling-house to be a qualifying dwelling-house are given in sections 10.4.1 and 10.4.2; and subsection (2) is subject to section 10.4.3(2)(b) (temporary disuse of dwelling-house ignored). 20

10.1.2 Allowances available in relation to old expenditure only

- (1) Allowances under this Part are not available unless—
- (a) the qualifying expenditure was incurred after 9th March 1982 and before 1st April 1992, and 25
 - (b) if the tenancy is an assured tenancy for the purposes of the Housing Act 1988, expenditure has been incurred which is within subsection (2) or (3).
- (2) Expenditure is within this subsection if it was incurred by—
- (a) a company which was an approved body on 15th March 1988, or 30
 - (b) a person who sold the relevant interest in the building, before any of the dwelling-houses comprised in it were used, to a company which was an approved body on 15th March 1988,
- and either it was incurred before 15th March 1988 or it consists of the payment of sums under a contract entered into before that date. 35
- (3) Expenditure is within this subsection if it was incurred by a company which—
- (a) was an approved body on 15th March 1988, and
 - (b) bought or contracted to buy the relevant interest in the building before that date. 40

10.1.3 Meaning of “approved body”

In this Part “approved body” has the meaning given in section 56(4) of the Housing Act 1980.

10.1.4 Expenditure on the construction of a building

- (1) For the purposes of this Part, expenditure on the construction of a building does not include expenditure on the acquisition of land or rights in or over land.
- (2) This Part has effect in relation to capital expenditure incurred by a person on repairs to a part of a building as if it were capital expenditure on the construction of that part of the building for the first time. 5

CHAPTER 10.2

THE RELEVANT INTEREST

Introduction 10

10.2.1 Introduction

This Chapter identifies, in a case where a person has incurred expenditure on the construction of a building which is to be or include a qualifying dwelling-house—

- (a) the relevant interest in the building, and 15
- (b) the relevant interest in a dwelling-house comprised in the building.

The relevant interest in the building

10.2.2 General rule as to what is the relevant interest in the building

- (1) The relevant interest in the building is the interest in the building to which the person who incurred the expenditure on the construction of the building was entitled when the expenditure was incurred. 20
- (2) Subsection (1) is subject to the following provisions of this Chapter.
- (3) If—
 - (a) the person who incurred the expenditure on the construction of the building was entitled to more than one interest in the building when the expenditure was incurred, and 25
 - (b) one of those interests was reversionary on all the others, the reversionary interest is the relevant interest.

10.2.3 Interest acquired on completion of construction

For the purpose of determining the relevant interest where a person— 30

- (a) incurs expenditure on the construction of a building, and
- (b) is entitled to an interest in the building on or as a result of the completion of the construction,

that person is treated as having had the same interest when the expenditure was incurred as if construction had been completed. 35

10.2.4 Effect of creation of subordinate interest

An interest does not cease to be the relevant interest merely because of the

creation of a lease or other interest to which that interest is subject.

10.2.5 Merger of leasehold interest

If the relevant interest is a leasehold interest which is extinguished on—

- (a) being surrendered, or
- (b) the person entitled to it acquiring the interest which is reversionary on it,

the interest into which the leasehold interest merges becomes the relevant interest when the leasehold interest is extinguished.

10.2.6 Provisions applying on other terminations of lease

- (1) This section applies if the relevant interest in relation to expenditure on the construction of a building is a lease. 10
- (2) If, with the consent of the lessor, the lessee of a building remains in possession after the termination of the lease without a new lease being granted to him, the lease is treated as continuing as long as the lessee remains in possession. 15
- (3) If on the termination of the lease a new lease is granted to the lessee as a result of the exercise of an option available to him under the terms of the first lease, the second lease is treated as a continuation of the first.
- (4) If on the termination of the lease the lessor pays a sum to the lessee in respect of a building comprised in the lease, the lease is treated as if it had come to an end by surrender in consideration of the payment. 20
- (5) If on the termination of the lease—
 - (a) a new lease is granted to a different lessee, and
 - (b) in connection with the transaction that lessee makes a payment to the former lessee,
 25
 the two leases are treated as if they were the same lease which had been assigned by the former lessee to the new lessee in consideration of the payment.

The relevant interest in the dwelling-house

10.2.7 The relevant interest in the dwelling-house 30

The relevant interest in a dwelling-house comprised in a building is the relevant interest in the building, to the extent that it subsists in the dwelling-house.

CHAPTER 10.3

QUALIFYING EXPENDITURE 35

10.3.1 Capital expenditure on construction

If—

- (a) capital expenditure has been incurred on the construction of a building which was to be or include a qualifying dwelling-house, and

(b) the relevant interest in the building has not been sold or, if it has been sold, it has been sold only after the first use of the building, the capital expenditure is qualifying expenditure.

- 10.3.2 Purchase of relevant interest sold before dwelling-house used where developer not involved** 5
- (1) This section applies if—
- (a) expenditure has been incurred on the construction of a building which was to be or include a qualifying dwelling-house,
 - (b) the relevant interest was sold before the first use of any dwelling-house comprised in the building, 10
 - (c) a capital sum was paid by the purchaser for the relevant interest, and
 - (d) section 10.3.3 (purchase of relevant interest sold by developer before dwelling-house used) does not apply.
- (2) The lesser of—
- (a) the capital sum paid by the purchaser for the relevant interest, and 15
 - (b) the expenditure incurred on the construction of the building,
- is qualifying expenditure.
- (3) The qualifying expenditure is to be treated as having been incurred when the capital sum became payable.
- (4) If the relevant interest was sold more than once before the first use of any dwelling-house comprised in the building, subsection (2) has effect only in relation to the last of those sales. 20
- 10.3.3 Purchase of relevant interest sold by developer before dwelling-house used**
- (1) This section applies if— 25
- (a) expenditure has been incurred by a developer on the construction of a building which was to be or include a qualifying dwelling-house, and
 - (b) the relevant interest was sold by the developer in the course of the development trade before the first use of any dwelling-house comprised in the building. 30
- (2) If—
- (a) the sale of the relevant interest by the developer was the only sale of that interest before the first use of any dwelling-house comprised in the building, and
 - (b) a capital sum was paid by the purchaser for the relevant interest, 35
- the capital sum is qualifying expenditure.
- (3) If—
- (a) the sale by the developer was not the only sale before the first use of any dwelling-house comprised in the building, and
 - (b) a capital sum was paid by the purchaser for the relevant interest on 40
- the last sale,
- the lesser of that capital sum and the price paid for the relevant interest on its sale by the developer is qualifying expenditure.
- (4) The qualifying expenditure is treated as having been incurred when the

capital sum referred to in subsection (2)(b) or (3)(b) became payable for the acquisition.

- (5) For the purposes of this section—
- (a) a developer is a person who carries on a trade which consists in whole or in part in the construction of buildings with a view to their sale, and 5
 - (b) an interest in a building is sold by the developer in the course of the development trade if the developer sells it in the course of the trade or (as the case may be) that part of the trade that consists in the construction of buildings with a view to their sale. 10

CHAPTER 10.4

QUALIFYING DWELLING-HOUSES

10.4.1 Requirements relating to the landlord

- (1) A dwelling-house is a qualifying dwelling-house only if the landlord is— 15
- (a) a company, and
 - (b) the person who—
 - (i) incurred the qualifying expenditure on the building in which the dwelling-house is comprised, or
 - (ii) is for the time being entitled to the relevant interest in the dwelling-house. 20
- (2) The requirement that the landlord must be a company does not apply in relation to expenditure incurred—
- (a) before 5th May 1983, or
 - (b) on or after that date pursuant to a contract entered into before that date, 25
- unless a person other than a company became entitled to the relevant interest on or after that date.

10.4.2 Qualifying dwelling-houses: exclusions

- (1) A dwelling-house is not a qualifying dwelling-house if any of the exclusions given below apply. 30

Exclusion 1

The landlord under the tenancy is—

- (a) a housing association which is approved for the purposes of section 488 of ICTA, or
- (b) a self-build society within the meaning of the Housing Associations Act 1985. 35

Exclusion 2

The landlord and the tenant are connected persons.

