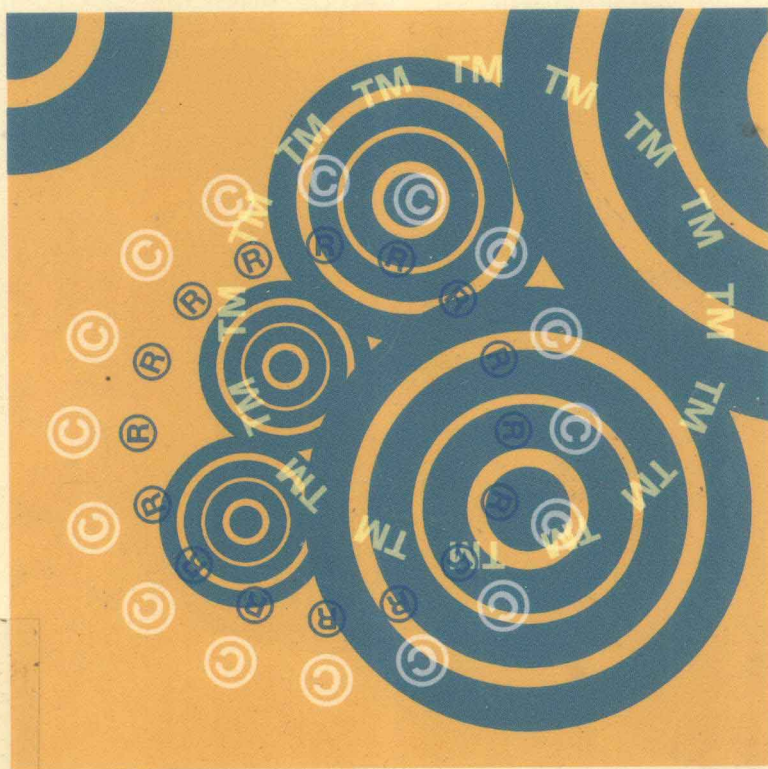


Taxation of Intellectual Property



Third Edition

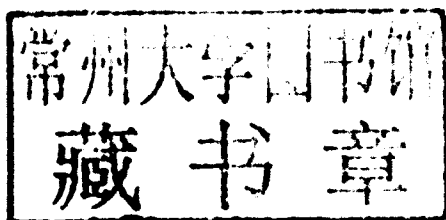
Anne Fairpo

Taxation of Intellectual Property

3rd edition

Anne Fairpo

MA (Oxon), CTA (Fellow), ATT, Barrister



Bloomsbury Professional

**Bloomsbury Professional Ltd, Maxwellton House, 41–43 Boltro Road,
Haywards Heath, West Sussex, RH16 1BJ**

© Bloomsbury Professional Ltd 2012

Bloomsbury Professional, an imprint of Bloomsbury Publishing plc

All rights reserved. No part of this publication may be reproduced in any material form (including photocopying or storing it in any medium by electronic means and whether or not transiently or incidentally to some other use of this publication) without the written permission of the copyright owner except in accordance with the provisions of the Copyright, Designs and Patents Act 1988 or under the terms of a licence issued by the Copyright Licensing Agency Ltd, Saffron House, 6–10 Kirby Street, London EC1N 8TS. Applications for the copyright owner's written permission to reproduce any part of this publication should be addressed to the publisher.

Warning: The doing of an unauthorised act in relation to a copyright work may result in both a civil claim for damages and criminal prosecution.

Crown copyright material is reproduced with the permission of the Controller of HMSO and the Queen's Printer for Scotland. Any European material in this work which has been reproduced from EUR-lex, the official European Communities legislation website, is European Communities copyright.

A CIP Catalogue record for this book is available from the British Library.

ISBN: 978 1 84766 931 5

Printed in the United Kingdom by Hobbs the Printers Ltd, Totton, Hampshire.

Preface

I would particularly like to thank Michael Reed, for his support and patience in the rather drawn-out process of writing this third edition (continuing changes and updates to legislation didn't help). Thanks also to Dave Wright and all at Bloomsbury for their patience!

I'm grateful to Virgin Atlantic for the quiet few hours on flight VS002 from Newark, post-Hurricane Sandy, in which this book was *finally* finished.

The law is as at 31 October 2012 and, as ever, all errors and omissions are the responsibility of the author.

