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PART B

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PART B

1986 BUDGET REPRESENTATION

DD's 25 years NARS 11/8/95.

CABINET OFFICE PAPER

The following Cabinet Office papers have been taken off the file. If you require access to these papers please contact the Cabinet Office.

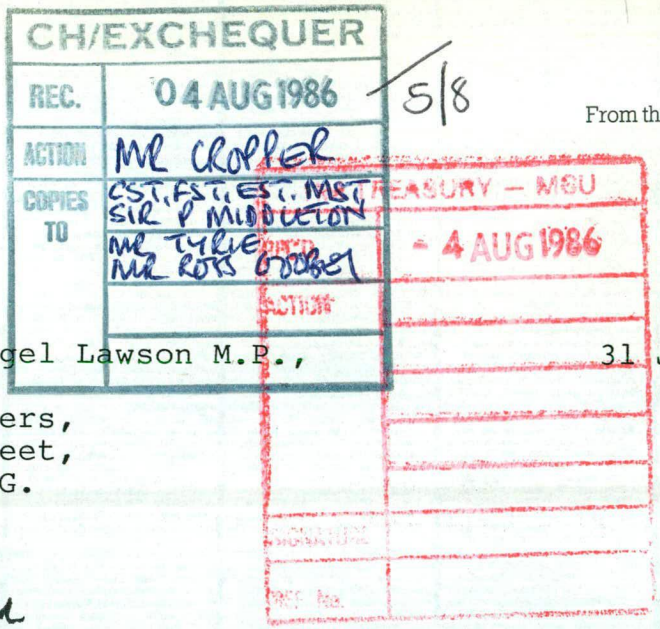
Reference	Date Of Paper
E90 (86) 184	7/8/1986

1980
Budget
Reps - N442
86 Representatives

Make w/ check
Jerry
on computer

IOD
Institute of Directors

From the Director General



5/8

The Rt.Hon. Nigel Lawson M.P.,
H.M. Treasury,
Treasury Chambers,
Parliament Street,
London SW1P 3AG.

31 July 1986

Dear Nigel

Many thanks for your letter of 24 July.

I am glad you have had a chance to read our paper on long-term tax strategy. We certainly did not propose to put this at the centre of our discussion at our autumn dinner, since the purpose of the dinner is to give you all the help and ideas we can in thinking about the next Budget.

Having said that, our paper does of course offer one possible long-term context for our discussion and I would like to stress one point. We are not really talking about cutting expenditure but about a new and explicit programme of its privatisation* wherever possible. The more we think about it, the more we believe that that should be the real long-term aim. We fully accept that it is absurd to talk about radical tax reduction strategies unless such a privatisation programme looks possible. There are three options open to any government, it seems to me. The first is to go further down the route the country followed up to 1979, and this seems to be what Roy Hattersley is proposing (i.e. put the clock back to 1974 and start all over again from where we left off in 1979). The second is to live with the present dispensation. The third is to continue the process started in 1979, but with quite ambitious objectives aimed at a new dispensation altogether. We are simply suggesting that the first option would lead to a re-run of 1976; the second to continued relative decline; and the third to relative recovery.

I have already had a couple of chats with Peter and he, Graham and I will be meeting to work out an agenda.

Yours ever

John

John Hoskyns

* As in our "Value for Money" paper on Health & Social Security of last year.

1234/18

cc PS/Chief Secretary
PS/Financial Secretary
PS/Economic Secretary
PS/Minister of State
PS/Sir P Middleton
Mr Cropper
Mr Tyrie
Mr Ross Goobey

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

Sir John Hoskyns
Director General
Institute of Directors
116 Pall Mall
LONDON SW1Y 5ED

24 July 1986

Dear John

I am glad to know that a date has been fixed for this year's dinner with your Tax Committee.

You sent me, on 26 June, a copy of your paper "The Direction of Tax Reform". I read it with interest, although I have to say that the underlying assumption about scope for cutting expenditure had a slight air of unreality. Perhaps I am too close to the annual PESC round! Be that as it may, I should prefer not to put it right at the centre of our discussions at dinner. It would be helpful to us to concentrate on the 1987 and 1988 budgets - although, of course, I recognise that they have to be set in the context of a coherent long term philosophy.

Peter Cropper tells me he has been in touch with you: I will leave it to the two of you to sort out an agenda.

Yours
Nigel

NIGEL LAWSON

PUP C/ Awaiting advice, but might like to be aware. Personal discussion at Glaneagles is suggested. CR 5/9

DR. GERHARD STOLTENBERG
BUNDESMINISTER DER FINANZEN

5300 Bonn 1,
Graurheindorfer Straße 108
Postfach 1308
Telefon: (0228) 682-4240

III B 1 - Z 0440 - 77/86

Chancellor of the Exchequer
Mr. Nigel Lawson
Parliament Street

London SW 1 P 3 AG
Great Britain

1 September 1986

DRAFT REPLY BY ASAP 15.9.86 PLEASE

CH/EXCHEQUER

REC.	05SEP1986
ACTION	MR KNOX CtE
COPIES TO	MST SIR P MIDDLETON SIR G LITTLER MR LAVELLE MR CASSELL MR SCHOLAR MR A EDWARDS MR ROMANSKI MR CROPPER

VS/9

PS/CtE

Dear Nigel,

May I take this opportunity to approach you with the problem of tax-free sales in intra-Community travel.

Since April 1983 the text of a Seventh Council Directive amending Directive 69/169/EEC on tax exemptions in international travel proposed by the EC Commission (the "Seventh Travel Directive") has been before the EC Council. Its purpose is to regulate tax-free sales in intra-Community air and sea travel.

I welcome very much the fact that Great Britain intends to give priority to the Directive during its presidency. I, too, consider it important, in the interest of a clear legal situation, to pass this legislation as soon as possible.

In this connection the Federal Republic of Germany is faced with a special problem. We support the Commission's proposal; in addition, however, we advocate also providing tax advantages for the sale of goods during long excursions out to sea, provided the ship is on the high seas for at least two hours. The European Parliament, on 14 December 1983, also came out in favour of including long sea excursions in the Seventh Travel Directive (Official Journal of the EC No. C 10 p. 41 dated 16 January 1984).

Such excursions and fishing trips with duty-free sales of goods on board, whose duration is comparable to that of ferry traffic, which first came into being in the 1950's, have developed especially in the Baltic Sea area. For the most part they are run by former fishermen who are no longer able to pursue their occupation due to lack of fishing opportunities.

As a result of the "butter-boat" decision of the European Court of Justice dated 14 February 1984 such excursions have already been considerably restricted in the Federal Republic of Germany. Tax-free sales of goods are no longer permitted on short trips where the ship is on the high seas for less than two hours. This restriction has meant great economic and social hardship for those affected and aroused considerable opposition at the time. Total abolition of the tax exemption would bring the loss of many jobs and would cause serious political difficulties, especially since unemployment is already high in the regions concerned.

I was thus very gratified to note that during the first consultation on the Seventh Travel Directive under the British presidency in the Financial Questions Group of the EC Council on 10 July 1986 the chairman showed sympathy for the German request and endeavoured to achieve a compromise solution acceptable to all Member States. We should be agreeable in principle to a Community exemption authorization allowing the Federal Republic of Germany to continue to grant the tax exemptions which are currently permitted on longer excursions.

I hope you will appreciate the difficult German situation and should be grateful if you could prevail on the other Member States to agree to a compromise solution. May I suggest that we discuss this point personally at the upcoming informal meeting of Community Finance Ministers.

Yours sincerely,

Gerd Langguth

cc PS/CSE
Mr Bolt - CSE

Treasury Chambers, Parliament Street, SW1P 3AG

M. Alain Juppé
Minister of State
93 Rue de Rivoli (1er)
Paris 75001
FRANCE

11 September 1986

Dear Alain,

CHANNEL FIXED LINK (CFL): DUTY-FREE FACILITIES

Last February I corresponded with your predecessor, M. Emmanuelli, about the provision of duty-free facilities on the CFL.

In response to my expression of concern that we had not been able to commence the necessary negotiations with the EC Commission and the Customs Co-operation Council, M. Emmanuelli confirmed the importance that he attached to the question and agreed with my suggestion that our officials should meet to exchange views.

As a result, Customs contacted their counterparts in your administration to arrange a meeting. I am sorry to learn, however, that despite many attempts it has not been possible for agreement to be reached on a meeting, although at one time arrangements were made but were subsequently cancelled by your officials.

I understand also that you may have reservations about the provision of duty-free facilities, possibly because of the implications of the completion of the Internal Market. However, we see it as essential that travellers using the CFL should enjoy the same duty-free facilities as on competing ferry traffic.

I am most concerned that our inability to make progress in this matter seems to be in direct contravention of the expressed intention in Article 9 of the Treaty that we would allow duty-free facilities comparable to those available to air and sea travellers, so far as may be consistent with our international obligations. I should be most grateful, therefore, if you would confirm my interpretation of this Article which is that we should jointly try to negotiate the necessary provisions so that these facilities may be made available on the CFL.

Yours sincerely
Peter Brooke

PETER BROOKE

H.M. CUSTOMS AND EXCISE
KING'S BEAM HOUSE, MARK LANE
LONDON EC3R 7HE
01-626 1515

FROM: P B KENT
12 September 1986

PS/Chancellor of the Exchequer

cc PS/Minister of State
Sir P Middleton
Sir G Littler
Mr Lavelle
Mr Cassell
Mr Scholar
Mr A Edwards
Mr Romanski
Mr Cropper

TAX-FREE SALES IN INTRA-COMMUNITY TRAVEL

1. In his letter of 1 September Dr Stoltenberg acknowledges our efforts to reach a compromise solution to the German "butter-boat" problem in the context of the draft Seventh Directive which is intended to provide a firm legal basis for tax free-shopping in intra-EC travel. He wishes to discuss this special German problem with the Chancellor at the informal meeting of Finance Ministers on 19/20 September.

Background

2. "Butter-boats", or "buttherships" as we call them, is the name given to 'round the bay' cruises from German ports, usually lasting several hours. Their name originated from the on-board sales of large quantities of butter at export subsidised prices although tax-free alcoholic drinks and tobacco goods are also on sale. At their peak over 100 ships attracted more than 10 million day-trippers a year.

3. The scale of the trade adversely affected North German retailers and led to three cases in the European Court in 1980 and 1982, in which the position of the German Customs in allowing the reimportation into Germany of goods bought free of duty, tax and CAP charges on board these boats was challenged. The Court ruled that export subsidies were not available for such sales, that customs duty would have to be paid upon third country goods and that boats must actually dock in another Member State for sales free of excise duty and VAT to be permitted.

4. Germany then modified its practices but has not fully enforced the Court rulings: most butterships cruises still do not call at a port in another Member State. This has led to the Commission threatening infraction proceedings and put serious pressure on the Germans to find a legal solution. Although most of the shorter cruises have ceased, the remaining significant passenger trade provides jobs in regions of high unemployment and the element of a "day's outing", particularly for pensioners, is important. Hence the German wish for a derogation permitting tax free shopping facilities for voyages lasting over two hours.

Proposed Community legislation - the 7th Directive

5. Existing Community legislation does not deal explicitly with duty-free shops. The Court's rulings in the Buttership cases effectively settled the conditions under which duty and tax-free sales may be permitted on board ferries but did not provide, in the view of several Member States, a sufficient legal basis for duty and tax-free sales in intra-Community travel generally. This uncertainty resulted in a Commission proposal for a Seventh Directive amending the basic Directive on travellers' allowances (69/169/EEC). Germany wants this proposal to be extended to provide for the retention of duty and tax free allowances for current buttership cruises.

Discussions in Brussels

6. In the light of the forthcoming privatisation of the British Airports Authority and the need for the prospectus to contain a positive statement on the future of the duty-free trade, and also of representation from trade interests for the duty and tax-free shops to be put on a firm legal footing, assurances have been given that the UK Presidency would push for the adoption of the Seventh Directive. We therefore tabled it for discussion in Brussels in July, but have run up against several obstacles to progress.

7. From the chair, we proposed that the German concerns be met by a derogation limited in time and subject to review after say 3 years. Although naturally preferring an open-ended commitment, the Germans could probably accept this compromise, but unfortunately unqualified support was forthcoming only from Denmark and Ireland besides ourselves. Our support is based on our need for reciprocal support to

unblock the Commission proposal and to ensure that comparable facilities will be accorded to the Channel Fixed Link (CFL). At the recent discussions in Brussels the French appeared to have set their face against any extension of duty and tax-free facilities to the CFL, and indeed in common with several other Member States are prepared to see all such facilities phased out on completion of the Internal Market. However there are some signs that the French may be re-thinking their position at least as regards the CFL. If we do help the Germans, it might be on the basis that we look to their co-operation on the CFL problem.

8. The question of the long-term future of duty and tax-free shops in intra-Community travel in the context of the Internal Market is due to be submitted to Ministers in due course following inter-departmental discussion.

9. The attached reply to Dr Stoltenberg is suggested. Although he is asking the UK to "prevail on the other Member States to agree to a compromise solution" for butterships, it is difficult to see what the next steps should be until we have probed French intentions more deeply. The Minister of State has just written to his opposite number in the French Ministry of Finance seeking clarification of their position on the CFL and the reply should indicate their general attitude towards duty- and tax-free facilities post-1992. Further briefing for the Chancellor's meeting is in preparation.

attached

PBK

P B KENT

Internal Circulation: CPS; DCPS; Mr Nash; Mr Bolt; Mr Wilmott; Mr Cockerell; Mr Knox; Mr Walton (UKREP); File.

Please type for C to send ✓

DRAFT REPLY TO DR STOLTENBERG

butterships

TAX-FREE SALES IN INTRA-COMMUNITY TRAVEL

Thank you for your letter of 1 September about the Seventh Travel Directive and your problems with ~~"butter-boat"~~ cruises.

~~We understand~~ I recognise the social and economic consequences for the regions concerned of any immediate withdrawal of tax-exemptions and it was for that reason that ~~we~~ the UK put forward a Presidency compromise of a Community derogation for a limited period of time, subject to periodic review. Unfortunately this attracted only limited support during the last discussion of the Seventh Directive which, as you know, we are also keen to see adopted.

~~We should~~ I do not under-estimate the difficulty of persuading our partners to see things our way, but by all means let us have a word at Gleneagles about what further steps we might take to make progress on this question.

NIGEL LAWSON

RC6.85

Tony

This isn't really the "royal we" though is it?

CR 16/9

PS where's 4?!

1. Tony - to note ✓

cc PS/MST
Sir P Middleton
Sir G Littler
Mr Lavelle
Mr Cassell
Mr Scholar
Mr A Edwards
Mr Romanski
Mr Kent
Mr Cropper

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

15 September 1986

Dr Gerhard Stoltenberg
Minister for Finance
Graurheindorfer Strasse 108
5300 Bonn 1
Germany

Cathy

What about 'y' below – the "intrusive we"? T.

TAX-FREE SALES IN INTRA-COMMUNITY TRAVEL

Thank you for your letter of 1 September about the Seventh Travel Directive and your problems with buttership cruises.

I recognise the potential social and economic consequences for the regions concerned of any immediate withdrawal of tax-exemptions and it was for that reason that the UK put forward a Presidency compromise of a Community derogation for a limited period of time, subject to periodic review. Unfortunately this attracted only limited support during the last discussion of the Seventh Directive which, as you know, we are also keen to see adopted.

I do not under-estimate the difficulty of persuading our partners to see things our way, but by all means let us have a word at Gleneagles about what further steps we might take to make progress on this question.

NIGEL LAWSON

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

Robert Culshaw Esq
Private Secretary to
Secretary of State for Foreign &
Commonwealth Affairs
Foreign & Commonwealth Office
Whitehall
LONDON SW1

15 September 1986

Dear Robert,

I attach a letter from the Chancellor of the Exchequer to Dr Gerhard Stoltenberg concerning tax-free sales in intra-community travel.

I should be grateful if you would arrange for the letter to be forwarded to Dr Stoltenberg. It would be helpful if the letter could reach Dr Stoltenberg before he departs for the informal ECOFIN at Gleneagles on 25 September.

Yours sincerely,

Cathy Ryding

CATHY RYDING

SM1/3

RMP

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

15 September 1986

John Norris Esq
President
Country Landowners Association
16 Belgrave Square
LONDON
SW1X 8PQ

Dear Mr Norris

Thank you for your letter of 8 August and your appreciated remarks about the measures I have been able to take in only three Budgets so far.

I have noted the three further measures your Association would like to see, together with its detailed representations. I am afraid that my diary will not permit a meeting with you to discuss these, but they will of course be considered very fully.

Meanwhile, I understand that my colleague, Norman Lamont will be lunching with you later this month. You may wish to take the opportunity to discuss some of these matters with him then.

Yours sincerely
Nigel

NIGEL LAWSON

Mr Walters needs to be taught how to draft a courteous letter. (The FST, too, must take more trouble over how we handle these established pressure groups). What is needed is something like this!

A

Thank you for your letter of 8 August and for your appreciative remarks about the measures I have been able to take in my three Budgets so far.

I have noted the three further measures your Association would like to see, together with its detailed representations. I am afraid that my diary will not permit a meeting with you to discuss these, but they will of course be considered very fully.

Meanwhile, I understand that my colleague Norman Lamont will be lunching with you later this month. You may wish to take the opportunity to discuss some of these matters with him then.

[Inevitably, I have some sympathy with the latter 2 items in Mr Norris's letter – the special rules for farmers re losses & (for all small traders) the complexity & sheer volume of paperwork involved in operating PAYE]. ~

FROM: D N WALTERS
DATE: 9 OCTOBER 1986

1. MISS SINCLAIR

2. CHANCELLOR OF THE EXCHEQUER

cc Chief Secretary
Financial Secretary
Economic Secretary
Minister of State
Sir Peter Middleton
Mr Cassell
Mr Scholar
Mr Culpin
PS/IR
Mr M Johns - IR
PS/C&E
Mr P Wilmott - C&E

BUDGET DEPUTATIONS AND REPRESENTATIONS

This submission seeks your agreement to guidelines for the handling of deputations and representations for the coming Budget. The following proposals, which have been agreed with the two Revenue Departments, follow broadly the lines of last year.

Budget deputations

2. The practice last year was to restrict the number of Budget delegations seen by Ministers. Only requests from those major representative bodies on a "core list" were automatically accepted. Other requests for meetings were rejected unless there was a specific reason for seeing them or an MP asked to bring a representative association to see a Minister. However, in addition the then Financial Secretary proposed that representative bodies from small businesses, the motor industry or petrol consumers, and the oil industry should generally be seen. Annex A sets out last year's core list, and Annex B shows all the bodies whose requests for a meeting were accepted.

3. The records show that 33 bodies were seen. These included every association on the core list as well as at least one representative from the areas of small businesses (serial 21) and the motor industry or petrol consumers (serial 10). In addition, while not strictly representations, a number of other bodies were seen (mostly over lunch) including some from the oil industry.