Exclusion 3

The tenant is a director of a company which is or is connected with the landlord. 40

Exclusion 4

The landlord is a close company and the tenant is, for the purposes of Part XI of ICTA —

- (a) a participator in that company, or
- (b) an associate of such a participator.

Exclusion 5

5

The tenancy is entered into as part of a mutual arrangement for avoidance.

- (2) In exclusion 5, a “mutual arrangement for avoidance” means an arrangement —

- (a) between the landlords (or owners) of different dwelling-houses, and
- (b) under which one landlord takes a person as a tenant in circumstances in which, if that person was the tenant of a dwelling-house let by the other landlord, that dwelling-house would not be a qualifying dwelling-house because of exclusion 2, 3 or 4.

10

10.4.3 Dwelling-house ceasing to be qualifying dwelling-house

- (1) If a dwelling-house ceases to be a qualifying dwelling-house otherwise than on a sale of the relevant interest in the dwelling-house, this Part has effect as if —

15

- (a) the relevant interest in the dwelling-house had been sold at that time, and
- (b) the net proceeds of the sale were equal to the market value of that interest at that time.

20

- (2) For the purposes of this Part —

- (a) a dwelling-house is not to be regarded as ceasing altogether to be used merely because it falls temporarily out of use, and
- (b) if, immediately before any period of temporary disuse, a dwelling-house is a qualifying dwelling-house, it is to be regarded as continuing to be a qualifying dwelling-house during the period of temporary disuse.

25

CHAPTER 10.5

WRITING-DOWN ALLOWANCES

30

Entitlement to and calculation of writing-down allowances

10.5.1 Entitlement to writing-down allowance

- (1) A person is entitled to a writing-down allowance for a chargeable period if —

- (a) qualifying expenditure has been incurred on a building,
- (b) that person is or has been an approved body,
- (c) at the end of that chargeable period the person is entitled to the relevant interest in the building, and
- (d) at the end of that chargeable period, the building is or includes a qualifying dwelling-house or two or more qualifying dwelling-houses.

35

40

- (2) A person claiming a writing-down allowance may require the allowance to be reduced to a specified amount.

10.5.2 Basic rule for calculating amount of allowance

- (1) The basic rule is that the writing-down allowance for a chargeable period is 4% of the qualifying expenditure attributable to the dwelling-house or (as the case may be) each dwelling-house falling within section 10.5.1(1)(d).
- (2) The allowance is proportionately increased or reduced if the chargeable period is more or less than a year. 5
- (3) The basic rule does not apply if section 10.5.3 applies.

10.5.3 Calculation of amount after sale of relevant interest

- (1) This section applies if—
 - (a) the relevant interest in a qualifying dwelling-house is sold, and 10
 - (b) a balancing adjustment falls to be made under section 10.6.1 as a result of the sale.
- (2) If this section applies, the writing-down allowance for any chargeable period ending after the sale is—

$$RQE \times \frac{A}{B} \qquad 15$$

where—

RQE is the amount of the residue of qualifying expenditure attributable to the dwelling-house immediately after the sale,
A is the length of the chargeable period, and
B is the length of the period from the date of the sale to the end of the period of 25 years beginning with the day on which the dwelling-house was first used. 20

- (3) On any later such sale, the writing-down allowance is further adjusted in accordance with this section.

10.5.4 Allowance limited to residue of qualifying expenditure attributable to dwelling-house 25

- (1) The amount of the writing-down allowance for a chargeable period in respect of a dwelling-house is limited to the residue of qualifying expenditure attributable to it.
- (2) For this purpose the residue is ascertained immediately before writing off the writing-down allowance at the end of the chargeable period. 30

Interpretation

10.5.5 Qualifying expenditure attributable to dwelling-house

- (1) If the building concerned consists of a single qualifying dwelling-house, then, subject to the relevant limit, the whole of the qualifying expenditure is attributable to the dwelling-house. 35
- (2) If the qualifying dwelling-house forms part of a building, the qualifying expenditure attributable to the dwelling-house is, subject to the relevant limit, the total of—

-
- (a) the part of the qualifying expenditure properly attributable to that dwelling-house, and
- (b) if there are common parts of the building, such part of the qualifying expenditure on those common parts—
- (i) as it is just and reasonable to attribute to that dwelling-house, and
- (ii) as does not exceed 10% of the part referred to in paragraph (a). 5
- (3) In this section “the relevant limit” means—
- (a) £60,000, if the dwelling-house is in Greater London, and
- (b) £40,000, if the dwelling-house is elsewhere. 10
- (4) In subsection (2) “common parts”, in relation to a building, means common parts of the building which—
- (a) are not intended to be in separate occupation (whether for domestic, commercial or other purposes), but
- (b) are intended to be of benefit to some or all of the qualifying dwelling-houses included in the building. 15
- (5) For the purposes of subsection (2) the qualifying expenditure on any common parts of a building is so much of the expenditure on the construction of the building as it is just and reasonable to attribute to those parts.
- 10.5.6 Residue of qualifying expenditure attributable to dwelling-house** 20
- (1) The residue of qualifying expenditure attributable to a dwelling-house is the qualifying expenditure attributable to that dwelling-house that has not yet been written off in accordance with Chapter 10.7.
- (2) Subsection (1) is subject to section 10.7.6 (treatment of demolition costs).

CHAPTER 10.6

25

BALANCING ADJUSTMENTS

General

10.6.1 When balancing adjustments are made

- (1) A balancing adjustment is made if—
- (a) qualifying expenditure has been incurred on a building, and 30
- (b) a balancing event occurs in relation to a dwelling-house comprised in the building while it is a qualifying dwelling-house.
- (2) A balancing adjustment is either a balancing allowance or a balancing charge and is made for the chargeable period in which the balancing event occurs.
- (3) A balancing allowance or balancing charge is made to or on the person 35 entitled to the relevant interest in the dwelling-house immediately before the balancing event.
- (4) No balancing adjustment is made if the balancing event occurs more than 25 years after the dwelling-house was first used.

10.6.2 Balancing events

The following are balancing events in relation to a qualifying dwelling-house—

- (a) the relevant interest in the dwelling-house is sold; 5
- (b) if the relevant interest in the dwelling-house is a leasehold interest, the interest ends otherwise than on the person entitled to it acquiring the interest reversionary on it; 5
- (c) the dwelling-house is demolished or destroyed;
- (d) the dwelling-house ceases altogether to be used (without being demolished or destroyed). 10

10.6.3 Proceeds from balancing events

- (1) References in this Part to the proceeds from a balancing event are to the amounts received or receivable in connection with the event shown in the following Table—

TABLE 15
BALANCING EVENTS AND PROCEEDS

<i>1. Balancing event</i>	<i>2. Proceeds from event</i>	
The sale of the relevant interest.	The net proceeds of the sale.	
The demolition or destruction of the dwelling-house.	The net amount received for the remains of the dwelling-house, together with—	20
	(a) any insurance money received in respect of the demolition or destruction, and	25
	(b) any other compensation of any description received in respect of the demolition or destruction, in so far as that compensation consists of capital sums.	30
The dwelling-house ceases altogether to be used.	Any compensation of any description received in respect of the event, in so far as the compensation consists of capital sums.	35

- (2) The amounts referred to in column 2 of the Table are those received or receivable by the person whose entitlement to a balancing allowance or liability to a balancing charge is in question.

Calculation of balancing adjustments

10.6.4 Dwelling-house a qualifying dwelling-house throughout

- (1) This section provides for balancing adjustments in cases where the dwelling-house was a qualifying dwelling-house for the whole of the relevant period of ownership. 5
- (2) A balancing allowance is made if—
 - (a) there are no proceeds from the balancing event, or
 - (b) the proceeds from the balancing event are less than the residue of qualifying expenditure attributable to the dwelling-house immediately before the event. 10
- (3) The amount of the balancing allowance is the amount of—
 - (a) the residue (if there are no proceeds);
 - (b) the difference (if the proceeds are less than the residue).
- (4) A balancing charge is made if the proceeds from the balancing event are more than the residue of qualifying expenditure attributable to the dwelling-house immediately before the event. 15
- (5) The amount of the balancing charge is the amount of the difference.