Anne Fairpo
November 2012

Table of Statutes

[All references are to paragraph numbers]

Capital Allowances Act 2001	3.76; 4.2, 4.14; 5.61	Corporation Tax Act 2009 – <i>contd</i>	
s 51A	17.112	s 14	16.11, 16.12
71	17.110, 17.111	21	16.23
83	17.113	31	16.24
99	7.57	Pt 3 (ss 34–201)	6.25, 6.31; 18.426, 18.428
437(1)	4.1	s 87	9.14, 9.29; 17.130
(2)	4.5	177	7.62
439	4.9	178	7.63
441	4.14	181	13.66
442	4.18	439	16.168
443	4.20	466–471	18.159
444	4.19	473, 474	18.159, 18.160
447	4.26	Pt 8 (ss 711–906)	2.106; 7.26; 8.1, 8.11, 8.15; 10.2; 17.103
452	5.111	s 711	8.11
455(1)	5.110	712(1)	8.16
456	5.119	(2)	8.23
457	5.122	(3)	8.23
458(1)	5.121	(b)	8.25
(4)	5.124	(d)	8.23
462	7.70	713	11.1
464(1)	5.61	(1)	8.12, 8.13
465	5.73	(2)	8.14
466(2)	5.61, 5.62	(3)	8.15, 8.26, 8.27
468	5.63	(d)	8.28
469	5.65	715	8.26
470	5.74	(3)	8.26
471	7.57	717	8.9
472(1)	5.77	Pt 8 Ch 3 (ss 726–732)	9.6
(4)	5.83	s 727(1)	11.11
476(2)	5.80	(b)	11.11
(3)	7.53	728	9.7; 11.9
477	7.53	729	9.7, 9.12; 11.10
(2), (3)	5.70	(3)	11.33
478(a)	5.64	(5)	11.34
479, 480	5.66	730	9.7; 11.10, 11.37, 11.43
481	5.71	734	12.54
483	5.67	735	12.55; 14.7
574	5.114	736	12.57; 14.9
575	5.69, 5.113	737	12.59
Companies Act 1985	12.21	738	14.26
Companies Act 2006	12.21	739	12.58; 14.12
s 399	18.158	742	11.35
Copyright, Designs and Patents Act 1988		743	11.41, 11.42; 14.25
s 180	18.321	744	12.60
Corporation Tax Act 2009	6.46; 7.51, 7.53; 12.49	(5)	12.61
s 2	16.10	747	9.24; 11.45; 12.69; 13.18

Table of Statutes

Corporation Tax Act 2009 – *contd*

s 750.....	11.44
751.....	9.25; 11.46; 12.70; 14.19
752.....	12.72; 14.20
753.....	9.27; 11.47; 12.73; 14.21; 18.450
(3).....	9.28; 11.48; 12.74; 14.22
Pt 8 Ch 7 (ss 754–763).....	14.33
s 755.....	14.42
(1).....	14.34
(2)(b).....	14.44
(5), (6).....	14.37
(7).....	14.38
756.....	18.207
(1).....	14.45
(2), (3).....	14.46
757.....	14.64
758.....	14.60
(1).....	14.54
(2).....	14.49
(3).....	14.49, 14.53
759.....	12.64
(2).....	12.65
761.....	14.65
762.....	14.48
763.....	14.40, 14.47
765, 766.....	18.141
767.....	18.142
768.....	18.148
769(2).....	18.143
(3).....	18.149
771.....	18.145
772.....	18.146
775.....	18.163
(4).....	18.167
(c).....	18.168
776.....	18.164
777(1).....	18.199
(3).....	18.200
778(2).....	18.206
(4).....	18.210
779(1).....	18.208
(2).....	18.209
(3), (4).....	18.207
789.....	18.204
780.....	18.173
(1)(d)(ii).....	18.181
(f).....	18.180
(2).....	18.178
783.....	18.185, 18.186, 18.187
(2).....	18.188
784.....	18.188
785.....	18.189
787.....	18.189
788(1).....	18.189

Corporation Tax Act 2009 – *contd*

s 789.....	18.189
791.....	18.211
(2)–(5).....	18.212
792.....	18.190
794.....	18.213
Pt 8 Ch 10 (ss 800–816).....	8.29, 8.32
s 800(2).....	8.31
802.....	8.42
803.....	8.32
804.....	8.32
808.....	8.32
810.....	8.39
813.....	11.6, 11.7; 17.119
814.....	10.55; 14.26; 17.130
815.....	8.41; 11.8; 17.101
818.....	17.72
(6).....	17.73
820.....	17.76
822.....	17.77
827.....	17.78
829.....	17.90
832.....	17.75
Pt 8 Ch 12 (ss 834–843).....	18.70
s 835(2)–(6).....	18.72
(7)–(9).....	18.73
837.....	18.74
838.....	18.76
839.....	18.76, 18.77
840.....	18.77
841.....	18.79
842, 843.....	18.78
Pt 8 Ch 13 (ss 844–851).....	8.44
s 845.....	7.23; 11.16; 18.80
847.....	11.21
848A.....	11.21; 18.170
849.....	7.25; 11.21; 12.50
850.....	12.62; 14.41
851.....	11.18; 17.19
852.....	11.13
856.....	11.22
857.....	11.17
859.....	14.5
860.....	14.6
863.....	11.15
865.....	9.8; 11.12
870.....	11.15
882(1).....	8.33
(c).....	8.37
(7).....	8.33
883(5).....	8.34
(7).....	8.35
884.....	8.36
896.....	8.34; 12.47
898.....	14.56, 14.60
(2).....	14.59