4. For the coming Budget round, we propose to adopt last year's approach. Consequently, requests from the 8 bodies on the core list will automatically be accepted. However, in response to Ministers' views last year, the list will be amended to include the National

[redacted]rmers Union in place of the Country Landowners Association. (That said, the Financial Secretary has already had lunch with the CLA on the 29 September.) In addition, the presumption will be that, subject to the merit of the individual case and the number of other approaches from similar bodies, representative bodies from small businesses, the motor industry or petrol consumers, and the oil industry will generally be seen. Requests will also be accepted where an MP asks to bring a representative association. Other requests will, subject to the advice of the responsible Revenue Department, in principle be turned down. However, we realise that this is an area where it is impossible to set hard or fast rules and in cases of doubt we shall consult Ministers. No organisations will be seen in the month before the Budget.

5. Last year, Ministers were content to continue to accept a simplified standard form of briefing for meeting with Budget deputations (see Annex C). If you and others agree, we shall, were appropriate, persevere with that format. Obviously supplementary briefing can be produced if requested.

Budget representations

6. As last year, we propose that in the case of letters from members of the public, an acknowledgement should be sent by FP. In the case of letters requiring a Ministerial reply (eg from MPs), we will provide a standard reply to be sent by the appropriate Minister. We also propose to streamline FP's procedures for the 1987 Budget. This will involve use of a computer to log in all representations received and to prepare and print the draft response. The new arrangement will provide for a quicker and more efficient turn-round of cases.

7. The system will, however, require the computer to be pre-loaded with the draft standard replies. Their form therefore needs to be agreed now. I attach at Annex D suggested all-purpose replies for Ministers, Private Secretaries and officials. There will, of course, always be some representations which need a non-standard response. These we will continue to provide as appropriate. However, it is hoped that the vast majority of representations can be handled using the standard format.

Conclusion

8. We would be grateful to know if you are content:

(a) that we should handle requests for meetings with Budget deputations on the lines proposed in paragraph 4 above;

(b) that briefing for such meetings should be in the standard format used last year (paragraph 5);

(c) that written Budget representations should receive one of the standard acknowledgements set out in Annex D unless it is clearly inappropriate in which case an individual response will be drafted.

D N WALTERS

ANNEX A

CORE LIST OF REPRESENTATIVE BODIES

Confederation of British Industry

Trades Union Congress

Association of British Chambers of Commerce

Institute of Directors

(Country Landowners Association) NFU

Scotch Whisky Assocation

Tobacco Advisory Council

Brewers Society

ANNEX B

REPRESENTATIVE BODIES SEEN IN THE RUN-UP TO THE 1986 BUDGET

	Body	Minister
1.	Country Landowners Association	FST
2.	Institute of Taxation	CST
3.	Scottish Landowners Federation	FST
4.	Imperial Tobacco Limited	CHX
5.	Association of British Insurers	FST
6.	Confederation of British Industry	CHX/FST/MST
7.	The Society of Motor Manufacturers & Traders	MST
8.	General Council of British Shipping	FST
9.	Village Halls Forum	MST
10.	Automobile Association	CHX
11.*	Jockey Club/All Party Racing & Bloodstock Industries Committee	MST
12.	Preston and District Fish Friers Association	MST
13.	Charities Aid Foundation	FST
14.	Brewers Society	CHX/MST
15.	Scotch Whisky Assocation	CHX/FST/MST
16.	British Medical Association	MST
17.*	British Greyhound Racing Board	MST
18.	National Union of Licensed Victuallers	MST
19.	Tobacco Advisory Council	CHX
20.	Road Haulage Association	FST
21.	Smaller Businesses Committee	FST
22.	Institute of Directors	CHX
23.	Charities VAT Reform Group	FST
24.	Association of British Chambers of Commerce	CST
25.*	Horseracing Advisory Council	MST
26.	Patterdale Mountain Rescue Association	MST
27.	Trades Union Congress	CHX/CST/FST/MST/EST
28.	Unquoted Companies Group	FST
29.	Alcohol Concern	MST
30.	Small Independent Brewers	FST
31.	Shop Stewards from Northern Ireland - Gallagher & Rothmans	MST
32.	Scottish Conservative Parliamentary Back Bench Committee	FST
33.	Small Business Bureau	FST

* These all attended the same meeting on betting.

ANNEX C

BUDGET DEPUTATIONS: STANDARD BRIEFING FORMAT

Paragraph 1	Organisation. Description of Membership (where necessary). Brief biographical details of representatives attending meetings.
Paragraph 2	Object of meeting (either major body seen as a matter of course or being seen for some specific reason.)
Paragraph 3	Summary of organisation's written representations.
Paragraph 4	Points likely to be raised together with a few lines of comment.
Paragraph 5	Any points that Ministers should ask the organisation.

ANNEX D

BUDGET REPRESENTATIONS: STANDARD ACKNOWLEDGEMENT

(1) **MINISTERIAL**

(a) Thank you for your letter of [date] enclosing correspondence from [name and address].

I can assure you that [name] ~~comments~~ representations will be carefully considered in the run-up to the Budget. However, I hope you will understand that ~~it would be inappropriate for me to~~ I cannot comment further at this stage.

[Minister's name]

(b) Thank you for your letter of [date] enclosing representations for the Budget from the [name of organisation].

I can assure you that your ~~comments~~ representations will be carefully considered in the run-up to the Budget. However, I hope you will understand that ~~it would be inappropriate for me to~~ I cannot comment further at this stage.

[Minister's name]

(2) **PRIVATE SECRETARY AND OFFICIAL**

The [Minister] has asked me to thank you for your letter of [date].

I can assure you that your comments will be carefully considered in the run-up to the Budget. However, I hope you will understand that it would be inappropriate to offer further comments at this stage.

Thank you for taking the trouble to write.

[Name]
[Private Secretary]

LD/090

1 Jay OIR
2 PWP

FROM: A W KUCZYS
DATE: 13 OCTOBER 1986

MR WALTERS

cc PS/Chief Secretary
PS/Financial Secretary
PS/Economic Secretary
PS/Minister of State
Sir P Middleton
Mr Cassell
Mr Scholar
Miss Sinclair
Mr Culpin
Mr Johns -IR
PS/IR
Mr Wilmott -C&E
PS/C&E

BUDGET DEPUTATIONS AND REPRESENTATIONS

The Chancellor is content with the proposals in your minute of 9 October, subject to any comments other Ministers may have. Please could they raise any such comments at Prayers this Wednesday (15 October)?

2. The Chancellor would like to make some minor changes to the draft letters at Annex D, and I attach a copy with these shown.

CR.

PP **A W KUCZYS**

ANNEX D

BUDGET REPRESENTATIONS: STANDARD ACKNOWLEDGEMENT

(1) **MINISTERIAL**

(a) Thank you for your letter of [date] enclosing correspondence from [name and address].

I can assure you that [name] ~~comments~~ representations will be carefully considered in the run-up to the Budget. However, I hope you will understand that ~~it would be inappropriate for me to~~ I cannot comment further at this stage.

[Minister's name]

(b) Thank you for your letter of [date] enclosing representations for the Budget from the [name of organisation].

I can assure you that your ~~comments~~ representations will be carefully considered in the run-up to the Budget. However, I hope you will understand that ~~it would be inappropriate for me to~~ I cannot comment further at this stage.

[Minister's name]

(2) **PRIVATE SECRETARY AND OFFICIAL**

The [Minister] has asked me to thank you for your letter of [date].

I can assure you that your comments will be carefully considered in the run-up to the Budget. However, I hope you will understand that it would be inappropriate to offer further comments at this stage.

Thank you for taking the trouble to write.

[Name]

[Private Secretary]

FROM: D N WALTERS
DATE: 15 OCTOBER 1986

PS/CHANCELLOR OF THE EXCHEQUER
PS/CHIEF SECRETARY
PS/FINANCIAL SECRETARY
PS/ECONOMIC SECRETARY
PS/MINISTER OF STATE
MR DAVIES - MCU

cc Miss Sinclair
Miss Evans
Miss Wallis

Cathy - for you?
T.

BUDGET REPRESENTATIONS

My minute of 9 October to the Chancellor set out proposals for handling representations in the coming Budget round. Mr Kuczys' minute of 13 October advised that the Chancellor was content with the suggested arrangements subject to some minor changes to the draft letters and the comments of other Ministers at Prayers this morning. On the latter point, I understand that none were raised.

2. Consequently, we are now poised to start handling all Budget representations through our new computer system. The purpose of this minute is to reach agreement with you on the mechanics of the operation for those cases requiring Ministerial or Private Secretary reply.

3. During the last Budget, MCU sent all Ministers' offices copies of each representation issuing from bodies on the "core" list. FP then similarly copied the draft responses. It is proposed that for bodies on the core list this practice should continue.

4. Other representations calling for Ministerial or Private Secretary reply fell generally into two groups:

(a) other organisations;

(b) members of the public writing through their MPs.

In both cases all Ministers Offices were sent a copy of every in-coming letter, the draft response and the minute which covered it no matter which Office had the action. Given the generally standard appearance of the latter two items, this would seem in most cases to involve unnecessary photocopying and paper handling for both you and us.

5. Is it necessary for your Office to see copies of all these representations this year ie even those where you are not responding?

6. If it is, can we not reduce the amount of paper work by use of the following arrangement:

(i) Each incoming Budget representation for Ministerial or Private Secretary response to be copied to all Ministers' Offices;

(ii) however, if the draft response is in the standard format and the case requires no additional information in a covering minute, the draft reply to be submitted to the responding Private Office only;

(iii) when a standard response is submitted and no explanatory background is appropriate it should be covered by just a compliment slip giving the name of the person in FP submitting it and the date of submission.

(iv) the draft response to be typed in final form on the appropriate headed paper and with an addressed envelope.

(v) In every other case ie non-standard reply or requiring a proper covering minute, all the papers to be copied to all the Private Offices.

7. I would be grateful for your views on the proposed new arrangement. If there is a need for Budget representations to be copied to all Ministers' Offices, I believe it would improve further the efficiency with which they can be handled. So that we can get the system up and running (as you aware Budget representations are already starting to come in), it would be helpful if I could have your views as soon as possible.

D N WALTERS

MR 3/39

1 Alex
2 Tony
~~3 PUP~~
3 Andrew
4. RP

FROM: CATHY RYDING
DATE: 17 OCTOBER 1986

MR WALTERS

cc: PS/Chief Secretary
PS/Financial Secretary
PS/Economic Secretary
PS/Minister of State
Miss Sinclair
Miss Evans
Miss Wallis
Mr Davies - MCU

BUDGET REPRESENTATIONS

Thank you for your minute of 15 October.

2. I agree with your suggestion in paragaph 3 that all Ministers' offices should receive copies of representations from bodies on the "core" list and the draft responses.

3. For other representations calling for Ministerial or Private Secretary reply, I am content to see only those requiring the Chancellor's attention. However, I should be grateful if other Private Offices would draw to my attention any particularly interesting representations actioned to their Minister.

C.R

CATHY RYDING

The Automobile Association
Head Office: Fanum House, Basingstoke, Hampshire RG21 2EA
Telephone: Basingstoke (0256) 20123

Chairman
SIR RALPH CARR-ELLISON, TD

Director General
O. F. LAMBERT CBE

4th November, 1986.

Dear Nigel

In recent years my predecessor as Chairman of the Automobile Association, Lord Erroll, has had the pleasure and privilege of a private meeting with you to discuss various aspects of motoring taxation. I know that these meetings were very much appreciated, not only for the opportunity to put to you specific points on the motorists' behalf, but also for the most helpful discussion about fiscal policy as it affects the motoring sector generally.

I would very much like to continue these annual meetings and, provided your many duties permit, I hope that it will be possible for me to come and see you sometime within the next six weeks or so.

I look forward to hearing that you are agreeable to a meeting and, if so, perhaps our respective offices could arrange a mutually convenient date and time.

Yours ever
Ralph

The Rt Hon Nigel Lawson, MP
Chancellor of the Exchequer
Treasury Chambers
Parliament Street
LONDON SW1P 3AG

2-4

Are you content to see AA and SWA (with FST)? D 12/11

FROM: D N WALTERS
DATE: 14 NOVEMBER 1986

1. **MISS SINCLAIR**

2. **CHANCELLOR OF THE EXCHEQUER**

cc APS/Chief Secretary
APS/Financial Secretary
APS/Economic Secretary
APS/Minister of State
PS/IR
PS/C&E

I will see AA & SWA, both with FST & MST. Despite para 3, I will not see RAC.

BUDGET REPRESENTATIONS

Your Diary Secretary's minute of 5 November sought advice on letters asking for a meeting to discuss 1987 Budget Representations from both the Automobile Association and the Scotch Whisky Association.

Automobile Association

2. The Chairman of the AA (Sir Ralph Carr-Ellison) wrote on 4 November to ask whether you would be willing to continue with the annual pre-Budget meetings enjoyed by his predecessor. The AA are not on the core list but you have accepted the general presumption that, subject to the merits of the individual case, representatives of the motor industry or petrol consumers will be seen. You met the AA last year and we can see no reason why you should not do so again this year. However, in advance of the meeting, which Sir Ralph would like "within the next 6 weeks or so", we suggest that you ask the AA to write detailing their representations so that Customs and Revenue can let you have appropriate briefing.

3. I should record one note of caution. If you agree to see the AA, it will probably be difficult subsequently to turn down the RAC should they also ask for a meeting.

Scotch Whisky Association

4. Mr Bewsher's letter of 4 November asks you to see a small delegation from the Scotch Whisky Association to discuss concern about the burden of taxation borne by their product. Mr Bewsher offers either Monday 8 or Tuesday 9 December with fallback dates of Wednesday 3 December or the afternoon of Monday 1 December. Of these dates, the 8th (ECOFIN - Brussels), pm on the 9th (CBI Budget representations) and am on the 3rd (NEDC) are already ruled out by prior engagements. However, the morning of the 9th or the afternoon of the 3rd or 1st are currently possible options.

WALTERS → CHFEX 14/11

5. The Scotch Whisky Association are on the core list and are therefore one of the organisations which are met by Ministers as a matter of course. Nevertheless, the Association already have an appointment to see the Financial Secretary about stock relief on the afternoon of Wednesday 26 November. Two meetings with Treasury Ministers would seem inappropriate. Last year, the Association were seen by you, the Financial Secretary and the Minister of State. We suggest that the Association are offered a combined event or the opportunity to meet either you or the Financial Secretary to discuss the whole range of their concerns after they have submitted their written Budget Representations. This will allow the Revenue Departments more easily target their briefing

6. Both the Revenue and Customs are content with the above advice.

D N WALTERS

DRAFT LETTER TO:

Sir Ralph Carr-Ellison
The Automobile Association
Fanum House
Baskingstoke
Hants RG21 2EA

Thank you for your letter of 4 November in which you asked for a meeting to discuss various aspects of motor taxation. I would be delighted to meet with you. No doubt you will be submitting in due course written Budget Representations on behalf of your Association. It would be helpful to see those before we meet. Once they are received I will ask my office to make the necessary arrangements.

[NL]

RD5.15

SWA

FROM: MRS D C LESTER
DATE: 5 November 1986

MR WALTERS

cc APS/Chief Secretary
APS/Financial Secretary
APS/Economic Secretary
APS/Minister of State

BUDGET REPRESENTATIONS

I attach copies of letters from the Automobile Association and the Scotch Whisky Association seeking meetings with the Chancellor about their 1987 Budget representations.

2. I should be grateful for your advice on whether these bodies are on the core list and consequently whether the Chancellor should see them. I understand that there is a slight complication with the Scotch Whisky Association in that the Financial Secretary has already agreed to see them and a meeting has been arranged for Wednesday 26 November. It does not seem fair that the SWA should have two bites at the cherry!

Debbie Lester

MRS D C LESTER

DL → HADDES 5/11

The Automobile Association
Head Office: Fanum House, Basingstoke, Hampshire RG21 2EA
Telephone: Basingstoke (0256) 20123

Chairman
SIR RALPH CARR-ELLISON, TD

Director General
O. F. LAMBERT CBE

4th November, 1986.

Dear Nigel

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I would very much like to continue these annual meetings and, provided your many duties permit, I hope that it will be possible for me to come and see you sometime within the next six weeks or so.

I look forward to hearing that you are agreeable to a meeting and, if so, perhaps our respective offices could arrange a mutually convenient date and time.

Yours ever
Ralph

The Rt Hon Nigel Lawson, MP
Chancellor of the Exchequer
Treasury Chambers
Parliament Street
LONDON SW1P 3AG

The Scotch Whisky Association

Limited Liability

Registered in Scotland No. 35148

TEL: 031-229 4383

TELEX: 727626

20 ATHOLL CRESCENT · EDINBURGH EH3 8HF

REGISTERED OFFICE

27th October 1986

Miss Mankelow
The Financial Secretary's Office
Treasury Chambers
Parliament Street
London
SW1P 3AG

Dear Miss Mankelow

Meeting with the Rt Hon Norman Lamont MP

I write to confirm our telephone conversation today when you advised that Wednesday 26th November at 4 pm would be a suitable time for Colonel Bewsher to meet with Mr Lamont at his office. Colonel Bewsher, who is at present in Japan on business, will be accompanied by Professor Donald Mackay, the Association's Economic Consultant.

Yours sincerely

Mr V. Banks.

Mrs M V Banks

The Scotch Whisky Association

Limited Liability
Registered in Scotland No. 35148
TEL: 031-229 4383
TELEX: 727626
FAX No. 031-229 1989

20 ATHOLL CRESCENT · EDINBURGH EH3 8HF
REGISTERED OFFICE

HFOB/KPT/RCE

4th November 1986

The Rt Hon Nigel Lawson MP
Chancellor of the Exchequer
HM Treasury
Parliament Street
London
SW1P 3AG

Dear Chancellor

You have been kind enough each year to see a small delegation from this Association prior to your Budget. As considerable concern still remains about the burden of taxation borne by Scotch Whisky, we would be extremely grateful if you would please consider seeing us at your convenience again this year.

If you should feel able to do so, we would offer either Monday 8th or Tuesday 9th December as possibilities from our point of view. If neither of these should be convenient for you, then either Wednesday 3rd December or the afternoon of Monday 1st December would be possible for us.

I shall of course confirm nearer the time who will comprise our delegation but, apart from myself, it is likely to be Mr John Macphail, our Chairman, Professor Donald MacKay, our Economic Adviser, and Mr Ivan Straker, the Chairman of our Public Affairs Committee.

I shall also hope to send you within the next fortnight our usual report on the various matters we would hope to discuss with you.

With kind regards,

Yours sincerely

H F O Bewsher

Spoke to Doug Walters
He will arrange
Nigel Rees
13/11

FROM: T G HULL
DATE: 7 November 1986

MR KUCZYS

cc: PS/CST
PS/EST
PS/FST
PS/MST
PS/IR
PS/CE

I mentioned to you that Mr Wilson would like to see Budget representations from outside bodies and Budget Starters at an earlier stage than he does at present. Could you and copy recipients ensure that he is on the circulation list for these papers at the outset please?