10.6.5 Dwelling-house not a qualifying dwelling-house throughout

- (1) This section provides for balancing adjustments where the building was not a qualifying dwelling-house for a part of the relevant period of ownership. 20
- (2) A balancing allowance is made if—
 - (a) the proceeds from the balancing event are less than the starting expenditure attributable to the dwelling-house, and
 - (b) the total amount of the relevant allowances in respect of that expenditure is less than the adjusted net cost of the dwelling-house. 25
- (3) The amount of the balancing allowance is the amount of the difference between the adjusted net cost of the dwelling-house and the total amount of the relevant allowances.
- (4) A balancing charge is made if the proceeds from the balancing event are equal to or more than the starting expenditure attributable to the dwelling-house. 30
- (5) The amount of the balancing charge is equal to the total amount of the relevant allowances.
- (6) A balancing charge is also made if—
 - (a) the proceeds from the balancing event are less than the starting expenditure attributable to the dwelling-house, and 35
 - (b) the total amount of the relevant allowances in respect of that expenditure is more than the adjusted net cost in relation to the dwelling-house.
- (7) The amount of the balancing charge is the amount of the difference between the total amount of those allowances and the adjusted net cost. 40
- (8) “The relevant allowances” means—

-
- (a) any initial allowance under paragraph 1 of Schedule 12 to the Finance Act 1982, and
- (b) any writing-down allowance made for a chargeable period ending on or before the date of the balancing event in question.
- 10.6.6 Overall limit on balancing charge** 5
- (1) The amount of a balancing charge made on a person in respect of any qualifying expenditure attributable to a dwelling-house must not exceed the total amount of the relevant allowances made to that person.
- (2) “The relevant allowances” has the meaning given in section 10.6.5(5).
- 10.6.7 Recovery of old initial allowances made on incorrect assumptions** 10
- (1) This section applies if—
- (a) an initial allowance has been made under paragraph 1 of Schedule 12 to the Finance Act 1982 in respect of expenditure relating to a dwelling-house, and
- (b) when the dwelling-house comes to be used, it is not a qualifying dwelling-house. 15
- (2) All such adjustments, by assessments or otherwise, are to be made as are necessary to secure that, despite the repeal of Schedule 12 to the 1982 Act, effect is given to the prohibition in paragraph 1(3) of that Schedule (on the making of initial allowances in respect of dwelling-houses which are not qualifying dwelling-houses). 20
- Meaning of “the relevant period of ownership” etc.*
- 10.6.8 The relevant period of ownership**
- The relevant period of ownership is the period beginning—
- (a) with the day on which the dwelling-house was first used for any purpose, or 25
- (b) if the relevant interest in the dwelling-house has been sold after that day, with the day following that on which the sale (or the last such sale) occurred,
- and ending with the day on which the balancing event occurs. 30
- 10.6.9 Starting expenditure**
- (1) This section gives the starting expenditure attributable to a dwelling-house for the purposes of section 10.6.5.
- (2) If the person to or on whom the balancing allowance or balancing charge falls to be made is the person who incurred the qualifying expenditure attributable to the dwelling-house, that expenditure is the starting expenditure. 35
- (3) Otherwise, the starting expenditure is the residue of qualifying expenditure attributable to the dwelling-house at the beginning of the relevant period of ownership. 40
- (4) If section 10.7.6 (treatment of demolition costs) applies, the starting

expenditure is increased by an amount equal to the net cost of the demolition.

10.6.10 Adjusted net cost

The amount of the adjusted net cost in relation to a dwelling-house is—

$$(S - P) \times \frac{I}{R}$$

where—

- S* is the starting expenditure attributable to the dwelling-house,
- P* is the amount of any proceeds from the balancing event,
- I* is the number of days in the relevant period of ownership on which the dwelling-house was a qualifying dwelling-house, and
- R* is the number of days in the whole of the relevant period of ownership.

CHAPTER 10.7

WRITING OFF QUALIFYING EXPENDITURE ATTRIBUTABLE TO DWELLING-HOUSE

10.7.1 Introduction

For the purposes of this Part qualifying expenditure attributable to a dwelling-house is written off to the extent and at the times specified in this Chapter.

10.7.2 Writing off initial allowances

If an initial allowance was made under paragraph 1 of Schedule 12 to the Finance Act 1982 in respect of a qualifying dwelling-house, the amount of the allowance is written off at the time of the first use of the dwelling-house.

10.7.3 Writing off writing-down allowances

- (1) If a writing-down allowance is made in respect of qualifying expenditure attributable to a dwelling-house, the amount of the allowance is written off at the end of the chargeable period for which the allowance is made.
- (2) If a balancing event occurs at the end of a chargeable period, the amount written off under subsection (1) is to be taken into account in calculating the residue of qualifying expenditure immediately before the event to determine what balancing adjustment (if any) is to be made.

10.7.4 Writing off expenditure for periods when building not used as qualifying dwelling-house

- (1) This section applies if for any period or periods between—
 - (a) the time when the whole or a part of the building was first used for any purpose, and
 - (b) the time when the residue of qualifying expenditure attributable to a dwelling-house falls to be ascertained, the building or part has not been a qualifying dwelling-house.
- (2) An amount equal to the notional writing-down allowances for the period or

-
- periods is written off at the time when the residue falls to be ascertained.
- (3) The notional writing-down allowances are the allowances that would have been made for the period or periods in question (if the building or part had remained a qualifying dwelling-house), at such rate or rates as would have been appropriate, having regard to any relevant sale. 5
- (4) In subsection (3) “relevant sale” means a sale of the relevant interest as a result of which a balancing adjustment falls to be made under section 10.6.1.
- 10.7.5 Writing-off or increase of expenditure where balancing adjustment made**
- (1) This section applies if the relevant interest in the dwelling-house is sold.
- (2) If a balancing allowance is made, the amount by which the residue of qualifying expenditure attributable to the dwelling-house before the balancing event exceeds the net proceeds from the event is written off at the time of the event. 10
- (3) If a balancing charge is made, the amount of the residue of qualifying expenditure attributable to the dwelling-house is increased at the time of the balancing event by the amount of the charge. 15
 This is subject to subsection (4).
- (4) If the balancing charge is made under section 10.6.5(4) (difference between relevant allowances and adjusted net cost), the residue of qualifying expenditure attributable to the dwelling-house immediately after the balancing event is limited to the net proceeds from the event. 20
- 10.7.6 Treatment of demolition costs**
- (1) This section applies if—
- (a) a dwelling-house is demolished, and
- (b) the person to or on whom any balancing allowance or balancing charge is or might be made is the person incurring the cost of the demolition. 25
- (2) The net cost of the demolition is added to the residue of qualifying expenditure attributable to the qualifying dwelling-house immediately before the demolition. 30
- (3) “The net cost of the demolition” means the amount, if any, by which the cost of the demolition exceeds any money received for the remains of the property.
- (4) If this section applies, neither the cost of the demolition nor the net cost of the demolition is treated for the purposes of this Part as expenditure on any other property replacing the property demolished. 35

CHAPTER 10.8

SUPPLEMENTARY PROVISIONS

10.8.1 Giving effect to allowances and charges

- (1) If a person who is entitled or liable to an allowance or charge for a chargeable period was carrying on a Schedule A business at any time in that period, the 40

allowance or charge is to be given effect in calculating the profits of that business, by treating—

- (a) the allowance as an expense of that business, and
- (b) the charge as a receipt of that business.

- (2) If a person who is entitled or liable to an allowance or charge for a chargeable period was not carrying on a Schedule A business at any time in that period, the allowance or charge is to be given effect by treating him as if he had been carrying on such a business in that period and as if—
- (a) the allowance were an expense of that business, and
 - (b) the charge were a receipt of that business.

10.8.2 Apportionment of sums partly referable to non-qualifying assets

- (1) If the sum paid for the sale of the relevant interest in a building is attributable—
- (a) partly to assets representing expenditure for which an allowance can be made under this Part, and
 - (b) partly to assets representing other expenditure,
- only so much of the sum paid as on a just and reasonable apportionment is attributable to the assets referred to in paragraph (a) is to be taken into account for the purposes of this Part.
- (2) Subsection (1) applies to other sale, insurance, salvage or compensation money payable in respect of the building as it applies to a sum given for the sale of the relevant interest in the building.
- (3) Subsection (1) does not affect any other provision of this Part requiring an apportionment of the proceeds of a balancing event.