Table of Statutes

Corporation Tax Act 2009 – *contd*

s 899.....	14.60
(3).....	14.58
900.....	14.60
902.....	8.40
908.....	7.61, 7.67
910.....	5.57
912.....	7.33, 7.49; 16.36
(2).....	7.34
913.....	16.37
914, 915.....	7.41
916.....	7.49; 16.41
917.....	7.49
918.....	7.46
Pt 9A (ss 931A–931W).....	18.106
Pt 10 (ss 932–982).....	6.31
s 1004(8).....	10.65
Pt 13 (ss 1039–1142).....	10.62
s 1042.....	10.4
1044.....	10.87, 10.137
1045.....	10.130
(7).....	10.134
1046.....	10.79, 10.80
1047.....	10.135
1048.....	10.133
1049.....	10.175
1050.....	10.85
1052.....	10.82, 10.153
(3).....	10.119
1053.....	10.82
1054.....	10.137
1055.....	10.160
1057.....	10.79
1058.....	10.161
1059.....	10.163
1060.....	10.168
1063.....	10.147
1065–1067.....	10.109
1068.....	10.109
(4).....	10.154
(5)(a).....	10.150
(b).....	10.146
1074.....	10.177, 10.190
1078.....	10.179, 10.183
1079.....	10.188
1082.....	10.5, 10.186
(4).....	18.151
1083.....	10.142, 10.193
1084.....	10.194
Pt 13 Ch 7 (ss 1085–1112).....	10.199
s 1085(1).....	10.204
1086.....	10.199
1089.....	10.205
1091.....	10.208
(4).....	10.209
1098.....	10.201

Corporation Tax Act 2009 – *contd*

s 1101(4)(a)–(d).....	10.212
(6).....	10.214
1102(5).....	10.214
1103.....	10.205
1106.....	10.79
1112.....	10.216
1113.....	10.144
1114.....	10.145
1119, 1120.....	10.67
1123.....	10.102
1124.....	10.100
1125, 1126.....	10.105
1128.....	10.117
1129.....	10.126
1130.....	10.127
1131.....	10.125
1134.....	10.112
1135.....	10.113
1136.....	10.115
1138.....	10.149
Pt 15 (ss 1180–1216).....	18.337
s 1181.....	18.356
1182.....	18.342
(4), (5).....	18.344
(7).....	18.339
(8).....	18.339
(b).....	18.341
(9).....	18.339
1184(1).....	18.362
(2).....	18.398
(3).....	18.406
(a).....	18.369
1185.....	18.361
1188.....	18.346
1189(2).....	18.348
(3).....	18.349
(4).....	18.352
1190.....	18.351
1191(3).....	18.347
1192.....	18.350
1194.....	18.353
1195(2).....	18.355
1196.....	18.364
1197.....	18.357
1198.....	18.360, 18.398
1199.....	18.372
1200.....	18.373
(3)(b).....	18.377
1201.....	18.380
(2).....	18.382
(4).....	18.385
1202(3)(a).....	18.386
(b).....	18.387
1203(2), (4).....	18.388
1204.....	18.407