T G HULL
Private Secretary

LD/9

AA

FROM: MRS D C LESTER
DATE: 18 November 1986

MR WALTERS

cc APS/Chief Secretary
APS/Financial Secretary
PS/Economic Secretary
APS/Minister of State
Miss Sinclair
PS/Inland Revenue
PS/C&E

BUDGET REPRESENTATIONS

The Chancellor was grateful for your minute of 14 November. He will see both the Automobile Association and the Scotch Whisky Association, with the FST and MST present on both occasions. He has commented that he will not see the RAC.

2. I shall let you know the dates of these meetings once they have been fixed.

Debbie Lester

MRS D C LESTER

LESTER → WALTERS 18/11

RD5.33

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

19 November 1986

Sir Ralph Carr-Ellison
The Automobile Association
Fanum House
Basingstoke
Hants
RG21 2EA

Thank you for your letter of 4 November in which you asked for a meeting to discuss various aspects of motor taxation.

I understand that it has been fixed for Tuesday 16 December at 9.30 am at 11 Downing Street. This is, of course, subject to us receiving your written Budget Representations before then, with a fall-back position of 4.00 pm on Tuesday 13 January should they not reach us on time.

I look forward to seeing you.

NIGEL LAWSON

CHEX → CARR-ELLISON 19/11

16/12

The Automobile Association

Head Office: Fanum House, Basingstoke, Hampshire RG21 2EA
Telephone: Basingstoke (0256) 20123

Chairman
SIR RALPH CARR-ELLISON, TD

Director General
O. F. LAMBERT CBE

4th December, 1986

BRIEFING BY 15.12.86 PLEASE

CH/EXCHEQUER	
REC.	04 DEC 1986 4/12
ACTION	MR G MCKENZIE
COPIES TO	CST FST EST MST SIR P MIDDLETON MR CASSELL MR SCHOLAR MISS SINCLAIR MR ROMANSKI MR WALTERS PS/IR PS/CtE

CARR-ELLISON → CH/EX 4/12

Jean Nigel.

Thank you for your letter of 19th November and for giving me this opportunity to outline in advance of our meeting the prime issues affecting fiscal policy as it relates to the motorist. I will expand the supporting arguments when we meet.

The Association much appreciates the stance that the Government has taken towards motoring taxation and expenditure over the past year: only a modest increase in Petrol Duty in the 1986 Budget, no increase in Vehicle Excise Duty and increased provisions for expenditure on roads. We very much hope that this favourable trend will be at the very least maintained in real terms.

Membership of the AA is now well over six million. The Association, therefore, is the major representative organisation of the road user, the car buyer and, more particularly, the motoring tax payer.

Car ownership has become a necessity for everyday life for an ever increasing number of individuals and households. Over 82% of passenger journeys are made by car and this proportion is increasing. The purchase and maintenance of a car takes up 13% of average households' budgets, representing £21 per week. This is five times as much as is spent on all other forms of transport combined. A principal use for the car is for the journey to work.

The motor car remains a vital part of the economy, not only directly, through the increased demand for new vehicles, spare parts and fuel, but also indirectly by providing an impetus for growth in a great many related activities such as insurance and tourism.

Tourism, especially, is heavily dependent on the car. Virtually all aspects of tourism rely on car-borne traffic to provide a profitable level of activity. In addition, the use of the car is essential to many of those employed in tourism and the associated services.

During our forthcoming meeting, I particularly wish to discuss the following matters:-

COST OF PETROL

1. Petrol Duty

A recent survey showed that 77% of all motorists questioned thought that there should be a reduction in the overall tax burden on motorists. Any reduction in the cost of petrol stimulates demand, a growth that in turn increases government revenue from excise duties and VAT. Any increase will, directly and indirectly, add to inflationary pressures and, for many households, will reduce the benefits of any direct taxation reductions that may be introduced. I submit the amount of petrol duty should be held at its present level.

2. VED

A Parliamentary Committee has recently recommended that VED should be replaced by an equivalent amount added to the petrol duty to deal with the large-scale evasion of excise duty.

Despite the initial attraction of eliminating, at a stroke, evasion of VED, the practical reality is that there is no direct equivalent amount that can be added to petrol.

However, assuming an additional 35p on a gallon of petrol, a car owner driving less than 7,500 miles a year will pay less tax, but the majority will pay more tax - increasing in direct relationship to the mileage covered. Those most likely to pay more are motorists living in rural areas, those who travel to work by car, those who use it for business and industry and commerce generally. Any additional cost incurred by business users would have to be passed on as price increases to the customer.

There is the added point that presumably some form of registration procedure would still be required. This would not only be expensive to administer but would also require some level of payment by motorists.

I submit you should reject these recommendations without delay.

3. Unleaded Petrol

In your Budget Statement last year, you undertook to create a duty differential to offset the higher production cost of unleaded petrol. The Association welcomes this intention, since the community as a whole should benefit from its introduction and should, therefore, bear the considerable costs involved - costs which fall largely upon the motoring community. With this in mind, I submit that the reduction in duty intended for unleaded petrol should not be offset by the Exchequer imposing a corresponding increase in duty imposed on leaded fuel or, indeed, recovered from the motoring community in any other way.

ROADS

1. Local Authority Expenditure

Although the Government is seeking increased local authority expenditure on road maintenance, in recognition that local authority roads are not generally in good condition, there does not appear to be any commensurate increase in grant to support this objective.

As a local authority may elect to spend their current grant on matters other than road maintenance, despite the unsatisfactory condition of many local authority roads, I submit that this particular expenditure should be specifically safeguarded.

2. General

Traffic growth forecasts conclude that the UK road network will soon be overwhelmed unless there is continuing major investment in the road infrastructure. I submit that, in line with our major trading partners, a higher proportion of revenue received from motorists should be allocated to such investment.

As you know, Britain's motorists are among the most severely taxed compared with other countries and whatever they may gain from reductions in direct taxes should not be swallowed up by increases in their indirect taxes and VAT. When you finalise the details of the 1987/88 budget, I hope that you will not increase the level of taxation on the motorist but will also find scope for some reduction in this burden.

Yours ever

Ralph

The Rt. Hon. Nigel Lawson, MP.,
Chancellor of the Exchequer,
Treasury Chambers,
Parliament Street,
LONDON
SW1P 3AG.

cc PS/CHANCELLOR
PS/CST, PS/FST, PS/EST
MR SCHOLAR
MS SINCLAIR, PS/C+E
THOSE PRESENT

I shd be grateful for the MST's views on this in the way through the ...

MINISTER OF STATE TREASURY

NOTE OF A MEETING HELD IN ROOM 50/2, HM TREASURY ON 4 DECEMBER 1986 WITH THE BREWERS' SOCIETY

Present: Minister of State
Mr Jefferson Smith
Mr Bazley
Mr Nissen
Mr Cropper

Brewers' Society representatives:

Major General Mangham - Director
Miss Hubbard - Legal Secretary
Sir John Clemes - Financial Director, Allied Lyons
Mr Kelly - Lawyer, Allied Lyons

NOTE OF MST'S MEETING 4/12

VAT: TAX AVOIDANCE (STARTER No 6)

Mr Kelly expressed the brewers' concern that they would lose out under the new proposals of the VAT avoidance package. He said that the Society had sought legal advice: it was felt that Article 19 and not Article 17 of the Sixth VAT Directive should be applied in the case of the brewers. According to Sir John Clemes, with the adoption of the proposed method of apportionment of tax, any revenue advantage might prove ephemeral and could cause a shift in the economy with a move away from the brewing indutry. Major General Mangham said that the brewers accepted that certain expenses were not eligible for a refund of input tax but considered that the case of tied house rentals was unfair because the tenant ended up paying tax on tax.

The Minister of State responded that the Government was pressing ahead on the VAT tax avoidance issue whilst involving the brewers in discussion because of its concern over the effect on them and other traders.

(At this point the Minister made his apologies and left the meeting as he had been called to No 10.)

Mr Kelly enquired whether other traders had argued against the proposals in the same way as the brewers. Mr Jefferson Smith replied that there were others who could adopt the same argument. Major General Mangham asked whether comforting noises had been made to the British Retail Association concerning the treatment of shop-in-shops. Mr Bazley explained that Customs would seek to maintain the principle but would look at each item of cost to confirm that it was related to the rent. Mr Jefferson Smith added that there was a danger of passing over the purpose of the building in silence.

Mr Kelly argued that a public house and its repair was not comparable with other buildings. As expressed in Mr Lawton's Opinion, the UK was not exercising its option to use Article 19. Mr Jefferson Smith said that if Mr Lawton was correct, the UK could reword the proposal.

Major General Mangham referred back to the matter of equity. Mr Jefferson Smith explained that as the consultation paper had said, a trader could apply for a special method if his treatment was considered unfair, but, where Customs and the brewers differed was on what was unfair.

Mr Kelly said that Customs were being legalistic and asked whether the EC Court would support the UK's interpretation of the wording of the Sixth VAT Directive. Mr Jefferson Smith said that Member States were wise to adopt an option under Article 17. Mr Nissen added that other countries did not use Article 19.

Mr Kelly said that the brewers would be content with the Article 13c option. Mr Jefferson Smith explained that refunds of input tax were not a feature of VAT and that tax was meant to stick only on special things under Article 13c.

Miss Hubbard asked whether a concession could be given to brewers and not other traders. Mr Jefferson Smith replied that all parties saw themselves as a special case and any concession would cause political difficulty. Major General Mangham under-

stood the difficulty but said that the brewers only wanted tax refunded on repairs to tied houses, ie when repairs were necessary simply in order for the pub to sell its beer.

Mr Jefferson Smith said that if the UK were to go ahead with its proposals, the brewers' representations would be looked at carefully. He referred to the figures provided by the Society and said that they suggested a 57/43 split between managed and unmanaged houses. He asked whether expenditure fell according to the same split. Major General Mangham thought it did more or less although it was difficult to be more precise.

(At this stage the Minister returned to the meeting.)

Mr Kelly said it was difficult to generalise because people often moved from managed to unmanaged houses. Sir John Clemes thought that the proportion for repairs was likely to be relatively higher for tenanted houses because they were likely to be older structures.

Major General Mangham explained to the Minister the fundamental difference of opinion between the brewers and Customs concerning repairs. It was thought that the regulation could be worded in such a way that tied houses meant nothing other than public houses. He asked the Minister what the way forward was.

The Minister of State explained that Ministers intended to make an early announcement of the anti-avoidance measures for introduction in 1987 although this did not preclude the continuation of discussions.

Major General Mangham expressed the Society's concern that a regulation would be rushed through only to be regretted later. He asked what the intended timetable was. The Minister of State guessed that a move would be made that month. He said that the Society's representations were clear and nothing else could be said except concerning the figures. Sir John Clemes said that the figures could be refined.

The meeting concluded with agreement that Customs would continue to work on the proposals and would try to find a practical way to provide a special concession for the brewers. Mr Jefferson Smith explained that a change in the wording of the proposals could be made without the requirement of a further consultative document.

Deborah Francis.

MISS D L FRANCIS
Assistant Private Secretary

4366/059

CONFIDENTIAL

FROM: N WILLIAMS
DATE: 8 December 1986

PS/CHANCELLOR

cc Chief Secretary
Minister of State
Sir P Middleton
Sir T Burns
Mr Cassell
Mr Scholar
Mr Cropper
PS/IR

INHERITANCE TAX RATES AND BANDS: STARTER 104

The Financial Secretary has read Mr Houghton's submission of 1 December and Mr Cropper's minute of 4 December. He will be discussing these at a meeting shortly but the Financial Secretary's preliminary views in advance of a meeting are as follows;

(i) He would be interested to see a basic costing of Mr Cropper's suggested scale, but he imagines that it might well be rather costly. He is not however as concerned as Mr Cropper to get the very top rates down since there are already a number of exemptions for businesses, farms, historic houses etc.

(ii) The Financial Secretary is attracted to Scales 4 and 5 in Mr Houghton's paper. He feels that we must keep the number of taxable estates at a constant level and this points to an increase in thresholds and probably something more. We also need to consider the annual exemption in this context.

2. I will report further on the Financial Secretary's conclusions after his meeting.

NIGEL WILLIAMS
(Assistant Private
Secretary)

3369/007

FS/CX PUSP

NOTE OF A MEETING IN THE FINANCIAL SECRETARY'S ROOM, HER MAJESTY'S TREASURY ON TUESDAY 9 DECEMBER WITH THE SCOTTISH LANDOWNERS FEDERATION TO DISCUSS THEIR BUDGET REPRESENTATIONS

Those present;
Mr Haldane Chairman, SLF
Mr Barry Secretary, SLF Taxation Committee
Professor Lynch Taxation Adviser, SLF
Mr Gordon IR
Mr Lakhanpaul IR
Mr Walker IR

1. Mr Haldane gave a brief outline of the conditions facing farmers in Scotland. He emphasised that the SLF were concerned about agricultural communities as a whole, and the cornerstone of these communities was the landlord-tenant relationship. Although in the immediate past landowners had been attempting to take some land back in hand the traditional situation was now being restored. A number of points of particular concern to the SLF were then discussed.

2. INCOME TAX, CAPITAL ALLOWANCES, ETC

(i) Section 180 ICTA 1970.

Although the Revenue had recognised the difficulties farmers had experienced in making profits in the last three years, the underlying problem of having to make a profit at least every five years remained and this was inhibiting genuine farmers. Very few people, in Mr Haldane's view farmed for any other reason than attempting to make a profit.

Professor Lynch agreed and added that it was the worry that affected people after they had perhaps made losses for 3 or 4 years that in turn led to people making bad farming decisions in order to ensure that they made a profit in the fifth year. Professor Lynch wondered if Section 180 was not just a legacy from the days of prohibitively high tax rates and whether it was still relevant today.

The Financial Secretary responded by asking how real the Section 180 problem was. Farmers could, of course, carry the losses forward against future farming profits and the five year test for sideways relief still seemed reasonably generous, especially when put alongside the Section 170 provision whereby a trader could be challenged as soon as there was evidence of non-commerciality.

(ii) Carry forward of losses against another trade.

Mr Haldane said that the ability to enable losses incurred in farming to be carried forward against future profits of a different 'rural business' would be very helpful and would encourage diversification. Landowners were attempting to preserve the continuity of their estates and having to diversify in order to do so.

(iii) Other points

Mr Haldane also picked up the SLF's point about allowing relief for interest on borrowings by agricultural landlords to pay for repairs to buildings, as well as referring to the reduction in the Agricultural Buildings Allowance from 10% to 4% which the SLF felt had been a measure which had singled out agriculture for particularly harsh treatment, and had led to less work or investment being carried out as a result.

(iv) Mr Haldane referred briefly to Capital Gains Tax, which, the SLF thought, was a major inhibition on movement of capital within the rural economy and so affected it badly.

(v) Professor Lynch mentioned compliance costs for the landowner which he said tended to be high with 'complicated' Schedule A and Capital Gains Tax that estates had to deal with. The 4% straight line annual writing-down allowance meant, in addition, that there was a need to keep records for 25 years. Tax fees had, therefore been, increased as a result.

3. INHERITANCE TAX

(i) Trusts:

The SLF made the general point that for good planning reasons many estates were held in trust and they were now in a relatively worse position than they had been before the introduction of IHT. They could accept the position concerning discretionary trusts but interest in possession trusts were different and should have retained parity of treatment with outright ownership of property.

The Financial Secretary said that he could see the SLF's point of view but parity had only disappeared because of the generous concession on lifetime giving.

(ii) Transfers to Qualifying Maintenance Funds

The SLF were pleased to learn that a transfer to a maintenance fund would be exempt. They still thought however that there was now relatively less attraction in transferring assets to a maintenance fund and more to making outright gifts.

Mr Lakhanpaul commented that there was quite a straight-forward choice to be made. An outright gift would have to take the chance of the donor surviving for 7 years, but there would, of course, be no immediate charge when the gift was made. A lifetime gift to a heritage fund, on the other hand, is exempt when made, regardless of the survival. He accepted the SLF's point that there was still a charge when the property came out of the maintenance fund but made the point that there would be a tremendous potential for abuse if there were no such exit charge. It was in the interests of the heritage as much as anyone else that this should be deterred.

(iii) Gifts with Reservation

Professor Lynch said that it was uncertain what a 'Full rent' would be. If too little rent was charged there could be deemed to be a 'reservation of benefit'.

The Financial Secretary said that we could not legislate to clarify what "the full commercial rent" was, Professor Lynch suggested the possibility of a Statement of Practice, referring back to a statement on full rents which had been issued previously. The Financial

Secretary said he would look into the problem of clarification. (Mr Lakhanpaul reminded the Financial Secretary after the meeting that the Revenue were of course preparing their IHT booklet for publication early in the New Year. This would provide guidance on many aspects of IHT including some clarification on GWRs.)

CGT Milk Quotas

The SLF were keen to know what the latest Revenue view was on their argument that the milk quota was not severable from the land and should therefore be regarded as a qualifying asset for CGT rollover relief purposes.

Mr Gordon confirmed that the Revenue's current view was that the quota was not a qualifying asset and they had set out the reasons for this in a letter sent to the County Landowners Association within the last few weeks. He suggested that the SLF should approach the CLA to obtain a copy of the Revenue's letter, but if the SLF had any questions when they had seen the letter the Revenue would be pleased to hear from them.

Mr Barry expressed the SLF's thanks for this helpful information.

Summary

11. The SLF's main concerns were as follows;

(i) Restriction of sideways relief under Section 180 ICTA 1970

(ii) Inability to carry forward losses against future profits from another trade

(iii) Clarification of what constituted a Gift with Reservation

(iv) Transfer of asset to maintenance funds

(v) Capital Gains Tax as a whole.

12 December 1986

NIGEL WILLIAMS
(Assistant Private Secretary)

cc PS/Chancellor
PS/Chief Secretary
PS/Minister of State
PS/ Economic Secretary
Miss Sinclair
Mr Romanski
Mr Walters
Mr Walker IR
PS/IR
Mr J Bone C&E
PS/C&E

THE BREWERS SOCIETY
BUDGET REP.
MAJ. GEN. MANGHAM → CH.

From Major General W D Mangham CB

The Brewers' Society

42 PORTMAN SQUARE · LONDON W1H 0BB

TELEPHONE · 01-486 4831 (16 LINES)
FAX · 01-935 3991 · TELEX · 261946

The Rt Hon Nigel Lawson MP
The Chancellor of the Exchequer
H M Treasury
LONDON SW1P 3AG

15 December 1986

Dear Chancellor,

The Chairman of the Society, Mr Anthony Fuller, would be very pleased if he and I could come and see you, preferably in the first half of January, to discuss the position of the industry and the treatment of beer in the forthcoming Budget.

I enclose a short paper outlining some of the areas of concern within the industry.

I look forward to hearing from you.

Yours sincerely,

Desmond Mangham

Director

2nd Rep.