10.8.3 Meaning of “dwelling-house”, “lease” etc.

- (1) In this Part “dwelling-house” has the same meaning as in the Rent Act 1977.
- (2) In this Part “lease” includes—
- (a) an agreement for a lease if the term to be covered by the lease has begun, and
 - (b) any tenancy,
- but does not include a mortgage (and “lessee”, “lessor” and “leasehold interest” are to be read accordingly).
- (3) In the application of this Part to Scotland—
- (a) “leasehold interest” means the interest of a tenant in property subject to a lease, and
 - (b) any reference to an interest which is reversionary on a leasehold interest or on a lease is to be read as a reference to the interest of the landlord in the property subject to the leasehold interest or lease.

PART 11

CONTRIBUTIONS

CHAPTER 11.1

EXCLUSION OF EXPENDITURE MET BY CONTRIBUTIONS

Rules excluding contributions 5

11.1.1 The general rule excluding contributions

- (1) For the purposes of this Act, the general rule is that expenditure is not to be treated as incurred by a person to the extent that it has been, or is to be, met (directly or indirectly) by—
- (a) the Crown, 10
 - (b) a government or public or local authority, whether in the United Kingdom or elsewhere, or
 - (c) any person other than the person incurring the expenditure.
- (2) The general rule does not apply for the purposes of Part 9 (dredging allowances); but section 11.1.2(1) provides a similar rule. 15
- (3) The general rule is subject to the exceptions in sections 11.1.3 to 11.1.5.

11.1.2 Exclusion of contributions to dredging

- (1) For the purposes of Part 9, expenditure is not to be treated as incurred for the purposes of a trade carried on or to be carried on by a person to the extent that it has been, or is to be, met (directly or indirectly) by— 20
- (a) the Crown,
 - (b) a government or public or local authority, whether in the United Kingdom or elsewhere, or
 - (c) capital sums contributed by any other person for purposes other than those of that trade. 25
- (2) Subsection (1) is not subject to the exceptions in sections 11.1.3 to 11.1.5.

Exceptions to the general rule

11.1.3 Northern Ireland regional development grants

- (1) Section 11.1.1 does not prevent expenditure from being treated as incurred by a person if it is met (directly or indirectly) by a grant— 30
- (a) made under Northern Ireland legislation, and
 - (b) declared by the Treasury by order to correspond to a grant under Part II of the Industrial Development Act 1982.
- (2) The power to make an order under this section is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons. 35

11.1.4 Insurance or compensation money

- (1) Section 11.1.1 does not prevent expenditure from being treated as incurred by a person if it is met (directly or indirectly) by insurance money or other compensation money payable in respect of an asset which has been destroyed, demolished or put out of use. 5
- (2) The exception given by this section does not apply for the purposes of Part 6 (research and development allowances).

11.1.5 Certain contributions which are not eligible for allowances

- (1) Section 11.1.1 does not prevent expenditure from being treated as incurred by a person if— 10
 - (a) it has been, or is to be, met (directly or indirectly) by a person other than the Crown or a government or public or local authority, and
 - (b) that person's expenditure is not expenditure—
 - (i) in respect of which an allowance could be made under Chapter 11.2, or 15
 - (ii) which is allowed to be deducted in computing the profits of any trade carried on by him.
- (2) In determining for the purposes of subsection (1)(b) whether an allowance could be made under Chapter 11.2, it is to be assumed that the person by whom the expenditure has been, or is to be, met is within the charge to tax. 20
- (3) In subsection (1)(b) "trade" includes a profession or vocation.
- (4) The exception given by this section does not apply for the purposes of Part 6 (research and development allowances).

CHAPTER 11.2

CONTRIBUTION ALLOWANCES

25

Contribution allowances under Parts 2 to 5

11.2.1 Conditions for contribution allowances under Parts 2 to 5

- (1) The conditions for contribution allowances under Part 2, 3, 4 or 5 are that—
 - (a) a person has contributed a capital sum to expenditure on the provision of an asset, 30
 - (b) he has made the contribution for the purposes of a trade carried on or to be carried on by him or by a tenant of land in which he has an interest,
 - (c) the expenditure towards which the contribution is made would have been regarded, apart from section 11.1.1, as incurred by the recipient, 35
 - (d) that expenditure would also have been regarded, unless the recipient is the Crown or a public or local authority in the United Kingdom, as qualifying expenditure of the recipient for the purposes of the Part in question, and
 - (e) the contributor and the recipient of the contribution are not connected 40 persons.
- (2) In this Chapter—

“trade” includes a profession or vocation, and
 references to the relevant trade are references to the trade for whose
 purposes the contribution has been made.

11.2.2 Plant and machinery

- (1) If the conditions for contribution allowances under Part 2 are met, the contributor is to be treated for the purposes of that Part as if— 5
- (a) his contribution were expenditure incurred by him on the provision, for the purposes of the relevant trade, of the asset provided by the recipient of the contribution,
 - (b) that asset were plant or machinery which he owns as a result of incurring that expenditure and which is at all material times in use for the purposes of the relevant trade. 10
- (2) Expenditure treated under subsection (1) as incurred on the provision of plant or machinery must be allocated to a single asset pool.
- (3) For the purposes of Part 2, the relevant trade is to be treated as permanently discontinued if it is transferred (in whole or in part). 15
- (4) This section needs to be read with—
- (a) section 11.2.6 (effect on contribution allowances of transfer of contributor’s trade), and
 - (b) section 11.2.7 (effect of transfer of contributor’s interest in land). 20

11.2.3 Industrial buildings

- (1) If the conditions for contributors’ allowances under Part 3 are met, the contributor is to be treated for the purposes of that Part as if—
- (a) his contribution were expenditure incurred by him on the provision, for the purposes of the relevant trade, of an asset similar to that provided by the recipient of the contribution, and 25
 - (b) that asset were at all material times in use for the purposes of the relevant trade.
- (2) Section 3.6.3 does not apply in relation to writing-down allowances to be given in respect of contributions. 30
- (3) This section needs to be read with—
- (a) section 11.2.6 (effect on contribution allowances of transfer of contributor’s trade), and
 - (b) section 11.2.7 (effect of transfer of contributor’s interest in land).

11.2.4 Agricultural buildings

- (1) If the conditions for contribution allowances under Part 4 are met, the contributor is to be treated for the purposes of that Part as if— 35
- (a) his contribution were expenditure incurred by him on the provision, for the purposes of the relevant trade, of an asset similar to that provided by the recipient of the contribution, and 40
 - (b) that asset were at all material times in use for the purposes of the relevant trade.
- (2) This section needs to be read with—

-
- (a) section 11.2.6 (effect on contribution allowances of transfer of contributor's trade), and
 - (b) section 11.2.7 (effect of transfer of contributor's interest in land).

11.2.5 Mineral extraction

- (1) If the conditions for contribution allowances under Part 5 are met, the contributor is to be treated for the purposes of that Part as if—
 - (a) his contribution were expenditure incurred by him on the provision, for the purposes of the relevant trade, of an asset similar to that provided by the recipient of the contribution, and
 - (b) that asset were at all material times in use for the purposes of the relevant trade.
- (2) This section needs to be read with—
 - (a) section 11.2.6 (effect on contribution allowances of transfer of contributor's trade), and
 - (b) section 11.2.7 (effect of transfer of contributor's interest in land).

Effect of transfers of trade etc. on contribution allowances

11.2.6 Transfer of contributor's trade

- (1) If—
 - (a) the contribution was made for the purposes of a trade carried on or to be carried on by the contributor, and
 - (b) the entire trade is subsequently transferred,writing-down allowances for chargeable periods ending after the date of the transfer are to be given to the transferee instead of to the transferor.
- (2) If—
 - (a) the contribution was made for the purposes of a trade carried on or to be carried on by the contributor, and
 - (b) part of the trade is subsequently transferred,so much of any writing-down allowance as is properly referable to the part transferred is to be given, for chargeable periods ending after the date of the transfer, to the transferee instead of to the transferor.