Table of Statutes

Corporation Tax Act 2009 – *contd*

s 1205	18.405
1209	18.390
1210	18.391
1211	18.395
1212(2)	18.400
1213(1)	18.398
(2)	18.401
(3)	18.400
(4)	18.400
(5)	18.401
1214(1)	18.398
(3)	18.400
(4)	18.402
1215(1)	18.398
(3)	18.400
(5)	18.403
1216	18.404
1259	3.8; 18.11
Corporation Tax Act 2010	6.46
s 37(3)(a), (b)	9.24
45(4)	9.24
Pt 5 (ss 97–188)	9.24; 10.172
s 104	14.23
143	9.24; 10.175
151(3), (4)	18.153
153	10.174
158	18.146
183	10.173
357(4)	13.20, 13.47
(5)	13.20, 13.49
Pt 8A (ss 357A–357GE)	13.1
s 357A	13.5
(1)	13.4
(3)	13.153
357B	13.21, 13.24
(2)	13.25
(3)	13.26
357BA	13.16
(2)	13.17
357BB	13.12
357BC	13.21, 13.35
(2)	13.43
(3)	13.44
357BD	13.37
357BE	13.30
(3)	13.31
357C	13.62
(1)	13.69
357CA	13.66
357CB	13.67
357CC	13.69, 13.165
(2)	13.70, 13.74
(3), (4)	13.70, 13.77
(5)	13.70
(6)	13.70, 13.81

Corporation Tax Act 2010 – *contd*

s 357CC(6)(c)	13.14
(7)	13.70, 13.83
(8)	13.70, 13.86
(9)	13.70, 13.89
357CD	13.91, 13.165, 13.66
(3)	13.93
(6)	13.96
(8)	13.95
357CE	13.72, 13.165
(3)	13.73
357CF	13.79, 13.165
357CG	13.100, 13.165
(6)	13.101
357CH	13.101, 13.165
(1)	13.105
(3)(a)	13.106
(5)	13.107
(6)	13.104
(8)	13.108
357CI	13.113, 13.117, 13.165
(3)	13.115
357CJ	13.114, 13.165
357CK	13.165
357CL	13.127, 13.165
(1)–(3)	13.127
(6)	13.128
(7)	13.131
357CM	13.132, 13.165
(6)	13.133
357CN	13.134, 13.165
(1)	13.135
(2)	13.136
357CO	13.134, 13.139, 13.165
(4)(g)	13.142
(6)	13.141
(7)	13.140
357CP	13.134, 13.145, 13.152, 13.165
357CQ	13.148, 13.165
(8)	13.149
357D	13.62
(1)	13.160
(4)	13.162
357DA	13.165
(1)	13.165, 13.167, 13.172, 13.173
(6)	13.147
357DB	13.165, 13.169
357DC	13.165
357DD	13.165
357E	13.63, 13.176
357EA	13.180
357EB	13.181

Table of Statutes

Corporation Tax Act 2010 – contd		Finance Act 2004 – contd	
s 357EC.....	13.190	189(2)(c).....	18.298
357ED.....	13.193, 13.194	(2A).....	18.298
357EE.....	13.193, 13.197	Finance Act 2006	10.129; 18.337
357EF.....	13.187	Sch 5.....	
357F.....	13.200	para 29.....	18.396
357FA.....	13.201	Sch 28.....	
357FB.....	13.198	para 2.....	10.129
357G.....	13.6	Finance Act 2008	4.4; 7.52
(4).....	13.7	Sch 24.....	17.112
(5).....	13.9	Finance Act 2011	16.149; 18.175,
357GA.....	13.9	18.183, 18.185, 18.186,	
(5).....	13.10	18.187, 18.195	
357GB.....	13.11	Finance Act 2012	13.1; 16.111,
(2).....	13.130	16.194	
(7).....	13.52	Sch 2.....	
(10).....	13.53	Pt 3.....	13.157
(11).....	13.130	Sch 3.....	
357GC.....	13.56	para 2.....	10.65
357GD.....	18.155	3.....	10.85, 10.131
(1).....	13.58	4.....	10.117
(3)–(10).....	18.158	9.....	10.80
439.....	18.123	15.....	10.163
448, 454.....	18.79	16.....	10.204
s 681.....	14.24	Finance (No 3) Act 2010	
1076, 1077, 1088.....	18.189	s 13.....	10.84
1122.....	10.112; 18.66	Income and Corporation Taxes Act	
1127.....	8.8	1988.....	
1138.....	9.16; 10.7	s 527.....	6.46
1141.....	16.21, 16.26	Sch 25A.....	
1154.....	18.144	Pt 2B.....	16.149
(3).....	18.153	Income Tax Act 2007	5.31, 5.48
1172.....	12.71; 14.19	s 195, 306.....	18.455
Films Act 1985		448.....	5.35, 5.37, 5.84
Sch 1.....	18.357	449.....	5.43
para 2.....	18.359	450.....	5.44
4.....	18.358	461.....	6.45
Finance Act 1998		587.....	16.36
Sch 18.....		720.....	16.159; 18.127
para 10(2).....	10.166	721–730.....	18.127
52.....	10.169	736–742.....	16.159; 18.128
83B.....	10.140, 10.215	Pt 13 Ch 4 (ss 773–789)	18.282
83F.....	10.169	s 784, 785.....	18.285
83T.....	18.396	831.....	16.31
Finance Act 2001		899.....	16.61
s 43.....	10.207	900.....	5.35, 5.40, 5.49,
Finance Act 2002		5.50, 5.90, 5.94, 5.95,	
Sch 13.....	10.199	5.103, 5.107, 5.125; 6.19,	
Sch 14.....	10.199	6.39; 16.56, 16.59, 16.60,	
Sch 29.....		16.62, 16.64, 16.66	
para 1.....	12.8	901.....	5.42, 5.49, 5.54,
13.....	12.8	5.90, 5.94, 5.95,	
88.....	17.72	5.103, 5.107, 5.125;	
119(2), (3).....	12.49	6.19, 6.39; 11.50;	
Finance Act 2004		16.56, 16.59, 16.60,	
s 53.....	10.2, 10.98, 10.213	16.62, 16.64	