HM TREASURY – MCU	
REC'D.	16 DEC 1986
ACTION	Mr Outtes FP
cc. CHX CST FST BST, MST, SIR P MIDDLETON,	
PS CE, PCROPPER A TYRIE, A ROSS GOOBEY, F CASSELL,	
N MONCK, M SCHOLAR, MISS SINCLAIR, MISS O'NARA,	
R CULPIN, K ROMANSKI.	
	CHX.
enc:	29871/86

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Registered Office: 42 Portman Square, London W1H 0BB
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THE BREWERS' SOCIETY

Beer Duty

While sales of wines and spirits are increasing, beer continues to be static. Figures for the 12 months ending August 1986 (the latest available) are:

Beer	+ 0.2%
Wine	+ 2.5%
Spirits	+ 2.4%

Most beer, unlike wines and spirits, is home produced utilising raw materials produced by farmers and manufacturing industry in this country. The lowest 12 month production figure since 1973 was recorded in March 1986 (36.2m barrels). During the first ten months of the calendar year, beer production is showing a slight decline of 0.5%.

There has been a slight recovery during the first 7 months of the current Fiscal Year, with production showing an increase of just over 0.6%. The summer in 1985 was particularly bad, while summer 1986 was approaching average. Thus a small recovery in volume was to have been anticipated, and it is a matter of concern that that there is virtually no improvement against the background of no increase in duty.

.../...

A small increase in volume (well under 1%) could be the eventual outcome for the current calendar year; very much a result of better weather in June and July. Given another beneficial budget and the anticipated increase in consumers' expenditure, our expectation is that volume may continue more or less unchanged in 1987, but thereafter we are again faced with the underlying trend which we believe still to be slightly downwards.

As we have mentioned in previous papers:

- while beer is drunk by all social groups in the community, those who drink most are men in the poorer group, C2DE;

- while beer is drunk in every region of the county, those with a higher per capita consumption are located in the North and Midlands, in areas of heavy industry and higher unemployment;

- the demand for wine and spirits is quite different from beer in terms of the customer's sex, class, income (social) group and region, which is why these drinks are doing much better than beer;

- the differential tax increases followed since 1979 have also helped these other drinks;

.../...

- the growth of the home drinking is increasing the vulnerability of beer to competition from these drinks;

- this increase in home drinking (both beer and other drinks) is having a profound effect upon the sales of those beers which are the mainstay of the pub and club, ie. brands on draught and in returnable bottles. The volume of this beer has declined faster than the overall market since 1979.

The industry welcomed with considerable relief the decision not to increase beer duty in the 1986 Budget. Given the current performance of beer sales, the Society very much hopes that the Government will pursue the same policy in its 1987 Budget.

12.12.86

The National Federation of Self Employed and Small Businesses Limited

Press and Parliamentary Office

140 Lower Marsh, Westminster Bridge, London SE1 7AE Tel: 01-928 9272

CH/EXCHEQUER

REC.	16 DEC 1986
ACTION	MR D. WALTERS
COPIES TO	CST FST EST MST
	SIR P. MIDDLETON MR SCHOLAR
	MISS SINCLAIR
	MR GUY MRS LESTER
	MR CROPPER MR TYRIE

Our Ref: PP/1481

Rt Hon Nigel Lawson MP
Chancellor of the Exechequer
Treasury Chambers
Parliament Street
LONDON
SW1P 3AG

15 December 1986

Dear Mr. Lawson

I am pleased to enclose a copy of the NFSE's budget representations which I hope you will take into account and carefully consider when forming your package of measures for the budget.

As ever we have attempted to reflect the views of practicing small business people and have highlighted those areas of concern within the taxation and fiscal process.

We would be pleased to expand upon this submission at a meeting with yourself and your colleagues and we hope that you will be able to comply with this request as we do represent the largest voice within the self employed and small business sector.

I look forward to liaising with your Office concerning details of a meeting.

Yours sincerely

Ralph Jackson

Ralph Jackson
Press & Parliamentary Officer

Enc

3215/14

FROM: P J CROPPER
DATE: 19 DECEMBER 1986

CHANCELLOR

cc Chief Secretary
Financial Secretary
Economic Secretary
Minister of State
Mr Ross Goobey
Mr Tyrie

CONSERVATIVE LAWYERS

Taylor QC and Theo Wallace have sent us their first broadsides for the 1987 Budget Season.

2. The first says that Trusts in Possession should be given the benefit of the abolition of lifetime giving and that the admitted avoidance opportunities should be stopped off by anti-avoidance legislation.

3. The second, on reserved benefits, makes the shocking suggestion that, at Standing Committee "the reply of the Minister is based on an unsound view of the law". It goes on to argue that the reserved benefit legislation discriminates against those with a medium estate rather than a large estate.

4. Should this go to the Revenue for analysis?

P J CROPPER

1987 BUDGET PROPOSALS

INHERITANCE TAX ON SETTLED PROPERTY

We urge again that settled property should not be excluded from the new regime for life-time gifts. We remain unconvinced by the arguments for harsher treatment advanced by Ministers during the debate on the Finance Bill. We believe that the exclusion of settled property will do much to defeat the objectives of the change to Inheritance Tax as stated by the Chief Secretary on Second Reading (Hansard, column 109), where he gave them as mainly being to relieve family businesses and farms from a potentially crippling capital transfer tax charge.

Since there are few cases where all members of a family will be active in a farm or business, a substantial proportion of farmers and businessmen seek to provide for their spouses and children by means of trusts. Indeed this type of provision is usual in the case of second marriages.

Existing fixed-interest settlements are penalised in that the PET regime does not apply to termination of

interests in possession during life; future settlements will in addition face an entry charge however long they are made before death of the settlor. Even if it is considered impossible to make both entry into and exit from fixed-interest settlements potentially exempt we cannot see why the tax could not be limited to whichever is the greater.

In the Budget speech and during the debates on the Finance Bill the justification advanced for retaining - in regard to trusts - the original tax system was that it would continue to be needed to protect the death charge. To discretionary trusts this justificationt has no direct application since there is no death charge; aad if the justification is valid for fixed-interest trusts then why is it not equally valid for unsettled property?

However, as developed by the Minister in Standing Committee G, it seems that the real concern is with the possibility of routeing dispositions of property through fixed interest settlements to beneficiaries who take either absolutely or by the exercise of discretions, and in particular to cases where a spouse receives an intermediate ~~life~~ interest in possession, the first transfer being exempt. We consider that the scope for this and other methods of avoidance has been greatly exaggerated; while we accept the necessity for

anti-avoidance measures, we do not accept that this would involve an entirely fresh code (column 1304). Neither do we accept that fixed-interest trusts are a major factor in tax planning (column 1303), particularly with the reintroduction of the concept of reserved benefits. Furthermore, we have not detected a reluctance to introduce complex anti-avoidance measures in other fields.

The Minister rightly stated that the 1982 changes were widely accepted; we would point out however, that these changes were exclusively concerned with discretionary trusts and did not affect fixed-interest trusts. We find it difficult to see the relevance of the acceptance of the 1982 discretionary trust regime to the acceptability of the exclusion of fixed-interest settlements from the PET regime. While it is literally true that fixed-interest trusts are no worse off than under pre-1986 CTT, it seems to us that what is important is the relative treatment of different methods of disposing of property for the benefit of a family; it is indisputable that the changes in the 1986 Act discriminate against existing and future settlements. If Treasury Ministers have come to a conscious decision that settlements should be discouraged for social or economic reasons, this should be made clear; we would, however, emphasise that we would consider such a policy to be misguided.

We would point out that Parliament specifically provides for trusts on intestacy for spouses and others in succession; furthermore in many cases the Courts direct that settlements should be made, for example in matrimonial proceedings and in awards of damages for personal injuries. The introduction of tax changes that have a discriminatory adverse effect on these trusts and settlements provokes much resentment and causes considerable difficulties in such cases.

P.W.E. Taylor Q.C (Chairman)
Theodore Wallace (Secretary)
Society of Conservative Lawyers
Taxation Sub-Committee

4 December 1986

1987 BUDGET PROPOSALS

RESERVED BENEFITS

The substitution of Inheritance Tax (IHT) for CTT involved the reintroduction of the rules regarding gifts with reservation which were abolished in 1975. These rules were never easy to understand or apply particularly when allied with the concept of associated operations.

It is clearly desirable that the application of IHT to basic fact situations should be logical, predictable and easily understood.

One of the most frequent categories of gift is that of an undivided share in a house where the donor retains a share and continues to reside in the house, with or without the donees.

In Standing Committee G this problem was considered by the Minister in relation to cases where a share in a house is given to children who occupy it as their family home with the donor, each owner bearing his share of the running costs (column 425).

In such a case as a matter of law all tenants in common are entitled to concurrent possession of the entirety of the property without payment. While possession of the gifted property would seem to be assumed by the donee within section 102(1)(a), provided always that he exercises his proprietary rights, it is not clear that the necessary entire exclusion of the donor within section 102(1)(b) is present.

It could be argued that the enjoyment by the donor is by virtue of ½ undivided share retained by him which is not the subject matter of the gift, c.f. Commissioner of Stamp Duties for NSW v. Perpetual Trustee Co. [1943] A.C. 425, PC. The answer given by the Minister, however, seems to rest on the implication that the Perpetual Trustee case would not apply in such circumstances. The Minister's reply relied on the full consideration provisions under Schedule 20, paragraph 6(1)(a).

When the answer of the Minister is analysed, it is far from simple to understand the reasoning underlying it. Under paragraph 6(1)(a) enjoyment by the donor of gifted property is disregarded if it is for full consideration, as with an outright gift of a house which is then leased by the donor at a rack rent. The concept of full consideration in money or money's worth seems to involve a binding arrangement or contract:

voluntary payments by a donor would not suffice. The concurrent right of occupation of a tenant in common is not however, based on a contract but on principles of equity, nor does it depend on ~~the~~ an agreement as to payment of running costs. It seems therefore that the reply of the Minister is based on an unsound view of the law.

Indeed from the words used in the third paragraph of column 425 it is not clear whether he intended to make a statement of law, a statement of practice ~~of~~ or a concession. Nor is it clear whether his assurance applies to cases where the donor bears more than his or her share of the running costs or where he makes a gift of a share of (say) 95 per cent.

It seems to us that the present position is most unsatisfactory and should be clarified by an amendment to the Act, since explanatory statements by Ministers have no legal effect.

If it is considered that this is too difficult because of the multiplicity of different fact-situations we urge that either a considered statement of practice or an extra-statutory concession be made.

Finally we would observe that the greatest impact

of the reserved benefit legislation is on those with medium-sized estates. Such persons frequently need their invested capital to give an income in old age and their home is often their major asset. The greater the size of the estate, the easier it is to make outright gifts.

P.W.E. Taylor Q.C (Chairman)
Theodore Wallace (Secretary)
Society of Conservative Lawyers
Taxation Sub-Committee

4 December 1986

3596/045

FROM: MISS S WALLIS
DATE: 16 December 1986

1. MR WALTERS
2. MISS SINCLAIR
3. CHANCELLOR OF THE EXCHEQUER

cc PS/Chief Secretary
PS/Financial Secretary
PS/Economic Secretary
PS/Minister of State
Sir Peter Middleton
Sir Terence Burns
Mr F E R Butler
Mr A Wilson
Mr Monck
Mr Cassell
Mr Scholar
Mr Culpin
Miss O'Mara
Mr Haigh
Mr Romanski
Mr McKenzie
Mr Cropper
Mr Ross Goobey
Mr Tyrie

PS/IR
PS/C&E
Mr Bone C&E

1987 BUDGET: MAIN REPRESENTATIONS

Following last year's practice, I attach a summary of the main Budget representations received to the end of October. I also attach a matrix table which takes on board these representations. Due to the pressures of Budget Starters this submission is slightly later than usual.

2. The detail provided for each organisation is not intended to be fully comprehensive. Rather it simply points up those areas which seem to provide the main thrust of each approach. Should you wish to see any of the representations in full, I can, of course, provide copies.

3. A summary of the representations received in November and so far in December, are being drawn up with the aim of circulation in the very near future.

MISS S WALLIS

BR(87)1

Budget 1987 Representations - First Edition

Country Landowners Association - 8-8-86
British Retailers Association: Wines and Spirits Group - 25-9-86
Scottish Landowners Federation - 9-10-86
CBI - 10-10-86
The International Chamber of Commerce - 21-10-86
The Institute of Chartered Accountants - 23-10-86
British Property Federation - 27-10-86
The National Farmers Union - 29-10-86

Country Landowners Association

Three main concerns:

Capital Gains Tax

remove CGT charge on inflationary gains arising pre-March 1982 by bringing CGT base date forward from 1965.

Income Tax

exempt farmers from having to show a profit every six years to obtain full tax relief for any losses suffered.

Pay As You Earn

simplify present PAYE procedures for small employers.

Other detailed representations in a technical annex cover capital allowances, income tax, corporation tax, capital gains tax, inheritance tax, national insurance and VAT.

Representation discussed with the Financial Secretary on 15 October.

The British Retailers Association: Wines and Spirits Group

Four areas of concern:

Duty rates

standstill recommended except for sparkling wines which should be harmonised with still wines (inter alia to simplify administration).

Duty deferment

extension by an additional four weeks.

Harmonisation of VAT/duty deferment periods for imported goods

Bank guarantees

remove requirement for bank guarantees for duty and VAT deferments.

Scottish Landowners Federation

Principal concerns are effects on landowners of inheritance tax treatment of trusts and damage which present system of CGT inflicts on rural economy.

Detailed representations covering:

Inheritance tax

strong reservations at introduction of new tax without exposure through a Government paper;

clarification needed of "gifts with reservation" provisions;

look again at coverage of "potentially exempt transfers";

three year retention period required for agricultural or business property relief;

increase thresholds and widen rate bands.

Capital gains tax

base date for computation of gains should be advanced to 1982; number of small points on release for landlords, small part disposals and annual exemptions.

Other detailed representations on income tax (mainly relaxation of "hobby farming" rules), capital allowances (agricultural buildings), furnished holiday lets (for IT purposes), assets used in commercial letting of holiday cottages should attract business property relief, VAT (recovery of VAT input tax), stamp duty (standardisation with abolition in due course) and milk quotas (system to remain flexibile whereby landowner would have option of treating payments and receipts as either capital or income).

The SLF will meet the Financial Secretary on 9 December.

Confederation of British Industry: Technical representations

For completeness, index which CBI produced for their technical representations is attached. The representations comprises "suggestions for dealing with aspects of the UK tax system which hinder British industry in competition with foreign businesses and removing identified restraints on enterprise and employee participation in profit sharing and share option schemes. They also identify areas where unnecessary and onerous compliance and administrative burdens are imposed on business by the UK tax legislation, and where the tax system itself is out of line with the realities of modern commercial life."

None of the representations seem to merit special highlighting though Ministers will recognise some old chestnuts. The CBI's major points of concern will, of course, be included in their main representations.

The International Chamber of Commerce

Representations are "directed primarily at the international scene with the objective of providing British industry with a competitive edge, or at the very least a level playing field, on which to compete with the rest of the world".

Unitary taxation

need for Government to maintain pressure to ensure companies are taxed on water's edge basis

Exchange gains and losses

need for tax relief in respect of losses on currency loans.

Capital gains tax

call for action on: group treatment; roll-over relief in respect of share disposals; capital losses on loans to group companies which do not constitute "debt on a security"; capital injected by way of capital contribution; liquidation of an overseas subsidiary; reorganisation of overseas groups.

Section 482, ICTA 1970

repeal.

Advance corporation tax

liberalisation of offsetting of ACT.

Double taxation relief

improving effectiveness.

Stamp duty

remove on all share transactions; if not reduce ADR duty to 1 per cent.

Other technical points cover non-domiciled employees, VAT (adoption of Article 13C option by UK Government in respect of exempt supplies to taxable enterprises) and ~~support~~ oppose ~~for~~ OECD/Council of Europe draft multilateral convention on mutual administrative assistance in tax matters.

The Institute of Chartered Accountants

General need for rethink on fundamental structure of tax legislation and greater clarity in Inland Revenue's approach. Specific points on:

VAT

reinstatement of clause 23 of the 1985 Finance Act.

Exchange rate fluctuations

requirement for statutory basis for tax treatment in this area and in particular relief for exchange losses on borrowings in respect of which tax relief is available for the interest.

Shareownership by employees.

need for general simplification and rationalisation.

In addition, general complaints about time limits, professional privilege and use of regulations.

The British Property Federation

Three main runners:

Capital gains tax

introduction of roll-over relief where receipts from sale of property are insufficient to purchase a replacement;

advance of base date for computation of gains to 1982.

Pre-development expenditure

introduction of tax deductability.

Loans for refurbishment of accommodation to rent

tax relief to be granted on loans made to landlords for repair of residential property.

Other issues raised include company taxation (in particular Schedule A), groups (group and consortium relief), ACT (offset against CT liability without restriction and 6 year carry back), residential property and capital allowances (treatment of insurance proceeds on industrial buildings).

The National Farmers Union

28 individual measures as titled on attached list with particular attention drawn to introduction of new incentives to help investment in machinery and plant particularly for smaller businesses. Highlighted:

Capital allowances

100 per cent capital allowance on first £10k of investment in plant and machinery in a year;

25 per cent initial allowance on plant and machinery purchases;

25 per cent writing-down allowance to apply on a straight line basis.

Inheritance tax

need to reduce the burden.

Capital gains tax

gains from forced sale of agricultural land to be allowed against trading losses.

Income tax

concern about the operation of the "hobby farmer" rules.

Milk quotas

should qualify for CGT roll-over relief.