11.2.7 Effect of transfer of contributing landlord's interest in land

- (1) If, when the contribution was made, the trade was carried on or to be carried on by a tenant of land in which the contributor had an interest a writing-down allowance is to be made to a person for a chargeable period if at the end of that period he is entitled to that interest.
- (2) If subsection (1) applies in relation to Part 3 or 4, the contributor's interest in the land is to be treated as the relevant interest for the purposes of the Part in question.

Contribution allowances under Part 9

11.2.8 Contribution allowances under Part 9

A person who contributes a capital sum to expenditure incurred by another person on dredging is to be treated for the purposes of Part 9 as incurring capital expenditure on that dredging.

5

PART 12

SUPPLEMENTARY PROVISIONS

CHAPTER 12.1

LIFE ASSURANCE BUSINESS

12.1.1 Management assets

10

- (1) No allowances are to be given or charges imposed in respect of management assets of any life assurance business carried on by a company except under Part 2 (plant and machinery allowances).
- (2) An asset is a management asset of any life assurance business carried on by a company if it is provided for use, or used, for the management of that business of that company.
- (3) The management of any life assurance business consists of pursuing those purposes expenditure on which would, on the assumption below, be treated as expenses of management within section 76 of ICTA.
- (4) The assumption is that section 76(1)(d) (exclusion from expenses of management of expenses referable to pension business, life reinsurance business and overseas life assurance business) is to be disregarded.
- (5) In this Act “life assurance business” has the meaning given by section 431(2) of ICTA.

15

20

12.1.2 Investment assets

25

- (1) This section applies if a company which is carrying on any life assurance business holds an asset for purposes other than the management of that business.
- (2) “Investment asset” means an asset that is within subsection (1).
- (3) If the company is carrying on more than one category of life assurance business, any allowance under this Act in respect of the investment asset must be apportioned between the categories in the same way that income from the asset would, under section 432A of ICTA, be treated as referable to different categories of business in the case of an insurance company.
- (4) If the company is charged to tax in respect of its life assurance business under Case I of Schedule D, no allowance in respect of the investment asset is to be taken into account in calculating the company’s profits from that business.
- (5) If the company is charged to tax under —

30

35

-
- (a) section 436 of ICTA (pension business),
(b) section 439B of ICTA (life reinsurance business), or
(c) section 441 of ICTA (overseas life assurance business),
no allowance in respect of the investment asset is to be taken into account in calculating the company's profits from the category of life assurance business in question. 5

CHAPTER 12.2

ADDITIONAL VAT LIABILITIES AND REBATES: INTERPRETATION, ETC.

12.2.1 Introduction

This Chapter has effect for the interpretation of, and for otherwise supplementing, Chapters 2.18, 3.10 and 6.4. 10

12.2.2 “Additional VAT liability” and “additional VAT rebate”

- (1) “Additional VAT liability” means an amount which a person becomes liable to pay by way of adjustment under the VAT capital items legislation in respect of input tax on that expenditure. 15
- (2) “Additional VAT rebate” means an amount which a person becomes entitled to deduct by way of adjustment under the VAT capital items legislation in respect of input tax on that expenditure.

12.2.3 Time when additional VAT liability or rebate is incurred or made

- (1) The time at which a person incurs an additional VAT liability or an additional VAT rebate is made to a person is the last day of the period – 20
- (a) which is one of the periods making up the VAT period of adjustment applicable to the asset in question under the VAT capital items legislation, and
- (b) in which the increase or decrease in use giving rise to the liability or rebate occurs. 25
- (2) In this section “VAT period of adjustment” means a period specified under the VAT capital items legislation over which an additional VAT liability or rebate may arise.

12.2.4 Chargeable period in which additional VAT liability or rebate accrues etc. 30

- (1) The Table below identifies the chargeable period in which an additional VAT liability or rebate is to be treated as accruing.

TABLE
 ADDITIONAL VAT LIABILITY OR REBATE: RELATED CHARGEABLE PERIOD

<i>Circumstances in which liability or rebate occurs</i>	<i>Chargeable period in which liability or rebate accrues</i>	
1. The liability or rebate is accounted for in a VAT return.	The chargeable period which includes the last day of the period to which the VAT return relates.	5
2. The Commissioners of Customs and Excise assess the liability or rebate as due before a VAT return is made.	The chargeable period which includes the day on which that assessment is made.	10
3. The relevant activity is permanently discontinued before the liability or rebate is accounted for in a VAT return or assessed by the Commissioners.	The chargeable period in which the relevant activity is permanently discontinued.	15
<hr/>		
(2) In this section—		
(a) “VAT return” means a return made to the Commissioners of Customs and Excise for the purposes of value added tax, and		
(b) “the relevant activity” means the trade or, in relation to Part 2, the qualifying activity to which the additional VAT liability or additional VAT rebate relates.		20
(3) The time at which an additional VAT liability or rebate is to be treated as accruing is—		
(a) if item 1 of the Table applies, the last day of the period to which the return relates;		25
(b) if item 2 of the Table applies, the day on which the assessment is made;		
(c) if item 3 of the Table applies, the last day of the chargeable period in which the relevant activity is discontinued.		30
12.2.5 Apportionment of additional VAT liabilities and rebates		
(1) This section applies if—		
(a) any provision of this Act requires an allowance or charge to which a person is entitled or liable in respect of any qualifying expenditure to be determined by reference to—		35
(i) a proportion only of that expenditure, or		
(ii) a proportion only of what that allowance or charge would have been apart from that provision, and		
(b) that person incurs an additional VAT liability or an additional VAT rebate is made to that person in respect of that expenditure.		40
(2) The additional VAT liability or rebate is subject to the same apportionment as the original expenditure, allowance or charge.		

12.2.6 Supplementary

- (1) In this Chapter, “the VAT capital items legislation” means legislation providing for the proportion of input tax on an asset of a specified description which may be deducted by a person from the person’s output tax to be adjusted from time to time as a result of—
 - (a) an increase, or
 - (a) a decrease,in the extent to which the asset is used by the person for the making of taxable supplies, or taxable supplies of a specified class or description, over a specified period applicable to the asset. 5
- (2) In this Chapter “the VAT capital items legislation” also includes any other legislation which provides for Article 20(2) to (4) of the Sixth Directive of the Council of the European Communities on Value Added Tax, dated 17th May 1977 to be given effect. 10
- (3) In this section “legislation” means the provisions of any Act or instrument, whenever passed or made. 15
- (4) In this Chapter “input tax”, “output tax” and “taxable supply” have the same meaning as in the Value Added Tax Act 1994.

CHAPTER 12.3

DISPOSALS OF OIL LICENCES: PROVISIONS RELATING TO PARTS 5 AND 6 20

Introduction

12.3.1 Meaning of “oil licence” and “interest in an oil licence”

- (1) In this Chapter “oil licence” means a UK oil licence or a foreign oil concession.
- (2) In this Chapter “UK oil licence” means a licence under—
 - (a) Part I of the Petroleum Act 1998, or
 - (b) the Petroleum (Production) Act (Northern Ireland) 1964,authorising the winning of oil. 25
- (3) In this Chapter “foreign oil concession” means any right which—
 - (a) is a right to search for or win oil that exists in its natural condition in a place to which neither the Petroleum Act 1998 nor the Petroleum (Production) Act (Northern Ireland) 1964 applies, and 30
 - (b) is conferred or exercisable (whether or not under a licence) in relation to a particular area.
- (4) In this Chapter “interest in an oil licence” includes, if there is an agreement which—
 - (a) relates to oil from the whole or a part of the licensed area, and
 - (b) was made before the extraction of the oil to which it relates,any entitlement under the agreement to, or to a share of, that oil or the proceeds of its sale. 35 40