Table of Statutes

Income Tax Act 2007 – contd		Income Tax (Trading and Other Income) Act 2005 – contd	
s 903	5.35, 5.40, 5.42, 5.49, 5.93, 5.125; 6.19, 6.39, 6.45; 11.50; 16.56, 16.64, 16.66	Pt 2 Ch 11A (ss 172A–172F)	18.264
(3)	16.66	s 193	7.62
(5)	16.66	194	7.63
(a), (b)	5.53, 5.92	(4)	7.64
906	5.95, 5.125; 6.39; 11.50; 16.56, 16.65	(5)	7.65
907	6.50	195	7.66
(1)(c)	18.249	221	18.268, 18.269
908	5.99; 16.58	(3)	18.271
(2)	5.100	(5)	18.273
909	5.101	222	18.269, 18.272
910	5.40, 5.57; 7.50; 11.50; 16.56	(3)	18.274
911	16.71	(5)	18.275
917	16.42	223	18.269, 18.277
930	16.69	(2)	18.279
(4)	11.52; 16.69	224	18.269
932	11.52; 16.69	225	18.269, 18.276
933, 934	11.52; 12.75; 16.69	241–247	18.253
945	16.51, 16.68	Pt 5 (ss 574–689)	6.30, 6.37
963	5.53, 5.54, 5.92, 5.98; 16.67	s 578	7.61
(2), (3)	5.58; 16.41	579	3.86; 6.16, 6.30, 6.37, 6.41, 6.51, 6.52; 7.8, 7.21; 16.61, 16.62
966	18.302, 18.388	582	3.61
989	3.14	583	7.61, 7.67
1006	10.7	584	7.61
1025	5.37	585(1)	7.68
1026	5.39	587	5.31, 5.57; 7.33, 7.34, 7.49; 18.297
Income Tax (Earnings and Pensions) Act 2003		588	7.35
s 352	18.316	590	7.41
Income Tax (Trading and Other Income) Act 2005		(3)	7.44
Pt 2 (ss 3–259)	5.31; 7.51, 7.53 3.20, 3.46; 6.16, 6.25, 6.30, 6.41, 6.49, 6.55; 7.8, 7.18, 7.21, 7.62, 7.71; 18.231, 18.238, 18.242, 18.306, 18.426, 18.428, 18.437	591	7.49
s 5	3.16; 18.264	593	7.46
6	16.10	(2)	7.47
13	18.301	(4)	7.48
25	3.26, 3.49; 5.18, 5.32, 5.36, 5.84	596	7.50
27	18.252	601	3.60; 18.293
33	3.51; 5.19	620	18.66
34(1)	3.51; 5.19	687	18.238
(2)	5.21	757	11.53; 16.70, 16.190
54	5.32, 5.36, 5.84	758	11.53; 16.70, 16.190, 16.191
57	3.22	759, 760	11.53; 16.70, 16.190
(1)	3.20	761	11.53; 16.70, 16.190, 16.192
89, 90	3.59; 6.14	762	11.53; 16.70, 16.190
		763	11.53; 16.70, 16.190, 16.193
		764	11.53; 16.70, 16.190
		765	11.53; 16.70, 16.190, 16.193
		766, 767	11.53; 16.70, 16.190
		849	18.11