CBI TECHNICAL BUDGET REPRESENTATIONS 1987

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NATIONAL FARMERS UNION

THE 1987 BUDGET

TECHNICAL REPRESENTATIONS OF THE THREE UNITED KINGDOM FARMERS' UNIONS

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3. Capital Gains Tax: Retirement Relief
4. Capital Gains Tax and Income Tax: Compulsory Purchase of Land
5. Capital Gains Tax: Compensation Payments for Conservation Measures
6. Capital Allowances: Balancing Charges on Plant and Machinery
7. Capital Allowances: Agricultural Buildings
8. Inheritance Tax: Scale Bands and Rates
9. Inheritance Tax: Annual and Wedding Gifts Exemptions
10. Inheritance Tax: Intensive Livestock Buildings
11. Inheritance Tax: The Problem of Funding
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15. Forestry
16. Landlord and Tenant System
17. Tenant Farmers
18. Farming Companies
19. VAT Penalties
20. VAT on Conversion of Buildings
21. Cost of Appeals
22. Interest on Overpaid Tax
23. Excise Duties on Beer and Cider
24. Excise Duty on Road Fuel
25. National Insurance Contributions
26. Agricultural Co-operatives
27. Furnished Holiday Lettings
28. Private Medical Subscriptions

	Country Landowners Association	British Retailers Association: Wines and Spirits Group	Scottish Landowners Federation
PERSONAL TAX	Exempt farmers from having to show a profit every six years to obtain full tax relief for any losses suffered. Simplify present PAYE procedures for small employers .		Relaxation of hobby farming rules.
BENEFITS IN KIND			
STAMP DUTY			Standardisation with abolition in due course.
CGT	Remove CGT charge on inflationary gains arising pre-March 1982 by bringing CGT base date forward from 1965.		Base date for computation of gains should be advanced to 1982. Number of small points on release for landlords, small part disposals and annual exemptions.
IT (Inheritance Tax)			Strong reservations at introduction of new tax without exposure through a Government paper. Clarification needed of "gifts with reservation" provisions. Look again at coverage of "potentially exempt transfers". Three year retention period required for agricultural or business property relief. Increase thresholds and wider rate bands.
CT			
ACT			
CAPITAL ALLOWANCES			Assets used in commercial letting of holiday cottages should attract business property relief.
DCS			
SHARE INCENTIVES			
VAT		Harmonisation of VAT/duty deferment periods for imported goods.	Recovery of VAT input tax.
CAR TAX			
EXCISE DUTY		Standstill recommended except for sparkling wines which should be harmonised with still wines (inter alia to simplify administration). Extend period of duty defermment by an additional 4 weeks.	
BETTING AND GAMING			

	National Farmers Union	International Chamber of Commerce	Institute of Chartered Accountants	British Property Federation
PERSONAL TAX	Concern about the operation of the "hobby farmer" rules.			
BENEFITS IN KIND				
STAMP DUTY		Remove on all share transactions; if not reduce ADR to 1 per cent		
CGT	Gains from forced sale of agricultural land to be allowed against trading losses	Call for action on: group treatment; roll-over relief in respect of share disposals; capital losses on loans to group companies which do not constitute "debt on a security"; capital injected by way of capital contribution; liquidation of an overseas subsidiary; re-organisation of overseas groups.		Introduction of roll-over relief where receipts from sale of property are insufficient to purchase a replacement. Advance of base date for computation of gains to 1982.
CT				
IT (Inheritance Tax)				
ACT		Liberalisation of offsetting of ACT		Offset against CT liability without restriction and 6 year carry back
CAPITAL ALLOWANCES	100 per cent capital allowance on first 10k of investment in plant and machinery in a year. 25 per cent initial allowance on plant and machinery purchases. 25 per cent writing-down allowance to apply on a straight line basis.			
BES				
SHARE INCENTIVES			Need for general simplification and rationalisation. In addition, general camplaints about time limits, professional privilege and use of regulations	
VAT		Adoption of article 13c option by UK Government in respect of exempt supplies to taxable enterprises.	Reinstatement of Clause 23 of the 1985 Finance Act	
CAR TAX				
EXCISE DUTIES				
BETTING AND GAMING				

2655/045

FROM: MISS S WALLIS
DATE: 17 FEBRUARY 1986

1. MR MURRAY

2 CHANCELLOR

cc PS/CST
PS/FST
PS/EST
PS/MST
Sir P Middleton
Sir T Burns
Mr Bailey
Mr Monck
Mr Cassell
Mr Monger
Mr Scholar
Mr Culpin
Mr Lord
Mr Cropper
Miss Sinclair
Mr McKenzie
PS/IR
Mr W Walker I/R
PS/C&E
Mr J Bone C&E

1986 BUDGET: MAIN REPRESENTATIONS

Following my minute on Friday I now attach an update of the Matrix Table which includes the Small/Independent/Unquoted business bodies.

Swallis
MISS S WALLIS

NEW SHEET

	NFSE	WINE AND SPIRIT ASSOC.	ASSOCIATION OF INDEPENDENT BUSINESSES	FEDERATION OF BRITISH GREYHOUND OWNERS ASSOC
PERSONAL TAX	Limit tax on retained profits of unincorporated business to 30%. Introduce Small Business Relief. Ease pension provision rules. Allow deduction of 50% total Class 2 & Class 4 NIC. Raise threshold.			
BENEFITS IN KIND				
STAMP DUTY				
CGT	Abolish ease retirement relief.			
CTT				
CT				
ACT				
CAPITAL ALLOWANCES	Adopt 25% straight line basis for unincorporated business.			
BES				
SHARE INCENTIVES				
VAT	Set up body to examine complaints against C&E admin of VAT. Extend bad debt relief.		Restore PAS. Raise threshold to %50,COO abolish VAT between Registered Traders.	
CAR TAX				
EXCISE DUTIES		Reduce duty on wines over 15%. alcohol by volume. Reduce duty on spirits. Extend period of duty deferment.		
BETTING AND GAMING				Abolish on-course betting duty.

2654/064

NEW SHEET

	FREIGHT TRANSPORT ASSOCIATION	UCG	BACKBENCH CONSERVATIVE SMALL BUSINESS COMMITTEE
PERSONAL TAX			Tax retained profits at CT rates. Small Business Relief
BENEFITS IN KIND			
STAMP DUTY			Charge property xfers only on excess over threshold
CGT		Exempt gains over more than 5 years. Cut rate from 30% to 20%.	Extend rollover relief to equity shares of unquoted comp. Relief for irrecoverable loars.
CTT		Increase Business Property Relief to 100%.	
CT			Introduce Govt R&D Bond.
ACT			
CAPITAL ALLOWANCES			
BES			Allow BES relief against CGT in same year. Introduce BES investment trust.
SHARE INCENTIVES			Allow private companies easier access to1980 and 1984 schemes.
VAT	Grant deferment at import without guarantee Allow full deductability of VAT on cars.		
CAR TAX			
EXCISE DUTIES	Reduce fuel duty by 15%		
BETTING AND GAMING			

2654/059

NEW SHEET

MATRIX BUDGET REPRESENTATIONS - 1986

SHEET 1

OTHER

PERSONAL TAX	Raise thresholds	(8)
	Reduce BR	(4)
	Raise HR thresholds	(2)
	Reintroduce LA band	(1)
	Limit reliefs to BR	(1)
	Index all reliefs	(1)
	Introd. xferable allces	(1)
BENEFITS IN KIND	No inc. in car benefits	(2)
	Raise £8500 threshold	(3)
	Align engine sizes to EEC sizes	(1)
STAMP DUTY	Abolish	(9)
	Slicing basis for property transfers	(5)
CGT	Abolish or exempt gains over 4-7 yrs	(6)
	Index short term gains	(1)
	Ease retirement provisions	(3)
CTT	Halve rates	(3)
CT	Tax on slicing basis	(3)
ACT	Allow full set off	(2)
CAPITAL ALLOWANCES	Reintroduce 100 per cent FYA	(4)
BES	-	2
SHARE INCENTIVES	Raise max contribution to £200pm	(2)
	Repeal S79 FA 1972	
VAT	VAT points	(27)
CAR TAX		1
EXCISE DUTIES	Other excise duty points	(16)
BETTING AND GAMING	Abolish on course tax	(6)

MATRIX BUDGET REPRESENTATIONS - 1986
SHEET 1

	CBI	IOD	SMMT	ABCC	RETAIL CONSORTIUM
PERSONAL TAX	Increase thresholds	Reduce basic rate - raise thresholds			
BENEFITS IN KIND		Abolish £8500 threshold. No real increase in car benefits	No increase in car benefits	Abolish or increase £8500 threshold -	
STAMP DUTY	Abolish				
CGT	Pre-1972 indexation (or abolish)	Pre-1982 indexation (or abolish)		Abolish	
CTT	Abolish (or ease rates + allowances)	Abolish (or ease rates + allowances)		Abolish	
CT				Tax on slicing basis	
ACT	Allow full set-off	Allow full set-off	Allow full set-off		
CAPITAL ALLOWANCES	Abolish limit on expensive cars	Abolish limit on expensive cars		Abolish limit on expensive cars	
BES		Extend life of scheme			
SHARE INCENTIVES	Widen scope	Treat gains on options as chargeable gains, not as income. Introduce 'Loi Monory' type scheme			
VAT	i. Maintain opposition to EC12 Directive. ii. Extend bad debt relief. iii. Extend inward processing	i. Maintain opposition to draft EC12 Directive. ii. Adopt draft 14 Directive iii. Extend bad debt relief	Maintain opposition to draft EC12 Directive	i. Set up clearing house of VAT paid to member states. ii. Increase VAT registration threshold to £50,000. iii. Extend bad debt relief	i. Resist EC pressure which may result in alteration of VAT base ii. Increase VAT registration to £100000
CAR TAX	Abolish		Abolish	Abolish	
EXCISE DUTIES					
BETTING AND GAMING					

PERSONAL TAX	ASSOCIATION OF BRITISH INSURERS	BRITISH BANKERS ASSOCIATION	LAW SOCIETY	COUNTRY LANDOWNERS ASSOCIATION	GENERAL COUNCIL OF BRITISH SHIPPING
BENEFITS IN KIND				Increase £8500 threshold	
STAMP DUTY	Abolish	Abolish capital duty	Failing general reform, consolidate odds & ends		
CGT				Exempt gains over more than 3 years	
CTT				Abolish (or ease rates & allowances)	
CT					
ACT	Allow full set-off				
CAPITAL ALLOWANCES	Extend to commercial & retail premises	Allow full set-off			Introduce 50% allowance for ships
BES			Ease restrictions; allow carry back		Include ship chartering
SHARE INCENTIVES					
VAT					
CAR TAX					
EXCISE DUTIES					
BETTING AND GAMING					

	SCOTCH WHISKY ASSOCIATION	BREWERS SOCIETY	GIN RECTIFIERS	TAC	BRITISH GREYHOUND RACING BOARD
PERSONAL TAX					
BENEFITS IN KIND					
STAMP DUTY					
CGT					
CTT					
CT					
ACT					
CAPITAL ALLOWANCES					
BES					
SHARE INCENTIVES					
VAT					
CAR TAX					
EXCISE DUTY	i. Extend period of duty deferment to 8 weeks. ii. Continue move towards equalisation of taxes for degree of alcohol basis	Adverse effects of beer duty increase on the industry	~~i. No increase in pipe tobacco or cigar duty ii. At most only revalorisation on cigarettes & hand-rolling tobacco~~ 1. Extend duty deferment to 8 weeks 2. NO increase in duty on spirits!		
BETTING AND GAMING					Abolish on course betting tax

	JOCKEY CLUB	HORSERACE BETTING LEVY BOARD	NATIONAL ASSOCIATION OF BOOKMAKERS	HORSE RACING ADVISORY COUNCIL	HORSE RACING TOTALISATOR BOARD
PERSONAL TAX					
BENEFITS IN KIND					
STAMP DUTY					
CGT					
CTT					
CT					
ACT					
CAPITAL ALLOWANCES					
BES					
SHARE INCENTIVES					
VAT					
CAR TAX					
EXCISE DUTIES					
BETTING AND GAMING	Abolish on-course betting duty	Abolish on-course betting duty	Abolish on-course betting duty	Abolish on-course betting duty	Abolish on-course betting duty

	BRITISH PROPERTY FEDERATION	BUILDING EMPLOYERS FEDERATION	NATIONAL FARMERS UNION	ROAD HAULAGE ASSOCIATION
PERSONAL TAX		Raise thresholds		
BENEFITS IN KIND		Increase £8500 threshold		
STAMP DUTY		Raise thresholds abolish capital duty		Abolish
CGT	Pre-1982 indexation	Pre-1982 indexation	Exempt gains over more than 7 years	Cut
CTT				Cut
CT		Raise thresholds	Ease rates	
ACT	Allow full set off			
CAPITAL ALLOWANCES		Extend to comercial & retail premises	Re-introduce 100% FYA; allow 25% on straightline basis	Retain 50% Allowance until 1987 then 25% straightline
BES				
SHARE INCENTIVES				
VAT				
CAR TAX				
EXCISE DUTIES				
BETTING AND GAMING				

2654/059

MATRIX BUDGET REPRESENTATIONS - 1986
SHEET 1

	OTHER	
PERSONAL TAX	Raise thresholds	(2)
	Reduce BR	(1)
	Raise HR thresholds	(2)
	Reintroduce LR band	(1)
	Limit reliefs to BR	(1)
	Index all reliefs	(1)
	Introd. xferable allces	(1)
BENEFITS IN KIND	No inc. in car benefits	(2)
	Raise £8500 threshold	(1)
	Align engine sizes to EEC EMISSION CONTROL SIZES	(1)
STAMP DUTY	Abolish	(5)
	Slicing basis for property transfers	(2)
CGT	Abolish or exempt gains over 4-7 yrs	(5)
	Index short term gains	(1)
	Ease retirement provisions	(2)
CTT	Halve rates	(1)
CT	Tax on slicing basis	(2)
ACT	Allow full set off	(1)
CAPITAL ALLOWANCES	Reintroduce 100 per cent FYA	(3)
BES	-	
SHARE INCENTIVES	Raise max contribution to £200pm	(1)
	Repeal S79 FA 1972	
VAT	VAT points	(18)
CAR TAX		
EXCISE DUTIES	Other excise duty points	(15)
BETTING AND GAMING	Abolish on course tax	(3)

CONFIDENTIAL

FROM: N WILLIAMS
DATE: 22 December 1986

PS/CHANCELLOR

cc PS/Chief Secretary
PS/Economic Secretary
PS/Minister of State
Sir P Middleton
Sir T Burns
Mr Cassell
Mr Scholar
Mr Cropper
Mr Houghton IR
PS/IR

INHERITANCE TAX RATES AND BANDS

1. The Financial Secretary has given further consideration to this subject following receipt of Mr Houghton's note of 10 December and he has discussed this with officials and Mr Cropper.

2. The Financial Secretary's view at this stage is that if there is an upper cost limit of £200m in a full year (your minute of 15 December) then clearly the Chancellor's Second Scale with four rates (30, 40, 50 and 60%) each of which starts at a multiple of the £82,000 threshold, is the best option.

3. At a cost of an extra £50m, however, Scale 4 of Mr Houghton's note of 1 December with four rates and an £82,000 threshold, as in the Chancellor's option, but with a doubling up of the threshold for each successive band would achieve two significant effects by comparison with the Chancellor's option, and it may, therefore, be worth some further thought. First it would reduce the tax burden for estates of £300,000 and over and second, and probably more significant, it would achieve the objective of making estates of over £500,000 better off than they would have been under the 1975 scales adjusted for changes in the RPI.

4. Whichever of these options is adopted, the Financial Secretary feels that both combine an increased threshold with some attractive improvements in rates and bands, not least from a simplification point of view.

5. In the light of this, the Financial Secretary's view is that there is no need for any changes to business relief in the Budget and that this should therefore be dropped as a Budget Starter. (Your minute of 31 October records that this should be retained on a provisional basis until the overall shape of the Budget package is clearer).

NIGEL WILLIAMS
(Assistant Private Secretary)

ANNEX B

TECHNICAL REPRESENTATIONS FOR THE 1987 BUDGET AND FINANCE BILL

ANNEX B

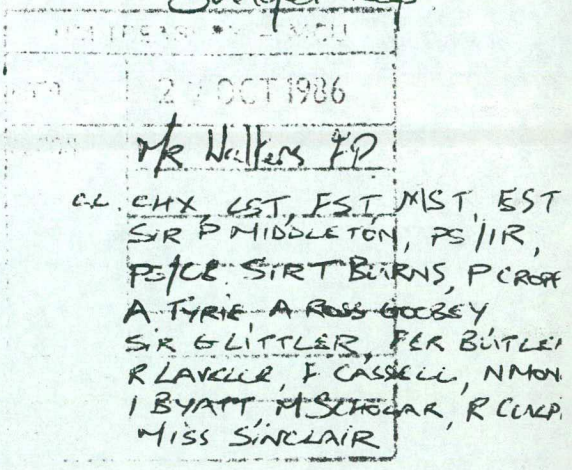
INSTITUTE OF DIRECTORS
POLICY UNIT

116 PALL MALL LONDON SW1Y 5ED
TELEPHONE 01-839 1233
TELEX 21614

ANNEX B.

TECHNICAL REPRESENTATIONS FOR THE 1987 BUDGET AND FINANCE BILL

Budget Rep



CHX.

REPRESENTATIONS TO THE INLAND REVENUE

Policy Unit
Institute of Directors
116 Pall Mall
London SW1Y 5ED

Price £2.95
October 1986

PAGE

12 Consultation and Publication of Draft Clauses

Enable more technical improvements to be included in the annual Finance Bill, reduce backlog of technical defects awaiting correction and avoid adding to backlog by consultations before and at the draft stage, but only effective if conducted with goodwill on Revenue's part.

13 Furniss v Dawson

We are cooperating with other bodies in a more detailed study of the issues. Meanwhile, publish immediately Revenue decisions to change/re-examine its interpretation of the law or practice (where long established).

13 Technical Division

The proper solution to excessive demands on Technical Division is better quality legislation not less direct access for tax practitioners.

SCHEDULE D

14 Treatment of Exchange Rate Fluctuations

Give top priority to devising a clearer and more acceptable tax treatment.

16 Costs of Equity Finance

Give relief for such expenditure.

17 Abortive Capital Projects

Give relief for such expenditure.

17 Post-trading Expenditure

Give relief for such expenditure.

17 Capital Allowances - Commercial Buildings

Give same 4% allowance as for industrial buildings.

PAGE

18 Capital Allowances - Industrial Buildings

Apply 25% limit for offices to the area not the cost of the building.

Give full relief for expenditure on second-hand buildings.

19 Capital Allowances - Motor Cars

Abolish the restrictions on cars costing over £8,000.

CORPORATION TAX

20 Change of Ownership

Reduce the excessive and anachronistic scope of S.483 ICTA 1970 and S.101 FA 1972 by legislation or Statement of Practice.

20 Trading Losses

Allow sideways offset of B/F trading losses against profits of other trades in the same company or group.

21 Unrelieved Management Expenses

Likewise, allow sideways offset.

21 Repurchase of Own Shares

Abolish residence condition for shareholders being bought out.

21 Group Relief

Allow election for taxation on a consolidated basis.

Give group relief for capital losses including B/F losses.

Capital loss buying should not be a matter of concern.

Allow Case I and II losses surrendered to be set against the prior year's profits by the recipient.

Make all time limits for group relief six years.

Give group relief for Case VI losses.

PAGE

22 ACT - Group Relief

Allow ACT to be transferred within a group.

Allow surrenders of ACT to be revoked.

23 ACT - Capital Gains Imputation

Give full imputation for corporation tax on chargeable gains to eliminate the double taxation of companies' gains.

24 ACT - Overseas Income

To eliminate bias against overseas income, repay surplus ACT to extent excess DTR is not utilised under S.100(6)(b) FA 1972.

24 S.506 ICTA 1970

Give relief for underlying tax where dividends paid post merger of overseas subsidiaries out of pre-merger profits.

25 Controlled Foreign Companies

Use information powers only as necessary and with due regard to the logistics of assembling the information and its commercial sensitivity.

Clarify that CFC's used to average tax are acceptable.