Oil licences relating to undeveloped areas

12.3.2 Consideration to be treated as nil

- (1) This section applies if—
- (a) there is a material disposal of an oil licence which, at the time of the disposal, relates to an undeveloped area, and 5
 - (b) any of the consideration for the disposal consists of—
 - (i) another oil licence, or an interest in another oil licence, which at that time relates to an undeveloped area, or
 - (ii) an obligation to undertake exploration work or appraisal work in an area which is or forms part of the licensed area in relation to the licence disposed of. 10
- (2) The value of the consideration within subsection (1)(b) is to be treated as nil for the purposes of—
- (a) Part 5 (mineral extraction allowances),
 - (b) Part 6 (research and development allowances), and 15
 - (c) section 12.3.4 (disposal of oil licence with exploitation value).
- (3) A “material disposal” of an oil licence means any disposal (including a part disposal and a disposal of an interest in an oil licence) other than a disposal in relation to which section 12.5.5 or 12.5.6 (sales between connected persons, etc., or to obtain tax advantage treated as at market value) has effect. 20
- (4) If—
- (a) the material disposal is part of a larger transaction under which one party makes to another material disposals of two or more licences, and
 - (b) at the time of disposal, each of those licences relates to an undeveloped area, 25
- the licensed area for the purposes of subsection (1)(b) is the totality of the licensed areas in relation to those licences.
- (5) In relation to a material disposal of a licence under which the buyer acquires an interest in the licence only so far as it relates to part of the licensed area, any reference in this section and section 12.3.3 to the licensed area is to be read as a reference only to that part of the licensed area to which the buyer’s acquisition relates. 30
- (6) In subsection (1)(b)—
- “exploration work”, in relation to an area, means work carried out for the purpose of searching for oil anywhere in that area, and 35
 - “appraisal work”, in relation to an area, means work carried out for the purpose of ascertaining—
 - (a) the extent or characteristics of any oil-bearing area the whole or part of which lies in that area, or 40
 - (b) what the reserves of oil of any such oil-bearing area are.

12.3.3 Circumstances in which oil licence relates to undeveloped area

- (1) A UK oil licence relates to an undeveloped area if—
- (a) no consent for development has been granted to the licensee for any part of the licensed area by the relevant authority, and 45

- (b) no programme of development has been served on the licensee or approved for any part of the licensed area by the relevant authority.
- (2) A foreign oil concession relates to an undeveloped area if—
 - (a) no development has actually taken place in any part of the licensed area, and 5
 - (b) no condition for the carrying out of development anywhere in that area has been satisfied—
 - (i) by the grant of any consent by the authorities of a country or territory exercising jurisdiction in relation to the area, or
 - (ii) by the approval or service on the licensee, by any such authorities, of any programme of development. 10
- (3) Subsections (4) and (5) of section 36 of the Finance Act 1983 (meaning of development) apply for the purposes of subsections (1) and (2).
- (4) In subsection (1) “licensee” means—
 - (a) the person entitled to the benefit of the licence or, if two or more persons are entitled to the benefit, each of those persons, and 15
 - (b) a person who has rights under an agreement which is—
 - (i) approved by the Board of Inland Revenue, and
 - (ii) certified by the relevant authority to confer on that person rights which are the same as, or similar to, those conferred by a licence. 20
- (5) In subsection (2) “licensee” means the person with the concession or any person having an interest in it.

Disposal of oil licence with exploitation value

- 12.3.4 Disposal of oil licence with exploitation value** 25
- (1) This section applies if—
 - (a) a person (“the seller”) disposes of an interest in an oil licence to another (“the buyer”),
 - (b) part of the value of that interest (“V”) is attributable to allowable exploration expenditure incurred by the seller, and 30
 - (c) it is just and reasonable to attribute part of the consideration given by the buyer to V.
 - (2) For the purposes of Part 6 (research and development allowances) the seller is required to bring a disposal value into account in respect of the allowable exploration expenditure to which V is attributable. 35
 - (3) The amount of the disposal value is equal to—
 - (a) the part of the buyer’s consideration that it is just and reasonable to attribute to V, or
 - (b) if less, the seller’s allowable exploration expenditure to which V is attributed. 40
 - (4) Section 6.3.4 gives the chargeable period for which the disposal value is to be brought into account.
 - (5) In this section “allowable exploration expenditure” means expenditure which—

- (a) is incurred on mineral exploration and access within the meaning of Part 5 (mineral extraction allowances), and
- (b) is qualifying expenditure for the purposes of Part 6.

Minor definitions

- 12.3.5 Minor definitions** 5
- (1) In this Chapter “licensed area” means (subject to section 12.3.2(4) and (5))—
 - (a) in relation to a UK oil licence, the area to which the licence applies, and
 - (b) in relation to a foreign oil concession, the area in relation to which the right to search for or win oil is conferred or exercisable under the concession. 10
 - (2) In this Chapter “the relevant authority”, in relation to a UK oil licence means—
 - (a) in the case of a licence under Part I of the Petroleum Act 1998, the Secretary of State, and 15
 - (b) in the case of a licence under the Petroleum (Production) Act (Northern Ireland) 1964, the Department of Enterprise, Trade and Investment.
 - (3) In this Chapter “oil” —
 - (a) in relation to a UK oil licence, means any substance won or capable of being won under the authority of a licence granted under Part I of the 1998 Act or the 1964 Act, other than methane gas won in the course of operations for making and keeping mines safe, and 20
 - (b) in relation to a foreign oil concession, means any petroleum (as defined by section 1 of the 1998 Act). 25

CHAPTER 12.4

PARTNERSHIPS, SUCCESSIONS AND TRANSFERS

12.4.1 Application of sections 12.4.2 and 12.4.3

Sections 12.4.2 (effect of partnership changes) and 12.4.3 (effect of company succeeding to a trade) apply for the purposes of this Act other than Parts 2 and 6 (plant and machinery allowances and research and development allowances). 30

12.4.2 Effect of partnership changes

- (1) This section applies if—
 - (a) a trade, profession or vocation has been set up and is at any time carried on in partnership, 35
 - (b) there has been a change in the persons engaged in carrying on the trade, profession or vocation, and
 - (c) the change is not treated as a permanent discontinuance of the trade, profession or vocation under section 113(1) of ICTA (changes in persons carrying on a trade etc.). 40

-
- (2) In this section—
“the present partners” means the person or persons for the time being carrying on the trade, profession or vocation, and
“predecessors”, in relation to the present partners, means their predecessors in carrying on the trade, profession or vocation. 5
- (3) Any allowance or charge is to be made to or on the present partners.
- (4) The amount of any allowance or charge arising under subsection (3) is to be calculated as if—
(a) the present partners had at all times been carrying on the trade, profession or vocation, and 10
(b) everything done to or by their predecessors in carrying on the trade, profession or vocation had been done to or by the present partners.

12.4.3 Effect of successions

- (1) This section applies if—
(a) a person (“the successor”) succeeds to a trade, profession or vocation which until that time was carried on by another person (“the predecessor”), and 15
(b) the trade, profession or vocation is treated as discontinued under section 113(1) or 337(1) of ICTA (changes in persons carrying on a trade, and special rules for corporation tax). 20
- (2) Property to which this section applies is to be treated as if it had been sold to the successor when the succession takes place.
- (3) The sale is treated as being at market value.
- (4) This section applies to any property which—
(a) immediately before the succession, was in use for the purposes of the discontinued trade, profession or vocation, and 25
(b) immediately after the succession and without being sold, is in use for the purposes of the new trade, profession or vocation.
- (5) No entitlement to an initial allowance arises under this section.