Table of Statutes

Inheritance Tax Act 1984		Taxation of Chargeable Gains Act	
s 103(3)	18.280	1992 – <i>contd</i>	
Interpretation Act 1978		s 13	16.164; 18.119,
Sch 1	15.19	18.120, 18.122	
Partnership Act 1890		(2)	16.169; 18.124
s 1	18.9	(3)	16.170; 18.125
Patents Act 1977	3.68, 3.88; 5.57;	(4)	16.171; 18.126
	13.12; 16.34	18	18.117
s 18(4)	13.12	31	14.29
40	3.68	37	7.38
Plant Varieties Act 1997	13.12	136	17.72
Public Lending Right Act 1979	18.248	165	7.24; 18.18
Statute of Monopolies 1623	1.5	169H	7.37
Taxation (International and Other		171	16.81; 18.171
Provisions) Act 2010		179	18.195
s 8	12.78	(1)	18.196
9	12.78; 18.256	(3A)	18.175
10–17	12.78	179A	18.173
17, 18	16.184	261A	7.63
35	18.258	262(1)	7.11
36	18.258	286	16.82
(2)	18.256	454	16.169; 18.124
112	12.79; 16.186;		
	18.260	Taxes Management Act 1970	
Pt 4 (ss 146–217)	11.20; 12.51;	Sch 1B	
	16.102	para 3	18.278
s 147	16.103, 16.110	Value Added Tax Act 1994	15.26
148	16.103	s 1(2)	17.32
150	16.104	3	15.19
155	16.109	4	15.8
157	16.107	5	15.16
158	16.108	6	15.9; 17.32
164	16.113	7A(2)(a)	15.25
167, 167A, 168	16.111	(b)	15.28, 15.57
Pt 9A (ss 371AA–371VJ)	16.141	24(1)(c)	15.80
s 371KB	16.153	43	15.41
371LB	16.147	Sch 4A	
371NB	16.140, 16.155	para 9	15.50
Taxation of Chargeable Gains Act		16	15.31
1992	6.17	Sch 9	15.11
		Group 1	17.29

Table of Statutory Instruments

[All references are to paragraph numbers]

Design Rights (Semiconductor Topographies) Regulations 1989, SI 1989/1100.....	2.98	Social Security (Categorisation of Earners) Amendment Regulations 2003, SI 2003/736..	18.318
Finance Act 2006, Section 28 (Appointed Day) Order 2008, SI 2008/1878	10.129	Value Added Tax Regulations 1995, SI 1995/2518	
Finance Act 2007, Section 50 (Appointed Day) Order 2008, SI 2008/1880	10.67	reg 89.....	15.38
Income Tax (Entertainers and Sportsmen) Regulations 1987, SI 1987/530.....	18.304	90	17.33, 17.51
		111	15.72
		Value Added Tax (Special Provisions) Order 1995, SI 1995/1268	
		art 5(1)–(3).....	15.40

Table of Cases

[All references are to paragraph numbers]

A	
Aegis Technology Ltd v C & E Comrs (1995 VAT Decision 13588)	15.75
Asher v London Film Productions Ltd [1944] KB 133, [1944] 1 All ER 77	16.63
B	
BAZ Bausystem AG v Finanzamt München für Körperschaften (Case 222/81) [1982] ECR 2527, [1982] 3 CMLR 688	17.67
BE Studios v Smith & Williamson Ltd [2005] EWHC 1506 (Ch), [2006] STC 358, [2005] BTC 361	10.18, 10.21
Balloon Promotions Ltd v Wilson (Inspector of Taxes) [2006] STC (SCD) 167, [2006] STI 623	18.428
Billam v Griffiths (1941) 23 TC 757	18.235
British Dyestuffs Corp'n (Blackley) Ltd v CIR (1924) 12 TC 586	6.26
British Insulated & Helsby Cables v Atherton (Inspector of Taxes) [1926] AC 205, (1926) 10 TC 155	3.39
British Olympic Association v Winter (Inspector of Taxes) [1995] STC (SCD) 85	3.14
British Salmson Aero Engines v IRC [1938] 2 KB 482, [1938] 3 All ER 283, 22 TC 29 ..	6.43
British Sugar Manufacturers Ltd v Harris (Inspector of Taxes) [1938] 2 KB 220, [1938] 1 All ER 149, 21 TC 528	5.106
Bullock (Inspector of Taxes) v Unit Construction Co Ltd [1960] AC 351, [1959] 3 WLR 1022, 38 TC 712	16.14
C	
Carson (Inspector of Taxes) v Cheyney's Executor 1959] AC 412, [1958] 3 WLR 740, (1958) 38 TC 240	18.287
Carvill v IRC (Transfer Purpose) [2000] STC (SCD) 143, [2000] STI 584	16.161; 18.129
City of Dublin Steam Packet Co v O'Brien (1912) 6 TC 101	3.51
Collins (Inspector of Taxes) v Joseph Adamson & Co [1938] 1 KB 477, [1937] 4 All ER 236	5.14
Constantinesco v R (1927) 43 TLR 727, 11 TC 730	6.32
Cooper Chasney Ltd v C & E Comrs (LON/89/1409Z) [1990] 3 CMLR 509, [1992] FSR 298, [1989] VATTR 152	17.65
D	
De Beers Consolidated Mines Ltd v Howe (Surveyor of Taxes) [1906] AC 455, (1906) 5 TC 213	16.14
Delage v Nugget Polish Co Ltd (1905) 92 LT 682	5.107
Desoutter Bros Ltd v JE Hanger & Co Ltd & Artificial Limb Makers Ltd [1936] 1 All ER 535 (QBD), 15 ATC 49	6.33
E	
ECC Quarries Ltd v Watkis (Inspector of Taxes) [1977] 1 WLR 1386, [1975] 3 All ER 843, (1975) 51 TC 153	3.36
European Commission v Portugal (Case C-38/11)	18.115
Evans Medical Supplies Ltd v Moriarty (Inspector of Taxes) [1958] 1 WLR 66, [1957] 3 All ER 718, (1957) 37 TC 540	6.10, 6.57, 6.59
F	
Fall (Inspector of Taxes) v Hitchen [1973] 1 WLR 286, [1973] 1 All ER 49 TC 433	18.308, 18.312, 18.314