Exempt CFC's with 90% of income derived from one or more excluded countries.

Revise the motive test.

Take account of tax paid under equivalent legislation in other countries.

26 S.482 ICTA 1970

Abolish not reform.

PAGE

26 Small Companies Rate

Apply 29% rate to first £100,000 profits of all companies/groups.

Ignore non-resident associated companies in apportioning the £100,000 limit.

27 Close Companies Apportionment

Exempt from apportionment all income derived from trading within the group.

UNINCORPORATED BUSINESSES

28 Make room in 1987 Finance Bill for proposals on disincorporation.

28 If any statutory bars on particular professions incorporating are retained, reduce higher rates of income tax on business profits or allow partnerships/sole traders to elect for taxation as companies.

INCOME TAX

29 Benefits in Kind - £8,500 Threshold

When introducing simpler P11D form, abolish threshold.

30 Benefits in Kind - Motor Cars and Fuel

Make no increase in company car scale relative to actual cost of running a car.

Make no increase in fuel scale until petrol price over £2 a gallon again and, if anything, reduce to reflect improved fuel consumption of cars.

31 Permanent health insurance

Make premiums deductible.

PAGE

CAPITAL GAINS

33 Rate of Tax

Restore original differential between CGT rate and basic rate of income tax.

33 Pre-1982 Inflation

Exempt pre-1982 assets held for over ten years.

34 Annual Exemption

Extend annual exemption to companies, if no relief given for pre-1982 inflation.

Allow unused annual exemptions to be carried forward.

34 Capital Losses

Allow carry-back for two years.

35 Roll-over Relief

Extend to certain disposals

(1) by individuals of shares in family companies

(2) by companies of shares in subsidiaries.

Amend formula for restricting relief where pre-1965 assets used partly for non-business purposes.

36 S.278 ICTA 1970

Extend time limits for loss relief and other claims automatically where a S.278 charges arises.

Allow S.278 charges to be rolled over.

37 Transfer of Subsidiaries

Reverse the decision in Westcott v Woolcombers Ltd.

PAGE

INHERITANCE TAX

38 S.104 FA 1986

Incorporate the provisions of the regulations under S.104 into the primary legislation in the 1987 Finance Bill.

38 Potentially Exempt Transfers

Treat gifts to settlements where there is an immediate interest in possession and termination of such interests as potentially exempt transfers in the same way as gifts by and to individuals.

39 Business and Agricultural Property Relief

Give relief if property qualified at date of gift.

40 Burden of the Tax

Make rate schedule less steeply progressive, at the very least so that no estate is more heavily taxed than under Capital Transfer Tax in 1974.

42 Gifts within Five Years of Death

Restrict tax charge on gifts more than three years before death to no more than 50% of the charge on death.

TAX TREATMENT OF SHARE INCENTIVES AND INVESTMENT

43 Major Reform

Replace existing complex reliefs with simple income tax deduction for new equity investment in quoted or unquoted companies held for over five years.

44 Approved Share Option Schemes

Abolish the requirement for CGT treatment that the option is exercised more than three years after the last approved option was exercised

Where option exercised within three years of grant as result of takeovers or merger, give one third of relief if held for at least one year and two thirds if held for two years.

PAGE

46 S.79 FA 1972

Reform. We are writing separately with specific proposals.

46 Employee-Controlled Companies

Abolish withdrawal of relief for events outside employee's control.

47 Pension Scheme Surpluses

Legislate to enable older trust deeds to be amended to allow repayment of excess funds to the employer.

GENERAL

Quality of Fiscal Legislation

It is with regret that we have to record that the Finance Act 1986, besides being one of the longest Finance Acts ever at 265 pages, was undoubtedly and by a large margin the longest ever in terms of the volume of changes of real substance made to the taxation system. Such length might have been more commendable if it had been used to make a major assault on the many technical anomalies and deficiencies in U.K. tax legislation which we and other bodies have repeatedly drawn to the attention of the Revenue. As it was, with the notable exception of the Business Expansion Scheme provisions, the Act did little to reduce our list of outstanding technical defects and added many apparently hastily drafted provisions incorporating new defects.

Deterioration in the technical standard of fiscal legislation is in the interests neither of taxpayers nor of the Revenue. Much of the criticism which the 1986 Finance Bill justifiably incurred could have been avoided and the Bill and the subsequent Act would have been more satisfactory technically, if the recommendations in the following paragraphs of this section had been followed. Several of these points amount to no more that what has been normal or best practice in the past. Some, we appreciate, are not wholly matters for the Revenue to decide and we are therefore drawing our remarks in this General section to the attention also of Ministers and the Chairman of the Treasury and Civil Service Committee.

Structure of the Taxes Acts

We have recommended before that the opportunity provided by the forthcoming consolidation of the income and corporation taxes Acts should be taken to change to the United States system of allocating blocks of section numbers to each subject with ample spare numbers to provide

room for future amendment. All present and future legislation on the subject would then be grouped together in one place, which would be easier for the Revenue, for tax practitioners and above all for Parliament where MP's, when scrutinising Finance Bills, cannot afford the time to master a complex provision scattered in pieces through several Acts.

Amendment of the Taxes Acts

Where possible, provisions should be amended by the wholesale replacement of the old section or group of sections with a new section or group of sections rather than by adding a new section which effects a patchwork amendment of individual words, lines and subsections in the old section. Again the United States is the example to follow and the nadir was reached in the U.K. with the legislation in the Finance Act 1986 of an entire new tax, Inheritance Tax, solely by reference. Wholesale replacement, which is in effect consolidation-as-you-go, is easier if the relevant sections are grouped together as recommended above, but is perfectly feasible under the present arrangement.

In order to facilitate the effective scrutiny of proposed legislation by Parliament and interested bodies within the tight timescale of a Finance Bill, we further urge that where existing provisions are to be amended by the Bill, there should be published at the same time as the Bill the full text of those provisions incorporating the Bill's proposed amendments. Ideally, the amended text should be published as an addendum to the Bill (like the Explanatory Notes); if Parliamentary approval for that change and for the expenditure involved is not forthcoming in the immedate future, there is no reason why the Revenue should not publish the amended text separately by means of a press release. Likewise, when amendments are tabled during the passage of the Bill, especially Government amendments, there should be published the text of the amended sections (if the clause is an amending provision); again publication could be by means of addendum to the order paper or by press release. The Parliamentary draftsmen must have the amended text to hand presumably on wordprocessor before the Bill is published/amendments tabled, so its publication would involve no more work for the Revenue and would save much time and effort for MP's and those interested in the provision.

Sections and Schedules

There is a growing tendency to legislate a number of substantive provisions, which would merit separate Parliamentary scrutiny, as paragraphs of a schedule (where under Parliamentary procedures there is a single "stand part" debate for the whole schedule) rather than as a group of sections (where there is a "stand part" debate on each section). A case in point is Schedule 12 FA 1986 where the new treatment for pension fund surpluses refunded to employers and the withdrawal of tax reliefs where excessive surpluses were not reduced were two separate and important changes of substance. In the interests of effective Parliamentary scrutiny we recommend that two or more changes of substance should not be combined in a single section or schedule.

Delegated Legislation

We deplore the extensive resort to delegated legislation this year for matters which would normally and should have been included in the Finance Act itself. Regulations are suitable for legislating:

(a) detailed administrative procedures such as the PAYE system (the aspect of the tax system for which regulations were first used)
and tribunal procedures,

(b) items which are amended according to a formula in primary legislation (e.g. indexation of personal allowances)

(c) lists of individuals, organisations, countries etc to which the relevant sections apply

and sometimes (d) for urgent anti-avoidance and other legislation.

Regulations, however, are not in general suitable for provisions which determine who shall be liable to tax and on what basis (as will be the case with the forthcoming regulations on entertainers and sportsmen under Schedule 11 FA 1986). This is because regulations, particularly if made under the negative assent procedure, are subject to no or very little Parliamentary scrutiny before coming into force and, to the very limited extent they can be scrutinised and debated, are not capable of being amended and improved in either their substance or technical detail. We therefore strongly urge that in future minimum use should be made of delegated legislation and, when delegated legislation is used for reasons of urgency, the provisions in the regulations should be incorporated in the primary legislation in the next Finance Bill.

Consultation and Publication of Draft Clauses

There has been a welcome increase in recent years in the extent to which the Revenue consults in advance with interested and professional bodies. This has included the publication of the legislation in draft in a few cases. Where there is time for the full process of consultations first on the content of a proposal to amend the law and then on the draft legislation, the final legislation is generally more satisfactory both technically and in its substance.

Consultations cannot, however, provide an effective safeguard against poorly designed or poorly drafted legislation without reasonable goodwill on the Revenue's part in the conduct of those consultations. The FA 1984 legislation on Controlled Foreign Companies is a case in point where extensive consultations failed because such goodwill was noticeably absent.

Where no prior consultation takes place as with the charity, stamp duty and stamp duty reserve tax provisions in the 1986 Finance Bill, the result is likely to be considerable embarrassment to the Government and the Revenue if provisions have to be withdrawn altogether. There was no need to have maintained strict Budget secrecy on much of the Bill's content this year. Parliamentary time could have been saved if there had

been less need for wholesale amendment and the debates could have concentrated on tidying up the provisions rather than pointing out basic flaws. Further scarce time will also be taken up with future Finance Bill provisions correcting points in FA 1986 which should have been got right at the outset.

We recognise that there would be Parliamentary difficulties with a separate Technical Finance Bill whether on an annual or occasional basis. Prior consultation and publication of draft legislation is therefore crucially important for enabling more technical improvements to be included in the annual Finance Bill and preventing the backlog of anomalies and technical defects awaiting correction from escalating still further.

Furniss v Dawson

We submitted to Ministers our comments on the Law Society's report "Tax Law in the Melting Pot" earlier this year and we are now collaborating with the Law Society and a number of other bodies in examining the issues involved, which include the technical quality of tax legislation and the role of Parliament in scrutinising such legislation. At this stage we would simply repeat our previous recommendation that the Revenue should make public immediately any decision to change or re-examine its interpretation of the law where the existing Revenue interpretation or practice has been established for some time.

Technical Division

We are concerned that earlier this year the Revenue decided no longer to allow direct access by tax practitioners to Technical Division except on matters involving recent legislation or changes in practice. This will not of course reduce the number of legitimate queries which arise which is a function of the complexity and uncertainty of tax legislation and Revenue practice. The effect of the decision is therefore to compound that uncertainty where the Inspector is not pressed to obtain an authoritative answer from Head Office or to insert an extra delay and administrative cost to the Revenue and taxpayer where the Inspector is pressed for an authoritative view. The proper solution to the problem of excessive demands on the resources of Technical Division is to improve the technical quality of the legislation on which they are asked for advice.

SCHEDULE D

Treatment of Exchange Rate Fluctuations

We are concerned that despite our repeated and urgent representations to the Revenue and to Ministers over the last twelve years there is still no sign of progress on this subject. It is now nearly a year since the Institute for Fiscal Studies published its report "Taxing Currency Fluctuations", two years since publication of the Provisional Statement of Practice and three years since the House of Lords decision in Pattison v. Marine Midland and no indication has yet been given of when the Revenue will come forward with proposals for consultation. We note that the subject was on the agenda for the 40th International Fiscal Association Congress in September this year and that the following resolution was passed unanimously :

'RESOLUTION SUBJECT II "Currency Fluctuations and International Double Taxation"

TAKING FURTHER NOTE of the discussions held during the Congress on September 9th 1986 in which it was generally accepted that

(a) there is a need for much greater certainty and consistency in the taxation of currency fluctuations

(b) all countries should work towards a uniform system for the taxation of currency gains and losses, thereby lessening the risk of double or otherwise excessive taxation

and (c) there were great difficulties in finding solutions for the many problems identified in this area which were increasing with the wide variety of financial instruments now in use

RECOGNIZING THAT

new legislative proposals such as those put forward in the U.S.A. and Australia, while useful in reducing the scope of the problem, do not provide a complete solution and include negative elements such as the characterization of currency gains and losses as deemed interest

RECOMMENDS

1. *The OECD should be encouraged to continue its study of the whole area of currency gains and losses and in particular of questions relating to timing, characterization, attribution and source with a view to achieving international uniformity. It should be asked to use its best endeavours to discourage the characterization of currency gains and losses as deemed interest. Countries shall also bear this point in mind in any bilateral treaty negotiations.*

2. *(a) Where it still exists, the distinction between capital and revenue should not preclude relief where a currency loss occurs.*

   (b) In determining currency profits and losses, losses should be attributed to and allowed in respect of the activities to which they relate and accordingly no loss should remain unrelieved.

3. *Actual exchange rates should be used to determine the value in the home country currency of dividends when paid and foreign taxes when suffered.*

4. *Governments and Revenue authorities should have regard to accounting standards and practices in developing laws and administrative rules in this field.*

5. *The importance of the imparity principle as being based on sound business practice should be recognized. Where currency hedging is involved, gains should not be taxed until both sides of the transaction have been completed. If such a concept cannot be reduced to statutory terms, the taxpayer should be permitted to make a series of irrevocable elections, whereby for timing purposes two or more transactions would be linked together.*

6. *For withholding tax purposes the amount of interest paid under an interest swap (see: General Report, page 29) should be a single net amount and not the two gross amounts of interest.'*

We regard it as particularly significant that there was unanimity on the "imparity principle" in clause 5 of the resolution. The closer the tax system matches business practice and accounting procedures, the less distortionary and more acceptable it is likely to be; it will also be easier to administer and enforce. It was no accident that the resolution was on the agenda for this particular year - 1986 has seen substantial relative movements of the major currencies and this has made resolution of this, admittedly difficult, subject more urgent, not just for the U.K. but also for other countries. The present inequity and uncertainty of U.K. law in this area is unacceptable and damaging to business. We urge that top priority be given to devising a clearer and more acceptable tax treatment for foreign exchange fluctuations.

Costs of Equity Finance

The Finance Act 1984 did much to restore equality of fiscal treatment between equity and loan finance, but there remains the discrimination between the incidental costs of loan finance which are deductible and the costs of equity finance which are not. There is not, and never has been, any justification for such a distinction. All such costs should be allowable and we urge that S.38 FA 1980 be extended to cover equity finance.

Abortive Capital Projects

It is inherent in the process of earning business profits in an uncertain world that there will be false starts and these may involve a write-off of substantial outlays which are not allowable for tax purposes. This is another instance of a defect in the fiscal system which is becoming more of a problem as the pace of commercial change quickens. We therefore again urge that relief should be given for expenditure on abortive capital projects.

Post-trading Expenditure

Since 1980 relief has been available for pre-trading expenditure incurred bona fide for the business. It is time that relief was similarly extended to post-trading expenditure. The date of cessation of trading cannot always be planned as the date of commencement can. For example a fire or death may force the business to close. In any event there is often necessary expenditure in closing a business which cannot be incurred until after trading has technically ceased but which is an unavoidable part of the costs of generating the profits earned by the business over its life.

Capital Allowances - Commercial Buildings

The biggest "nothing" by far is expenditure on commercial buildings. There is no technical reason for the exclusion of such expenditure from relief. It is a major departure from fiscal neutrality and from the principle that expenditure incurred in earning profits should be taken into account when taxing those profits. In the past the revenue cost in the longer term has been advanced as the reason why this distortion has never been corrected. We shall be urging the Chancellor in our main representations to introduce an allowance for new expenditure on commercial buildings at the same 4% rate as for industrial buildings.

Capital Allowances - Industrial Buildings

If the above recommendation was accepted, the point in this paragraph would be superfluous. Expenditure on offices does already qualify for relief (industrial buildings allowance), if the offices are a part (not exceeding 25%) of an industrial building. When the provision was first introduced with a limit at that time of 10%, there was no precedent for fiscal tests based on physical measurements of buildings such as area and inflation was not a problem. Hence the limit was fixed in terms of proportion of historic cost as a proxy for the proportion of office space. In the 1983 Budget speech the then Chancellor announced he was increasing to 25% the permitted proportion of "office space" (which is clearly the spirit of the provision). FA 1983, however, left the test based on historic cost. The result with the high inflation there has been over the last fifteen years is that older industrial buildings are much more restricted in the amount of offices which can be added to them than newer buildings, despite the fact that businesses now tend to need premises with smaller factory/workshop floor space and more related offices. More older premises could be brought into line with current needs if the limit was changed to 25% of the area of the building.

Where an industrial building is sold and the purchaser uses it for the purposes of a trade, the purchaser is only entitled to claim an allowance based on the original cost of the building despite the fact that the full excess of the scale price over the tax written down value is charged to tax on the vendor in the form of a balancing charge and, to the extent that the scale price exceeds the original cost, of a capital gain. This is asymmetrical in favour of the Revenue and does not accord with the general principle that a business should be able to deduct in an appropriate form any expense incurred for the purposes of the business. We urge that the purchaser should be able to obtain relief for the full price paid for a second-hand building, provided that does not exceed its market value. With corporation tax rates now reduced to 29 and 35% and the capital gains tax rate still at 30% this would not be expensive in terms of lost revenue.

Capital Allowances - Motor Cars

The restriction of writing down allowances and of deductions for hire payments in respect of motor cars costing over £8,000 has not been amended to reflect inflation since 1979 and in any event was without justification in our view when originally enacted. £8,000 does not buy an especially large or luxurious car at current prices, so a large number of company cars are now caught by the requirement for cars over £8,000 to be accounted for separately for capital allowance purposes. We can see no reason to retain this arbitrary distinction between cars costing more or less than £8,000 and urge that the restrictions in paragraphs 8 to 12A Schedule 8 FA 1971 be abolished.

CORPORATION TAX

Change of Ownership

In 1984 the Revenue responded to our long-standing request for a Statement of Practice on s.483 ICTA 1970 and s.101 FA 1972 (which restrict the carry forward of unutilised losses and ACT respectively where there is a major change in the nature or conduct of the businesses within three years of a change of ownership) by producing a draft for us to comment on. We replied promptly but we understand replies were not finally received from all the other bodies consulted until late last year. Since then, however, we have heard no more. There can be few businesses nowadays which can survive, let alone prosper, without making one or more major changes in their customers, products, markets or suppliers over a six year period, which would trigger s.483 if there was a change of ownership; in the computer hardware and software industries, for example, the change may be total over as little as two years, yet we understand that some Inspectors continue to argue that a mere 10% change is "major". With so little of British industry truly competitive internationally the tax system should favour, not discourage, businesses making the radical changes necessary to achieve and maintain competitiveness. S.483 and S.101 because of their widely drawn and anachronistic wording, prevent desirable ownership and other changes being contemplated. The sections should be re-worded or the Revenue should publish the fact that it does not in practice seek to enforce s.483 and S.101 to their full extent and should make clear to what extent it does aim to enforce them. We again stress the importance of action being taken on this problem which can only grow worse as the pace of commercial change quickens.