12.4.4 Transfer of insurance company business 30

- (1) This section applies if—
(a) assets are transferred as part of, or in connection with, the transfer of the whole or part of the business of an insurance company to another company, 35
(b) the transfer is—
(i) a transfer in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the Insurance Companies Act 1982 (transfers of long term business), or
(ii) a qualifying overseas transfer within the meaning of paragraph 4A of Schedule 19AC to ICTA (overseas life insurance companies). 40
- (2) But this section does not apply in relation to any asset transferred to a non-resident company unless the asset will fall to be treated, immediately after the transfer, as an asset which is held—

-
- (a) for use for the purposes of the management of, or
 (b) for the purposes of,
 the whole or a part of so much of any business carried on by the non-resident company as is carried on through a branch or agency in the United Kingdom.
- (3) This section also does not apply if section 12.4.5 (transfer of a UK trade to a company in another member State) applies. 5
- (4) If this section applies –
 (a) any allowances and charges that would have been made to or on the transferor are to be made instead to or on the transferee, and
 (b) the amount of any such allowance or charge is to be calculated as if everything done to or by the predecessor had been done to or by the successor, 10
 but no sale or transfer of assets made to the transferee by the transferor is to be treated as giving rise to any such allowance or charge.
- (5) In this section – 15
 (a) “insurance company” has the same meaning as in Chapter I of Part XII of ICTA, and
 (b) “non-resident company” means a company resident outside the United Kingdom.
- (6) In subsection (2) the reference to the purposes of the management of the business is a reference to those purposes expenditure on which, on the assumption below, would be treated as expenses of management for the purposes of section 76 of ICTA. 20
- (7) The assumption is that section 76(1)(d) (exclusion from expenses of management of expenses referable to certain categories of life assurance business) is to be disregarded. 25

12.4.5 Transfer of a UK trade to a company in another member State

- (1) This section applies if –
 (a) a qualifying company resident in one member State (“company A”) transfers the whole or a part of a trade carried on by it in the United Kingdom to a qualifying company resident in another member State (“company B”), 30
 (b) section 140A of the Taxation of Chargeable Gains Act 1992 Act (transfer of assets treated as no-gain no-loss disposal etc.) applies in relation to the transfer, and 35
 (c) immediately after the transfer company B –
 (i) is resident in the United Kingdom, or
 (ii) carries on in the United Kingdom through a branch or agency a trade which consists of, or includes the trade or the part of the trade transferred. 40
- (2) If this section applies –
 (a) the transfer itself does not give rise to any allowances or charges under this Act, and
 (b) anything done to or by company A before the transfer in relation to assets included in the transfer is to be treated after the transfer as having been done in relation to those assets to or by company B. 45

-
- (3) If, for the purposes of subsection (2), expenditure falls to be apportioned between assets included in the transfer and other assets, the apportionment is to be made in a just and reasonable manner.
- (4) Subsections (2) to (6) of section 12.5.2 (determination of apportionment affecting tax liability of two or more persons) apply, for the purposes of the tax of both company A and company B, in relation to the determination of any question of apportionment of expenditure under subsection (3) as they apply in relation to apportionments under that section. 5
- (5) In this section “qualifying company” means a body incorporated under the law of a member State. 10
- (6) If this section applies, section 343(2) of ICTA does not apply (effect of company reconstruction without change of ownership on capital allowances).

CHAPTER 12.5

MISCELLANEOUS

Apportionment 15

12.5.1 Apportionment where property sold together

- (1) Any reference in this Act to the sale of property includes a reference to the sale of that property together with any other property.
- (2) For the purposes of subsection (1), all property sold as a result of one bargain is to be treated as sold together even though— 20
- (a) separate prices are, or purport to be, agreed for separate items of that property, or
 - (b) there are, or purport to be, separate sales of separate items of that property.
- (3) If an item of property is sold together with other property, then, for the purposes of this Act— 25
- (a) the net proceeds of the sale of that item are to be treated as being so much of the net proceeds of sale of all the property as, on a just and reasonable apportionment, is attributable to that item, and
 - (b) the expenditure incurred on the provision or purchase of that item is to be treated as being so much of the consideration given for all the property as, on a just and reasonable apportionment, is attributable to that item. 30
- (4) This section applies, with the necessary modifications, in relation to other sale, insurance, salvage or compensation money as it applies in relation to the net proceeds of sales. 35
- (5) This section applies in relation to Part 5 as if expenditure on the provision or purchase of an item of property included expenditure on the acquisition of—
- (a) a mineral asset (as defined by section 5.1.4(1)), or
 - (b) land outside the United Kingdom. 40

12.5.2 Determination of apportionment affecting tax liability of two or more persons

- (1) This section applies if—
- (a) any question arises under any of Parts 3 to 10 or this Part as to the way in which a sum is to be apportioned, and 5
 - (b) at the time the apportionment falls to be made, it appears that the apportionment is material to the liability to tax (for whatever period) of two or more persons.
- (2) The Commissioners who are to determine the question, for the purposes of the tax of all the persons concerned, are given in subsections (3) to (5). 10
- (3) If—
- (a) the same body of General Commissioners has jurisdiction with respect to all the persons concerned, and
 - (b) those persons do not agree that the determination is to be made by the Special Commissioners, 15
- the determination is to be made by that body of General Commissioners.
- (4) If—
- (a) different bodies of General Commissioners have jurisdiction with respect to the persons concerned, and
 - (b) those persons do not agree that the determination is to be made by the Special Commissioners, 20
- the determination is to be made by such of those bodies of General Commissioners as the Board of Inland Revenue may direct.
- (5) In any other case, the determination is to be made by the Special Commissioners. 25
- (6) The Commissioners must determine the question in the same way as an appeal, but the persons concerned are entitled—
- (a) to appear and be heard by the Commissioners, or
 - (b) to make representations to them in writing.
- Tax agreements for income tax purposes* 30

12.5.3 Tax agreements for income tax purposes

- (1) This section applies if—
- (a) a person is entitled to an allowance for income tax purposes,
 - (b) that person enters into a tax agreement with the Inland Revenue for the tax year in which the allowance would be given effect, and 35
 - (c) no assessment giving effect to the allowance is made for that tax year.
- (2) In this section “tax agreement” means an agreement in writing as to the extent to which the allowance in question is to be given effect for the tax year in question.
- (3) If this section applies, the allowance is to be treated as if it had been given effect under an assessment— 40
- (a) for the tax year for which the tax agreement is made, and
 - (b) to the extent set out in the tax agreement.

- (4) A tax agreement may relate to any method by which allowances are given effect under this Act.

Companies not resident in the United Kingdom

12.5.4 Companies not resident in the United Kingdom

- (1) This section applies if a company not resident in the United Kingdom is— 5
(a) within the charge to corporation tax in respect of one source of income, and
(b) within the charge to income tax in respect of another source.
- (2) Allowances related to any source of income are to be given effect against income chargeable to the same tax as is chargeable on income from that source. 10

Sales treated as being at market value

12.5.5 Sales between connected persons, etc.

- (1) This section applies for the purposes of Parts 3, 4, 5, 6 and 10.
- (2) A sale of property that is not at market value is treated as being at market value if any of the following conditions is met— 15
(a) the buyer is a body of persons over whom the seller has control,
(b) the seller is a body of persons over whom the buyer has control,
(c) both the seller and the buyer are bodies of persons and another person has control over both of them, or 20
(d) the seller and the buyer are connected persons.
- (3) The references in subsection (2) to a body of persons include a partnership.
- (4) This section does not apply if section 12.4.5 applies (transfer of a UK trade to a company resident in another member State).
- (5) This section is subject to any election under section 12.5.7 (election to treat sale as being at lower amount). 25

12.5.6 Transactions to obtain tax advantage

- (1) This section applies for the purposes of Parts 3, 4, 5, 6 and 10.
- (2) A sale of property that is not at market value is treated as being at market value if it appears that the sole or main benefit which might be expected to accrue from— 30
(a) the sale, or
(b) transactions of which the sale is one,
is the obtaining of a tax advantage by all or any of the parties under any provision of this Act except Part 2. 35
- (3) This section does not apply if section 12.4.5 applies (transfer of a UK trade to a company resident in another member State).

12.5.7 Election to treat sale as being at lower amount

- (1) Subject to the following provisions of this section, the parties to a sale may elect for it to be treated as being for the lower of market value and the consideration specified in section 12.5.8(3) if—
 - (a) the sale would otherwise be treated as being at market value under section 12.5.5(2) or 12.6.3(3) (sales between connected persons, etc., and transfers treated as sales), and 5
 - (b) section 12.5.6(2) does not apply (transactions to obtain tax advantage).
- (2) Subsection (1) does not apply to a sale that is relevant for the purposes of Part 4. 10
- (3) No election may be made if—
 - (a) the circumstances of the sale or the parties to it mean that a relevant allowance or charge will not be capable of falling to be made, or
 - (b) the buyer is a dual resident investing company.
- (4) In subsection (3)(a) “relevant allowance or charge” means an allowance or charge under Part 3, 5, 6, 9 or 10 which (ignoring the circumstances mentioned in subsection (3)(a)) would or might fall to be made, as a result of the sale, to or on any of the parties to it. 15
- (5) If the sale is relevant for the purposes of Part 10, no election may be made unless both the seller and the buyer are or have been approved bodies (as defined in section 10.1.3). 20
- (6) An election under this section must be made by notice to the Inland Revenue not later than two years after the sale.
- (7) This section does not apply if section 12.4.5 applies (transfer of a UK trade to a company resident in another member State). 25
- (8) For the purposes of this section and section 12.5.8 a sale is relevant for the purposes of a Part if it is of property of a kind that is relevant for deciding whether an allowance or charge is made under that Part.