Table of Cases

Fallon (Morgan's Executors) v Fellows (Inspector of Taxes) [2001] STC 1409, 74 TC 232, [2001] BTC 438	17.73
G	
Gallagher v Jones (Inspector of Taxes) [1994] Ch 107, [1994] 2 WLR 160, (1993) 66 TC 77	17.108
Gaspet Ltd (formerly Saga Petroleum (UK)) v Elliss (Inspector of Taxes) [1987] 1 WLR 769, [1987] STC 362, (1987) 60 TC 91	4.13
Glasson v Rougier (1944) 26 TC 86	18.242
Greenbank Holidays Ltd v R & C Comrs [2011] UKUT 155 (TC), [2011] STC 1582, [2011] BTC 1696	8.38
Gripple Ltd v R & C Comrs [2010] EWHC 1609 (Ch), [2010] STC 2283, [2010] BTC 873	10.117
Grosvenor Place Estates v Roberts [1961] Ch 148, [1961] 2 WLR 83, [1961] 1 All ER 341	6.20
H	
Hallstrom's Proprietary Ltd v The Federal Commissioner of Taxation (1946) 72 CLR 634	3.43
Hobbs v Hussey [1942] 1 KB 491, 24 TC 153	18.237
Holiday Inns (UK) Ltd (1993 VAT Decision 10609)	17.60, 17.66
Housden (Inspector of Taxes) v Marshall [1959] 1 WLR 1, [1958] 3 All ER 639, (1958) 38 TC 233	6.52; 18.237
Howson (Inspector of Taxes) v Monsell [1950] 2 All ER 1239 (Note), 66 TLR (Pt 2) 916, 31 TC 529	18.243
Hume v Asquith [1969] 2 Ch 58, [1969] 2 WLR 225, 45 TC 251	18.287
I	
IRC v Dowdall O'Mahoney & Co Ltd [1952] AC 401, [1952] 1 All ER 531, (1952) 33 TC 259	5.20
IRC v Longmans Green & Co Ltd (1932) 17 TC 272	5.86
IRC v Lysaght [1927] 2 KB 55, (1928) 13 TC 511	16.29, 16.31
ITV Services Ltd v R & C Comrs [2012] UKUT 47 (TCC), [2012] STC 1213, [2012] BTC 1561	18.320
J	
Jeffrey (Inspector of Taxes) v Rolls-Royce Ltd [1962] 1 WLR 425, [1962] 1 All ER 801, (1962) 40 TC 443	6.7, 6.27, 6.57, 6.58; 18.424
L	
Laerstate BV v R & C Comrs [2009] UKFTT 209	16.14
Lankhorst-Hohorst GmbH v Finanzamt Steinfurt (Case C-324/00) [2003] STC 607, [2002] ECR I-11779, [2003] 2 CMLR 22	16.105
Lothian Chemical Co Ltd v Rogers (1926) 11 TC 508	3.50
M	
Madeley & Finnigan v HMRC [2006] STC (SCD) 513, [2006] STI 1823	18.317
Mason (Inspector of Taxes) v Innes [1967] Ch 1079, [1967] 3 WLR 816, 44 TC 326	7.20; 18.261, 18.262
Merchant (Peter) Ltd v Stedford (1948) 42, R & IT 28, 30 TC 496, [1948] TR 359	3.51; 5.19
Mertrux Ltd v R & C Comrs [2011] UKFTT 398 (TC), [2012] SFTD 179, [2012] STI 164	18.427
Morning Star Cooperative Society v Express Newspapers Ltd [1979] FSR 113	2.85
Murray (Inspector of Taxes) v ICI Ltd [1967] Ch 1038, [1967] 3 WLR 301, (1966) 44 TC 175	6.34
Musker v English Electric Co Ltd (1964) 41 TC 556, 43 ATC 119, [1964] TR 129	6.60