Trading Losses

We similarly believe that the restrictions on setting off brought forward losses only against the future profits of the same trade are anachronistic. We again urge that brought forward trading losses should be capable of offset against the profits of another trade within the same company or another group company, provided there has been no complete interruption in the company's or group's trading, and in the case of a group both companies have been members of the group throughout the relevant span of periods.

Unrelieved Management Expenses

Likewise, unrelieved management expenses should be capable of offset against the profits of a trade within the same or another group company.

Repurchase of Own Shares

The flexibility facilitated by the FA 1982 rules enabling companies to repurchase their own shares in certain circumstances without this being treated as a distribution is not available where any of the shareholders concerned is non-resident. This restriction has caused problems in practice and is in our view unnecessary given the onus on the company to demonstrate to the Revenue's satisfaction that the repurchase will benefit not just the company but also its trade. We urge that the residence condition be abolished.

Group Relief

We are disappointed that the consultations in 1983 on group relief have not yet been followed up by legislation except on the points relating to consortia.

We again urge that :

1. Consolidated basis: whether or not the rules are otherwise relaxed, fiscal equity between different group structures would be improved if some or all of the companies in a group were allowed to make a joint election for taxation on a consolidated basis.

2. Capital losses: the biggest single barrier to achieving equity between a business structured as a group and as a single company is the absence of group relief for capital gains. By their nature capital gains and losses tend to be infrequent and large in relation to profits and turnover and this often gives rise to a mismatch as to the group companies in which gains and losses arise. Although the mismatch can often be solved (so long as the present understanding on the scope of Furniss v Dawson holds) by transferring the asset within the group prior to the disposal to the third party, this solution involves an unnecessary cost burden for

business in terms of the direct transaction costs, and the possible delay in completing the disposal and there remains the big trap for the unwary who do not appreciate the need for such action prior to disposing of an asset. We strongly urge that group companies be allowed to surrender unrelieved capital losses (including brought forward losses) for offset against capital gains arising in other group companies. Many years ago a Working Party established by the Revenue recommended such a change but no Government proposal has yet materialised, although the subject was raised again in Mr Beighton's consultative paper on group taxation.

3. Capital loss buying: at the very least there should be no restriction on pre-acquisition losses brought forward within the purchased company being offset against gains on assets acquired prior to joining the group or acquired subsequently from outside the group. Similar considerations apply to losses unrealised at the date of acquisition. In any event we do not agree that capital or any other loss buying is a matter for concern. We still believe there is a good case for allowing a market in corporation tax losses as proposed in Dr Bracewell-Milnes' paper in 1983.

4. Case I and II trading losses: provided both companies are part of the group throughout the relevant span of accounting periods, a group should be able to carry back surrendered losses in the recipient company for offset against its total profits of the prior year (or prior three years trading profits for losses in respect of capital allowances) as it could if it was formed as a single company.

5. Time limits: for elections for group relief should all be six years.

6. Case VI losses: (which can only arise on items of a trading nature) should be capable of surrender and carry forward within the recipient company.

ACT - Group Relief

As we have recognised above, there are complexities in increasing the flexibility of the group relief rules for losses, but we do not accept any

such reasons for not increasing the flexibility of ACT. ACT is not tied to a particular trade or source of income. There is therefore no reason why ACT should not be freely transferable within a group with the same rules on carry back and carry forward in the recipient company as in the transferor company, provided only that both companies are members of the group throughout the relevant span of periods. We further urge that surrenders of ACT should be capable of revocation within the time limit for the original election.

ACT - Capital Gains Imputation

The rules on offset of ACT are in any event seriously defective. As we demonstrated at some length in our technical representations last year, it is a major anomaly that ACT can be offset only against mainstream tax on trading profits and not capital gains. This results in double taxation of capital gains in the hands of the company and again in the hands of shareholders when the shares are disposed. Thus capital gains are more heavily taxed than trading profits, if any part of those gains is distributed to the shareholders prior to liquidation of the company. This problem is more acute than ever now that the "small company" rate of corporation tax and the rate of ACT (both 29%) are less than the 30% rate of capital gains tax and the standard rate of corporation tax is only a little higher at 35%. We gave the example last year of the situation where a taxpayer whose marginal rate of income tax is the basic rate sets up two companies A and B which make a trading profit of £100 and a capital gain of £100 respectively. If each company pays a maximum dividend and then is in due course liquidated, of the original £100 the shareholder ends up after all tax liabilities have been satisfied with £65 of the trading profit but only £49 of the capital gain. If the figures had been large enough for the 35% rate of corporation tax to apply the £65 would be reduced to £59, still substantially greater than £49.

Additional tax of this order on the distribution of capital gains is in itself a major distortion but, where the capital gain is on an asset acquired prior to April 1982, the discrepancy is further compounded by the absence of any relief for pre-1982 inflation in the computation of the chargeable gain. Thus if the £100 gain (after deducting the indexation allowance for post-1982 inflation) related to an asset acquired for £100 in July 1976, the chargeable gain would simply represent the 100% inflation

between that date and April 1982; the shareholder proprietor would have suffered a 51% tax on a non-real gain as opposed to a 36% tax on a real trading profit or a maximum of 30% tax (depending on the annual exemption position) on the non-real gain if he had owned the asset directly rather than through the company.

As we noted in our response to the consultative paper on disincorporation, disincorporation is by no means the only situation where the double taxation of companies' gains frustrates commercially desirable transactions in practice. The anomaly should be corrected properly not solely in the context of disincorporation.

We therefore urge that full imputation be given for corporation tax on companies' chargeable gains.

ACT - Overseas Income

A further anomaly which has been the subject of representations by the Institute ever since the imputation system was introduced, is the interaction of the ACT rules with the double tax relief rules which discriminates against companies' income from overseas. The greater flexibility on transferring and offsetting ACT urged above would be of some assistance, but a reasonable degree of neutrality between UK and overseas income will only be achieved if also a company with insufficient profits to absorb all the DTR available can claim repayment of any surplus ACT not otherwise recoverable up to the amount of DTR not utilised under section 100(6)(b) FA 1972.

S.506 ICTA 1970

We understand that it has been the view of the Inspector of Foreign Dividends that underlying tax paid on merged profits is inadmissible for credit through the strict wording of s.506 which makes it a condition for relief that the body corporate paying the dividends is the body which bore the tax. We consider that relief should be made available (whether by amendment of the section or by extra-statutory concession) in cases

where, for bona fide commercial reasons, a merger in an overseas territory takes place and dividends are subsequently declared out of the merged profits.

Controlled Foreign Companies

The fears we expressed last year have been confirmed. Enquiries are being launched with a heavy presumption against the taxpayer at the outset and immediate demands for the production of much more extensive evidence, including confidential minute books, than would normally be required before a prima facie case for detailed investigation has been established. We are concerned that information powers should be used only when, and to the extent, it is reasonably necessary and should be exercised with due regard to the logistics of assembling the information and its commercial (as opposed to fiscal) sensitivity.

Meanwhile there remain the problems which have always concerned us:

1. the lack of any Ministerial statement or other guidance on the acceptability (vis a vis the motive test) of CFC's used to average the tax burden on income from different sources;

2. the requirement that a CFC derive 90% of its commercially quantified income from a single country on the excluded countries list in order to be exempted - we see no policing problem if 90% is derived from two or more countries on the list;

3. the wording of the motive test, in particular the definition of "diversion of profits" which taken literally, as we have to assume the courts would do, would catch the establishment of any subsidiary which did not remit 100% of its profits, however commercially justifiable;

4. the illogicality and injustice in the lower level of taxation test of considering only taxes paid in the country where the CFC is resident and not taxes paid in third countries;

5. in particular the lack of any provision in the lower level of taxation test for tax payable under equivalent legislation in other countries such as West Germany and the USA to be taken into account.

Points 2, 4 and 5 could be quickly remedied by simple amendments to the legislation and a Ministerial statement might deal with 1. The motive test we accept requires further consultations in the light of the first experiences in applying it.

S.482 ICTA 1970

We hold to the view that S.482 should be abolished forthwith as the original consultative papers which led to the legislation on CFC's implied and in line with the unanimous recommendation of the Royal Commission on Taxation of Profits and Income in 1955. We are writing separately on this subject in more detail in view of the present consultations on amending the general consents.

Small Companies Rate

The cost of extending the 29% rate to the first £100,000 profits of every company/group would only be of the order of £30 million and we urge that this be done. A structure of graduated rates of successive slices of income, as with income tax, is in our view much to be preferred. Policing the apportionment of the £100,000 limit should be less of a problem with all the companies in a group normally dealt with in a single tax office and would be easier still if taxation on a consolidated basis were allowed.

Where the £100,000 and £500,000 limits have to be apportioned, s.95 FA 1972 requires non-resident associated companies to be included in the number of companies among which the limit is to be apportioned even though they are excluded by subsection (1) from gaining any relief in respect of the amount apportioned to them. This is a clear anomaly. Rather than extend the relief to non-resident associates, which might mainly benefit foreign-owned groups, we urge that the anomaly be removed by taking account only of UK resident associated companies in section 95(3)(b) FA 1972, which would mainly benefit UK-owned groups.

Close Companies Apportionment

Section 32 FA 1984 increased to £1,000 the limit for close companies' investment income apportioned to any one individual which is exempt from income tax. This still did not resolve the point of principle, which we had previously raised with the Revenue, that dividends or interest received by a parent close company out of the trading income of its subsidiary should continue to be treated as income in the hands of the parent and therefore should be entirely exempt from apportionment. There may be good commercial reasons for the existence of the holding company and for retaining the profits in one group company rather than another.

Moreover, the Taxes Acts already recognise in other contexts that relief given to a trading company should also be available to the holding company of a trading group. We further note that in the US there are rules on the characterisation of income which would meet this point. We urge that the close company apportionment rules should not apply to any income derived from trading within the group.

UNINCORPORATED BUSINESSES

We appreciate the difficulty of maintaining even rough equality between the tax treatment of incorporated and unincorporated businesses. As we have suggested before, potentially the most complete solution is to allow sole traders and partnerships to elect to be taxed as though they were companies. This would involve some technical difficulties, for example in determining the initial capital invested, but we believe these could be overcome. The difficulties would in any event be confined to the small minority who were subject to higher rates of income tax and barred by statutory or professional rules from incorporating, since only they would be likely to benefit from an election.

An alternative approach which we preferred for its simplicity and attractions on wider grounds is the reduction of the higher rates of income tax on business profits if not on all income.

Serious injustice, however, only arises where particular businesses are barred from choosing one or other form in the first place or where there are obstacles to changing from one form to another. Professional bodies have generally removed restrictions on incorporation but auditors of limited liability companies and dentists remain barred by statute from incorporating and there are major fiscal obstacles to disincorporation (but not to incorporation) of any existing business.

We welcome the decision to consult earlier this year on removing the obstacles to disincorporation. We submitted detailed comments at that time and hope that room will be found in the 1987 Finance Bill to effect the necessary changes. We also welcome the current consultations by the Department of Trade and Industry (in connection with the proposed 8th EC Company Law Directive) on the subject of incorporation of auditors. We cannot see why any bars on incorporation should be retained (unlimited liability could still be a mandatory requirement for certain professions), but if it is decided that there is some important reason for retaining them, we urge that further consideration be given to our suggestions of reducing the higher rates of income tax on business profits and allowing sole traders and partnerships to elect to be taxed as a company.

INCOME TAX

Benefits in Kind - £8,500 Threshold

It is absurd that "higher paid" employment should be deemed to start at £8,500 when the average full-time earnings are now over £10,000 and even more absurd that, because of the inclusion of expenses and benefits in earnings for the purpose of the £8,500 threshold, employees who are by any standards low paid can be caught.

In addition to the considerable inequity between different categories of lower paid taxpayers and the distortions from the astronomic marginal tax rates at the threshold, the present system imposes substantial compliance burdens on employers at a time when the Government is quite rightly trying to reduce such burdens. P11D's have to be completed for those above the threshold and the somewhat less onerous P9D's for those below. The employer has to ascertain whether an employee falls above or below the thresholds, keep the necessary records and prepare the individual and aggregate year end returns. Whilst dispensations from submitting P11D's for employees with no taxable benefits are now readily granted by the Revenue even for small businesses, the many employees whose expenses take them over the threshold cannot under section 70 FA 1976 be covered by any dispensation.

As well as the distortions around the £8,500 threshold (£163 per week) the new graduated structure of NIC has created similar anomalies and infinite marginal tax rates at pay rates (excluding benefits and expenses) of £60, £95 and £140 per week. The resultant bands of £5-10 above each threshold where it is pointless fixing pay rates means that a significant proportion of the wages spectrum comprises "no-go" areas which makes the development of appropriate pay structures more difficult for employers. We cannot envisage the graduated NIC structure being abandoned in the immediate future. The opportunity, however, of the introduction of the proposed simpler P11D form should be taken to abolish the £8,500 threshold, so that all employees are subject to income tax alike on their remuneration and the P11D and dispensation systems apply to all employees.

Benefits in Kind - Motor Cars and Fuel

The taxation of employee benefits from the provision of company cars and fuel has always posed severe technical and administrative problems as well as involving much wider political and economic issues. We are concerned here only with the technical and administrative aspects.

There are only two basic options for company cars, either to attempt to get the "right" answer, which inevitably involves recording private and business mileage as the best, albeit still imperfect, guide to the private benefit enjoyed, or to give up the attempt and settle for some standard system, which will give the "wrong" answer in all cases and substantially wrong in a significant proportion of cases.

In 1976 the Government, business representative bodies and the Revenue agreed that it would be so much simpler administratively for employees, employers and the Revenue to switch from a system based on actual private mileage and actual expenditure to a standard scale that a degree of rough justice was acceptable in return. It was recognised, however, that it was necessary to set the scale at a level that ensured nobody was substantially worse off under the standard scale than under the mileage basis. Those who gain under the standard scale are those with the highest private mileage in each bracket and those who lose are those who make most business use of the car in each bracket. The grievance of those who lose is naturally aggravated by the fact that the car is less of a "perk" for them and more a genuine "tool of the trade".

There has been a rapid increase in real terms in the amount of the benefit charged to tax since 1980. The consequence, however, of raising the standard scale to anything close to the average cost of the average private use of company cars would be irresistible pressure from employees for a return to an actual basis and/or a massive switch to employees providing their own cars and charging their employers for business use. Either way the Revenue would again have the task of agreeing with each individual employee each year the proportion of private to business mileage and in the latter case the reasonableness of the mileage rate charged. Inflated mileage claims and mileage rates are not the only ploys which would need to be policed.

We believe that the present company car scale cannot be raised much further in relation to the actual costs of running a car, without creating strong pressure for a return to taxation on an actual basis and we urge the Revenue to consider the administrative implications of this.

In March it was decided not to increase the fuel scale for 1987-88 in recognition of the fall in the oil price and the consequent reduction in the pump price of petrol. There should be no question of any increase in the fuel scale until the pump price of petrol is well over £2 per gallon and indeed there is a case for its reduction in view of the dramatic improvements in cars' fuel consumption.

Permanent Health Insurance

At present premiums for such insurance are not deductible and any proceeds are taxable under Schedule D Case III, although by concession the Revenue allows an initial tax-free period of between 12 and 24 months depending on when in the year payments commenced. It is, however, those who are prevented from working for longer than that initial period (in which case they may well be prevented from ever working again) who would be particularly likely to become a burden on the state if they had not made private provision by insuring against this contingency. We consider that the Exchequer would benefit from treating all permanent health insurance premiums similarly to saving for retirement annuities or pensions, ie the premiums should be deductible (within reasonable limits) and the proceeds taxable. This is already effectively the case where cover for permanent disability is included in an approved retirement annuity contract and the additional premium for this cover does not take the total premium under the contract over the statutory limit. If advantage is not always taken of this, that is because the insurance company offering the best rates for the retirement element of the contract will often not be the company offering the best rates for the disability element.

In the case of PHI unlike RAPs, many of those paying premiums will never make a claim and so will not benefit from the initial tax-free period or other relief on the proceeds. Encouragement for people to take out such insurance - very few do at present - is therefore likely to be more effective, if relief is given on the premiums. We appreciate that the question of the extent to which PHI should be positively encouraged

is a matter for Ministers and we shall again be including representations on this subject in our main Budget submission. The issue is also relevant to the tax treatment of personal portable pensions on which a consultative document is to be issued. Meanwhile, our recommendation is that:

1. premiums for permanent health insurance should, within reasonable limits, be deductible for income tax for all taxpayers, not just those with RAPs, and

2. the limits on deductibility of RAPs should apply solely to the retirement element and not to the disability element (the existing limits are in any event inadequate for many self-employed people to obtain a retirement income equivalent to that of an employee on the same earnings in an occupational scheme) and the same should apply to personal portable pensions.

CAPITAL GAINS

Rate of Tax

When capital gains tax was introduced in 1965 it was recognised that there were good reasons for such gains being taxed at a lower rate than income, not least because capital gains usually accrue over a long period and an increase in income underlying such a gain is fully subject to income tax. We regretted the failure to maintain such a differential in the 1980 Budget changes and we are now disturbed that the differential has been reversed this year with the capital gains rate held at 30% while the basic rate of income tax and small companies rate of corporation tax have been reduced to 29%. There is no justification for this and it exacerbates still further the excessive taxation of companies' capital gains relative to income arising from the anomaly that unrecovered ACT cannot be offset against mainstream tax on gains. We urge that the original differential between the rate of capital gains tax and the basic rate of income tax be restored or that at the very least the CGT rate should be reduced to 25%, a slightly lower differential.

Pre-1982 Inflation

The task of eliminating the taxation of inflationary gains remains only half complete so long as no allowance is given for inflation between April 1965 and April 1982, a period over which the RPI rose some 450% (ie £18 in 1965 was worth the same as £100 in 1982). In our main representations to the Chancellor we shall again be calling for the Government to provide some form of relief for pre-1982 inflation, since the size of the revenue cost (two thirds of the yield from taxes on capital gains) is a measure of the size of the present injustice. At the technical level the best way to give relief in our view, in the absence of the detailed records necessary for full indexation, is to exempt pre-April 1982 assets held for over say ten years. In a few years the problem of pre-1982 inflated assets and the need for valuations at April 1982 would disappear for ever. The need for valuations at April 1965 would disappear immediately. If the revenue cost remains a major constraint, it would still be worthwhile to start with a longer cut-off period of fifteen or even twenty years.

Annual Exemption

The annual exemption for individuals and trusts achieves at least three purposes:

1. de minimis relief to reduce compliance and administrative costs for taxpayers and the Revenue;
2. in lieu of relief for pre-1982 inflation;
3. in lieu of relief from other asymmetries in the capital gain tax system in favour of the Revenue.

Companies, however, get no annual exemption and therefore no relief under these headings the most important of which for companies is pre-1982 inflation. If proper relief is not given for pre-1982 inflation as we urge above, then as an absolute minimum we urge that an annual exemption be given to companies. This would also help mitigate the problem of double taxation of companies' capital gains (see "ACT - capital gains imputation" above), although again our preference is for the defect to be remedied properly rather than through the rough and ready means of an annual exemption.