12.5.8 Effect of election

- (1) The effect of an election under section 12.5.7 is as follows. 30
- (2) The sale is treated as being for the lower of market value and the consideration specified in subsection (3).
- (3) The consideration is—
 - (a) if the sale is relevant for the purposes of Part 3 or 10, the residue of the qualifying expenditure immediately before the sale; 35
 - (b) if the sale is relevant for the purposes of Part 5, the available qualifying expenditure immediately before the sale;
 - (c) if the sale is relevant for the purposes of Part 6—
 - (i) in a case where an allowance under Part 6 is given for the expenditure represented by the asset sold, nil; 40
 - (ii) in any other case, the qualifying expenditure represented by the asset sold.
- (4) In subsection (3) “qualifying expenditure” and “available qualifying expenditure” have the same meaning as in the Part for the purposes of which

-
- the sale is relevant.
- (5) If the sale —
- (a) is relevant for the purposes of Part 3 or 10, and
 - (b) is treated as being for the residue of the qualifying expenditure immediately before the sale,
- no balancing adjustment is to be made as a result of the sale under section 3.7.6 (building not an industrial building, etc. throughout) or 10.6.5 (building not a qualifying dwelling-house throughout). 5
- (6) If, after the date of the sale, an event occurs as a result of which a balancing charge would have fallen to be made on the seller if — 10
- (a) he had continued to own the property, and
 - (b) he had done all such things, and been allowed all such allowances, as were done by or allowed to the buyer,
- the balancing charge is to be made on the buyer.
- (7) All such adjustments, by assessment or otherwise, are to be made as are necessary to give effect to the election. 15

CHAPTER 12.6

FINAL PROVISIONS

General interpretation

12.6.1 Application of Act to parts of assets 20

- (1) In this Act references to an asset of any kind (including a building or structure, plant or machinery or works) include references to part of an asset.
- (2) But subsection (1) does not apply if the context otherwise requires.

12.6.2 References to sale of property and time of sale

- (1) In this Act references to the sale of property include references to — 25
- (a) the exchange of property, and
 - (b) the surrender for valuable consideration of a leasehold interest (or, in Scotland, the interest of the tenant in property subject to a lease).
- (2) For the purposes of subsection (1), any provision of this Act referring to a sale has effect with the necessary modifications, including, in particular, those in subsection (3). 30
- (3) The modifications are that —
- (a) references to the net proceeds of sale and to the price include references to the consideration for the exchange or surrender, and
 - (b) references to capital sums included in the net proceeds of sale or paid on a sale include references to so much of the consideration for the exchange or surrender as would have been a capital sum if it had been a money payment. 35
- (4) Any reference in this Act (except in Part 6) to the time of any sale is to be read as a reference to whichever is the earlier of — 40
- (a) the time of completion, and

-
- (b) the time when possession is given.

12.6.3 Transfers treated as sales

- (1) This section applies for the purposes of Parts 3, 4 and 10 and other provisions of this Act relevant to those Parts if—
- (a) there is a transfer of the interest which is the relevant interest for the purposes of the Part in question, and 5
- (b) the transfer is not a sale.
- (2) The transfer is treated as a sale of the relevant interest.
- (3) The sale is treated as being at market value, subject to any election under section 12.5.7 (election to treat sale as being at lower amount). 10
- (4) This section does not apply if section 12.4.5 applies (transfer of a UK trade to a company resident in another member State).

12.6.4 Meaning of “control”

- (1) In this Act “control” is used in the sense given in this section.
- (2) In relation to a body corporate (“company A”), “control” means the power of a person (“P”) to secure— 15
- (a) by means of the holding of shares or the possession of voting power in relation to that or any other body corporate, or
- (b) as a result of any powers conferred by the articles of association or other document regulating that or any other body corporate, 20
- that the affairs of company A are conducted in accordance with P’s wishes.
- (3) In relation to a partnership, “control” means the right to a share of more than half of the assets, or of more than one half of the income, of the partnership.

12.6.5 Connected persons

- (1) Section 839 of ICTA (how to tell whether persons are connected) applies for the purposes of this Act. 25
- (2) Subsection (1) is subject to—
- (a) section 2.12.30 (connected persons for purposes of deferring balancing charges in respect of ships),
- (b) section 2.17.21 (connected persons for purposes of Chapter 2.17—anti-avoidance), 30
- (c) section 2.18.13 (connected persons where additional VAT liability is incurred in anti-avoidance case), and
- (d) section 2.20.4 (elections where predecessor and successor are connected persons), 35
- (which give “connected person” an extended meaning).

12.6.6 Meaning of “the Inland Revenue” etc.

- (1) Subject to subsection (2), in this Act “the Inland Revenue” means any officer of the Board of Inland Revenue.
- (2) In section 2.4.13(1) and (3)(a) (disclosure by or to Inland Revenue of 40

information relating to first-year allowances in Northern Ireland cases) “the Inland Revenue” means the Board of Inland Revenue or any officer of the Board.

- (3) In this Act “the Board of Inland Revenue” means the Commissioners of Inland Revenue (as to which, see in particular the Inland Revenue Regulation Act 1890). 5

12.6.7 Other definitions

- (1) In this Act—
- “dual resident investing company” has the same meaning as in section 404 of ICTA (limitation of group relief in relation to certain dual resident companies); 10
 - “income” includes any amount on which a charge to tax is authorised to be made under any of the provisions of this Act;
 - “market value”, in relation to any asset, means the price the asset would fetch in the open market; 15
 - “the normal time limit for amending a tax return”, in relation to a tax year, means the first anniversary of the 31st January following the tax year;
 - “notice” means a notice in writing;
 - “property business” means a Schedule A business or an overseas property business; 20
 - “tax”, if neither corporation tax nor income tax is specified, means either of those taxes;
 - “tax return” has the meaning given by section 1.1.3(2);
 - “tax year” means, in relation to income tax, a year for which any Act provides for income tax to be charged; 25
 - “the tax year 2001 – 02” means the tax year beginning on 6th April 2001 (and any corresponding expression in which two years are similarly mentioned is to be read in the same way).
- (2) For the purposes of this Act, a source of income is “within the charge to” corporation tax or income tax if that tax is chargeable on the income arising from it, or would be so chargeable if there were any such income, and references to a person, or to income, being within the charge to tax shall be similarly construed. 30
- (3) Any reference in this Act to an allowance made includes a reference to an allowance which would be made or allowed but for an insufficiency of profits, or other income, against which to make it. 35
- (4) For the purposes of this Act a person obtains a tax advantage if he—
- (a) obtains an allowance or a greater allowance, or
 - (b) avoids a charge or secures the reduction of a charge. 40
- (5) Schedule 1 (index of defined expressions) lists where expressions used in this Act are defined or otherwise explained.

Amendments, repeals, citation etc.

12.6.8 Consequential amendments

Schedule 2 (consequential amendments) shall have effect.

12.6.9 Commencement and transitional provisions and savings

- (1) This Act has effect – 5
- (a) for income tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 6th April 2001, and
 - (b) for corporation tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 1st April 2001. 10
- (2) References in this Act to a chargeable period to which this Act applies are references to the chargeable periods given in subsection (1).
- (3) Subsection (1) is subject to Schedule 3 (transitional provisions and savings).

12.6.10 Repeals

Schedule 4 (repeals) shall have effect. 15

12.6.11 Citation

This Act may be cited as the Capital Allowances Act 2001.