The annual exemption does not achieve its present purposes nearly as effectively in the case of assets, notably businesses assets, which often cannot by their nature be sold a bit at a time to utilise the exemption each year. We again urge that any previous unused annual exemptions should be available for relief on the disposal of business assets held throughout the years in question. Moreover, to avoid individuals and trusts having to resort to special arrangements solely to take advantage of the annual exemption we would recommend that they should have a general right to carry forward any unused annual exemption without time limit.

Losses

Capital gains are assessed to tax for the year in which they are realised whereas relief for losses can only be obtained against gains realised in the same year or subsequently. There may of course never be a subsequent gain in which case relief is never obtained. The asymmetry

is particularly apparent if one considers an asset which has been developed and is sold in two parts on two dates falling in different tax years. If a loss of £1 million is made on the first part disposal and a gain of £1 million on the second part disposal, no tax will be payable in line with the overall economic gain which is nil. If the gain occurs on the first disposal and the loss on the second, the gain is fully taxed and relief may never be available on the loss. We therefore urge that capital losses should be capable of being carried back two years.

Roll-over Relief

Roll-over relief under section 115 CGTA 1979 is restricted to the case where assets used for the purposes of the trade are disposed and the proceeds reinvested in assets also so used. We recommend that relief should be extended to shares in the following similar circumstances:

(1) where an individual disposes of shares in a family company which would, apart from the condition as to his age, qualify for retirement relief and the proceeds are reinvested in shares in another company which would similarly qualify

(2) where a company disposes of the shares of a 75% subsidiary, which is a trading company or which holds assets used in the business of other companies in the group which are trading companies, and reinvests the proceeds in shares of another company which meets those conditions or in assets used for the purposes of a group company's trade.

Roll-over relief under section 115 CGTA 1979 is restricted where the asset has not been used for the purposes of the trade throughout the period of ownership. The restriction is on the basis of a time apportionment of the value of the asset between the periods of trade use and periods of other use. Inspectors, however, insist in the case of pre-1965 assets that it is only the proportion of trade use since April 1965 that is relevant. We are still not convinced this is the correct interpretation of the wording of section 115, but whether or not it is correct, we would suggest that a fairer treatment would be to restrict roll-over relief in the proportion that the period for which the asset is not used for the purposes of the trade after 5th April 1965 bears to the whole period of ownership. This would incorporate a modest degree of

leniency in the taxpayer's favour similar to that considered appropriate in Schedule 5 CGTA 1979 where the taxpayer has the choice of apportionment on a time or actual basis. Failing that, it would still be preferable to the present Revenue interpretation to have apportionment on the basis of the total period of trade use out of the total period of ownership.

S.278 ICTA 1970

When a company leaves a group, a charge under Section 278 ICTA 1970 will arise in connection with any capital assets transferred to that company from other group companies within the preceding six years. The operation of this section is particularly, and unnecessarily, harsh in two respect as follows:

(a) The charge is deemed to arise in the year in which the asset was acquired by the company leaving the group. Accordingly, by the time the company does leave the group and the charge crystallises, time limits, particularly for loss relief, may have expired. We urge that the time limits, especially the limit under s.177(2) ICTA 1970, should be extended in such circumstances. We appreciate that simplicity and certainty are considerations in fixing time limits but do not accept that there would be any particular difficulty in extending the limit under s.177(2) in this case. Indeed we note that the Revenue generally exercises its discretion to extend the time limit under paragraph 12(3) Schedule 5 CGTA 1979, if the chargeable gain arises by virtue of s.278. Extension in those circumstances should, however, be automatic.

(b) We understand that the Revenue do not accept that a gain arising in respect of a s.278 charge can be deferred by a roll-over claim under s.115 CGTA 1979 on the grounds that the reinvestment is in the same asset. There seems no reason why the deemed reacquisition should not qualify as a basis for a roll-over claim, but at the very least the s.278 charge should be able to be covered by a roll-over against reinvestment by the company in other qualifying assets.

Transfer of Subsidiaries

It was previously thought that, where company A transfers shares in its subsidiary C to another subsidiary B in return for shares in B so that S.85 CGTA 1979 applied, the shares in C would be acquired by B for tax purposes at market value (rather than the normal no gain/noloss basis under s.273 ICTA 1970). This view was, however, rejected in Westcott v Woolcombers Ltd (1986) STC 182. It is understood that this case will not be taken further on appeal. The effect of the case is that the accrued gain or loss within the group as reflected in the shares of C transferred is "doubled up" through

(a) B's requisition of C at original (inflation-adjusted) group cost, and

(b) A's acquisition of a new holding of B shares at the original cost (ie group cost) of the shares in C transferred in exchange.

We consider this "doubling up" to be illogical and urge that a provision be included in the 1987 Finance Bill to restore the position as previously understood (ie B should be treated as acquiring the shares in C at market value and A should retain the original base cost). If the Woolcombers decision is allowed to stand, the effects will be harsh for companies which made such transactions years ago believing the previous well established understanding of the law to be correct.

INHERITANCE TAX

General

Whilst we welcomed the abolition in FA 1986 of the tax on lifetime gifts more than seven years before death, the tax we are left with, now called Inheritance Tax, is technically the worst of all worlds, a cobbled together amalgam of two profoundly unsatisfactory taxes, Capital Transfer Tax and Estate Duty. This would matter less if there was an unequivocal Government commitment to the early abolition of the tax on death as well, as we have long urged. A tax on gifts is unnecessary to protect the revenue yield of other taxes, is never likely to raise by itself an amount of revenue which is significant in proportion to the costs of administration and compliance and is disproportionately distortive. The quickest and simplest way to mitigate the many technical defects in IHT and to minimise the economic distortions is to lower the rates as discussed below (Burden of the tax).

S.104 Finance Act 1986

As we urged in our response to the consultative letter on the proposed regulations under S.104, the provisions of these regulations should be incorporated into the primary legislation in the 1987 Finance Bill.

Potentially Exempt Transfers

In August 1980 a consultative document was issued by the Inland Revenue entitled "Capital Transfer Tax and Settled Property". Paragraph 2.2.1 stated -

> 'The previous Government explained in 1974 that the principle underlying the CTT settled property provisions was that "in general the charge to tax should be neither greater nor smaller than the charge on property held absolutely". (White Paper on Capital Transfer Tax, Cmnd. 5705).'

Paragraph 2.3.2 stated -

> 'The representations which have been received so far seem to accept the principle that so far as possible there should be parity of treatment between property held absolutely and settled property. Certainly no other principle has been suggested to take its place.'

In addition there are frequent references elsewhere in the document to "the principle of parity" described above.

It appears that with the introduction of Inheritance Tax this principle has been abandoned. This is particularly inequitable in relation to the treatment of the owner of an interest in possession in settled property for the purposes of the tax as if he were the absent owner of the property. As we understand it, the Inland Revenue are concerned about the scope for tax avoidance in such cases. We do not accept that there is such scope nor that such fears justify what is a manifest anomaly and breach of the principle of parity. We therefore urge that gifts to settlements where there is an immediate interest in possession and termination of such interests should be treated as potentially exempt transfers in the same way as gifts by and to individuals.

Business and Agricultural Property Relief

Under Capital Transfer Tax, if additional tax became payable because of death within three years of a gift of qualifying property, that tax was charged on the value of the gift after deducting any relief for which it qualified at the time of the gift. Under Inheritance Tax the relief is only given in respect of property which is the subject of a potentially exempt transfer which becomes chargeable on death, if it qualifies both at the time of the gift and at the date of death. It is the gift which is chargeable. It is valued at the date of the gift. Relief should be given if the property qualified for it at the date of the gift.

Burden of the Tax

The burden of tax at death is now generally greater than it was when CTT was introduced in 1974. The table below shows the 1974 rate bands adjusted by the 272% increase in the RPI at March 1986 as compared with March 1974 and compares the tax charged in each adjusted band at 1974 with the tax charged in the 1986 bands at 1986 rates. All estates totalling between £80,013 and £2,887,769 are more heavily taxed today than they were when CTT was introduced and in parts of the range by over 50% more.

It is intolerable that the top rate of tax of 60% (which is itself excessive) should be charged on the excess of any estate over £317,000, which is not by any standard excessive wealth. It is also intolerable that a starting rate of 30% should be charged on property in excess of £71,000 which is the value in the South East of the country of a fairly modest house.

We urge that the rate schedule (including the starting rate) be made less steeply progressive, at the very least so that no estate is more heavily taxed than it would have been under CTT in 1974.

COMPARISON OF ORIGINAL CTT TAX BURDEN WITH CURRENT IHT TAX BURDEN

Cumulative largeable transfer £(1986)			CTT @ '74 rates & indexed '74 bands			IHT @ 1986 rates & 1986 bands			
			Rate %	CTT on band £ (1986)	Cumulative CTT %	Rate £ (1986)	IHT on band £ (1986)	Cumulative IHT £ (1986)	Cumulative Difference £ (1986)
0	-	55,789	-	-	-	-	-	-	-
55,789	-	71,000	10	1,521	1,521	-	-	-	-1,521
71,000	-	74,386	10	339	1,860	30	1,016	1,016	-744
74,386	-	92,982	15	2,789	4,649	30	5,579	6,595	1,946
92,982	-	95,000	20	403	5,052	30	605	7,200	2,148
95,000	-	111,579	20	3,316	8,368	35	5,803	13,003	4,635
111,579	-	129,000	25	4,355	12,723	35	6,097	19,100	6,377
129,000	-	148,772	25	4,943	17,666	40	7,909	27,009	9,343
148,772	-	164,000	30	4,568	22,234	40	6,091	33,100	10,866
164,000	-	185,965	30	6,590	28,824	45	9,884	42,984	14,160
185,965	-	206,000	35	7,012	35,836	45	9,016	52,000	16,164
206,000	-	223,158	35	6,005	41,841	50	8,579	60,579	18,738
223,158	-	257,000	40	13,537	55,378	50	16,921	77,500	22,122
257,000	-	297,544	40	16,218	71,596	55	22,299	99,799	28,203
297,544	-	317,000	45	8,755	80,351	55	10,701	110,500	30,149
317,000	-	371,930	45	24,719	105,070	60	32,958	143,458	38,388
371,930	-	446,316	50	37,193	142,263	60	44,632	188,090	45,827
446,316	-	557,895	55	61,368	203,631	60	66,947	255,037	51,406
557,895	-	1,859,649	60	781,052	948,683	60	781,052	1,036,089	51,406
,859,649	-	3,719,298	65	1,208,772	2,193,455	60	1,115,789	2,151,878	-41,577
,719,298	-	7,438,596	70	2,603,509	4,796,964	60	2,231,579	4,383,457	-763,507
,438,596	-		75			60			

he lower break-even point is at £80,013 in 1986 £s (or £21,509 in 1974 £s).
he upper break-even point is at £2,887,769 in 1986 £s (or £776,282 in 1974 £s).
etween these points the current IHT tax burden on death is higher in real terms than the CTT burden in 1974.

Gifts within five years of death

The burden has increased even more in respect of gifts, where the donor dies between three and five years after making it. This was increased by FA 1986 to 80% or 60% of the death rates of tax compared with 50% before 18 March 1986. The fact that this gives a tidy and symmetrical progression of rates over the last four years of the period of charge is not, in our view, a good reason for increasing the effective burden of a tax, which is levied by definition as a consequence of individual misfortune. Symmetry was not thought to be necessary in the previous taper relief for estate duty where the value of gifts was discounted by 15%, 30% and 60% in the last three years of the seven year period (after 1968). We suggest that the tax chargeable should not exceed 50% of the death rate if the donor survives the gift by three years. If symmetry is considered to be essential, rates of 37½%, 25% and 12½% of the tax after four, five and six years or 25% after five years might be substituted for the scale in FA 1986 for those periods of charge.

TAX TREATMENT OF SHARE INCENTIVES AND INVESTMENT

Major Reform - New Investment in Trading Companies

We wholly support the Government's aims of increasing share ownership and risk investment both by employees and generally. However, there is now a plethora of special schemes and reliefs for investment in company shares which have been introduced and extended in recent years of which the latest is Personal Equity Plans. These measures have tended to be narrowly targeted (and as a result too technically complex for any taxpayer to contemplate without extensive professional advice) and to have been devised as ad hoc responses to gaps or defects in the existing patchwork of legislation. The degree of fiscal support also varies from being a predominant factor in the case of the Business Expansion Scheme to nil in the case of enabling provisions such as the special rules for demergers and repurchase of own shares by companies. PEPs combine dilution of the aim by interposing an intermediary, administrative complexity for the intermediary (with consequent high costs for the investor) and minimal fiscal incentive. Meanwhile, there remain major disincentives and inflexibilities such as S.79 FA 1972 and S.483 ICTA 1970 which can catch the unwary and those whose arrangements cannot be made to fit the pattern expected by the legislation.

We believe that many pages of legislation could be removed, some coherence and logic could be restored to this area of the tax system and the Government's aims could be better achieved, if a straightforward income tax deduction for investment in new equity were introduced in place of the present schemes. The Loi Monory/ Loi Delors, and other variants of such a deduction have proved cost-effective incentives in other European countries.

Under the variant we have put forward in our main representations for the last three years relief would be given against total personal income for any investment in new quoted or unquoted equity of UK trading companies or holding companies of trading groups. The only further restrictions necessary would be claw-back of relief on disposals within five years and any ceiling set on the amount deductible by an individual in any one year either as a phasing-in measure or permanently.

Failing such a major reform, or in the meantime while it is being considered, there are a number of specific changes which should be made to the present system. We set these out below.

Approved Share Option Schemes

We have always contended that gains on employee share options should be taxed as capital gains not income. Otherwise as far as the shareholders are concerned, it would be cheaper to have the company pay a cash bonus equal after tax to the gain on exercising a notional option at the exercise date rather than grant a real option; the bonus is deductible for corporation tax but the gain on an actual option is not, although it results in no less real a diminution of the value of existing shareholders' holdings.

We therefore do not consider the tax treatment of options under approved schemes to be concessionary except to the extent that under capital gains treatment tax may be avoided altogether if the gain comes within the annual exemption.

We recognise that avoidance problems arise with share options as with other employee share incentives (eg manipulation of the share price by the addition or removal of restrictions on the shares) and that some anti-avoidance provisions and clearance procedures are always likely to be necessary.

We do not, however, agree that all the present restrictions on approved schemes are necessary or desirable. As we have said before, a ceiling on the amount of options which can be granted to an individual in any one year can only operate to set a "norm" creating upward pressure on the amount companies concede to their senior employees or to impede the small potentially high performance company from offering a remuneration package for top computer programmers etc which is commensurate with both the company's cashflow in the early days and what large competitors can offer. The ceiling in paragraph 5 schedule 10 FA 1984 should be removed.

In applying the 10% material interest restriction in paragraph 4 of Schedule 10 the Revenue practice has failed to compare like with like by insisting that the individual's existing holding plus his (as yet nonexistent) option shares must not exceed 10% of the existing shares in issue. That would be correct only if the option was to buy some of the existing shares from other shareholders not to buy new shares from the company. We suggest that the correct test under paragraph 4 is whether the immediate issue of the option shares would enable the person to control 10% of the (enlarged) share capital (ignoring options granted to others since if these were taken into account the limits could be circumvented by phoney options).

The principal restriction we consider to be unnecessary is the rule in Section 38(4)(b) that to qualify for capital gains treatment the option must be exercised at least three years since the person last exercised an approved option. The risk of systematic abuse through the use of tax-free approved options in conjunction with the annual exemption as a tax-free substitute for a large and regular proportion of salaries is greatly overstated. That would require systematic fixing of the share price, which is impossible, not to mention illegal, for employees of quoted companies, and would be immediately obvious to the Revenue in the case of unquoted companies. There is, moreover, considerable self-policing available in the form of quoted company rules on when directors and senior executives may deal (usually only in a short period following announcement of the interim and annual results), investor protection committees' concern that employee option schemes are genuinely performance-related and do not excessively dilute other shareholders' equity and the cost and time involved in obtaining frequent valuations of unquoted company shares. Whilst the annual exemption provides a measure of leniency for qualifying disposals of approved options, the income tax treatment of disposals which do not meet a restriction, such as the every 3 years' rule, is positively penal. We therefore strongly urge that this restriction be abolished.

Finally, we believe that it is only fair to grant a measure of relief where there is a takeover or merger (events which may well not be within the

option-holder's power to influence), which will result in a FA 1984 or FA 1980 option scheme ceasing to be approved, and the option-holder wishes to exercise options granted less than three years previously. We suggest that a FA 1984 option so exercised in the third year should attract two thirds of the relief it would have attracted if exercised after three years and one third if the option is so exercised in the second year.

S.79 FA 1972

S.79 is an anti-avoidance provision which was legislated as an *in terrorem* measure to ensure that any company contemplating granting employee share options or other share incentives would choose to do so through an approved scheme. It was always excessive for that purpose and it still is. It has had the effects of imposing a wholly unreasonable penalty on bona fide arrangements in the best commercial interests of the company which have not happened to fit exactly the conditions for approval or where such a condition has been unavoidably breached after the grant of the option. Most seriously it has caused major difficulties in connection with management and employee buy-outs which it was never intended to deter. Some of the problems were spelt out well in the British Tax Review (1985 number 3).

We regret therefore that in this year's Finance Bill it was decided to widen section 79 still further rather than narrow it as we and other business and professional bodies have urged. At our meeting with the Revenue to discuss the Bill it was suggested that we should put forward specific proposals for the amendment of the section. We shall therefore be writing separately with more detailed suggestions for the reform of section 79.

Employee-controlled Companies

We continue to regret the Government's decision to confine the FA 1983 interest relief for borrowing used by employees to buy shares in an employee-controlled company to the period of 12 months from the date of

employee-control commencing. The short life of the relief is made shorter still by the rule that relief ceases for all employees once any of the conditions of employee-control have been breached. It is unjust that relief should be withdrawn from an employee as a result of events outside his control such as the death, retirement or departure of other employees or the sale of their shares by other employees. It is further unreasonable that financially unsophisticated employees should have to take such a risk on top of being employed in what is usually a high-risk venture. We again urge that this be changed.

Pension Scheme Surpluses

Part II of Schedule 12 FA 1986 provides for the withdrawal of reliefs from pension schemes to the extent that they fail to reduce a surplus to below the 5% prescribed maximum. As we pointed out in our representations on the Bill, there are many older schemes whose trust deeds do not permit surpluses to be refunded to the employer and where under present law the court would not allow the deed to be amended to allow such a refund. Where there has been a substantial reduction in the numbers employed, the other means of reducing a surplus, a contributions holiday and increase in pensions in payment to the statutory limit, may make little difference to the surplus. A scheme in such circumstances will pay a tax penalty for failing to comply with a provision which the trustees and employer might well have wished to comply with, if only they legally could. We therefore urge that further consideration be given to amending the law to provide a legal mechanism for amending trust deeds in these circumstances.