Table of Cases

N

National Grid Indus BV v Inspecteur van de Belastingdienst Rijnmond / Kantoor Rotterdam (Case C-371/10) [2012] All ER (EC) 883, [2012] STC 114, [2012] 1 CMLR 49	16.145
Nethersole v Withers (Inspector of Taxes) [1948] 1 All ER 400, 64 TLR 157, 28 TC 501 ...	18.236, 18.254
Newsweek Inc v British Broadcasting Corp [1979] RPC 441	2.85
Noddy Subsidiary Rights Co Ltd v IRC [1967] 1 WLR 1, [1966] 3 All ER 459, 43 TC 458	3.14; 6.29

P

Proactive Sports Manageent Ltd v Wayne Rooney [2011] EWCA Civ 1444	18.327
--	--------

R

RM Education plc v HM Revenue & Customs [2009] STI 451, [2009] UKVAT V20911	15.11
Reich v C & E Comrs (1992 VAT decision 9548)	17.68

S

Societe de Gestion Industrielle SA (SGI) v Belgium (Case C-311/08) [2010] 2 CMLR 38, [2010] CEC 1130, [2011] BTC 123	16.105
Salt v Buckley (Inspector of Taxes) [2001] STC (SCD) 262, [2001] STI 1526, SpC 293 ..	3.56
Sharkey (Inspector of Taxes) v Wernher [1956] AC 58, [1955] 3 WLR 671, 36 TC 275 ...	18.261, 18.262, 18.264, 18.265
Shiner v Lindblom [1961] 1 WLR 248, [1960] 3 All ER 832, 39 TC 367	7.59; 18.251
Southern v Borax Consolidated Ltd [1941] 1 KB 111, (1940) 23 TC 597	6.15
Sports Club v HM Inspectorate of Taxes [2000] STC (SCD) 443, [2000] STI 1364	18.331
Strick (Inspector of Taxes) v Regent Oil Co Ltd [1966] AC 295, [1965] 3 WLR 636, (1965) 43 TC 1	5.10, 5.11, 5.13
Strong & Co of Romsey Ltd v Woodifield (Inspector of Taxes) [1906] AC 448, 5 TC 215	3.54

U

University of Southampton v R & C Comrs [2006] EWHC 528 (Ch), [2006] STC 1389, [2006] All ER (D) 273	15.79
--	-------

V

Vodafone Cellular Ltd v Shaw (Inspector of Taxes) [1997] STC 734, 69 TC 376, [1997] BTC 247	5.15
---	------

W

Wood v Holden (Inspector of Taxes) [2006] EWCA Civ 26, [2006] 1 WLR 1393, [2006] STC 443	16.11
--	-------

Y

Yarmouth v France (1887) LR 19 QBD 647	3.74
--	------

Contents

<i>Preface</i>	v
<i>Table of Statutes</i>	xiii
<i>Table of Statutory Instruments</i>	xxi
<i>Table of Cases</i>	xxiii
Chapter 1 Introduction	2
What is intellectual property?	2
Business intellectual property	3
Use of intellectual property in business	5
Overview of transactions involving intellectual property	6
Overview of tax issues affecting intellectual property	7
Differences in approach to intellectual property between legal and tax/accountancy	8
Chapter 2 Introduction to intellectual property	9
Introduction	9
Location of intellectual property	10
What is intellectual property?	11
Patents	12
Data exclusivity and supplementary protection certificates	17
Copyright	18
Design rights and registered designs	20
Trademarks	23
Know-how and show-how	25
Other intellectual property rights	26
Tax definition of intellectual property: corporate tax	29
Perspectives: tax/accounting versus legal	29
Legal characteristics of intellectual property	30
Chapter 3 Creating intellectual property	34
Introduction	34
Who do these rules apply to?	35
Business: trade, profession or vocation	36
Is the expenditure on creating the intellectual property classified as capital or revenue?	39
Revenue expenditure	44
Capital expenditure	49
Income from assisting with creating intellectual property	52
Checklist	53

Contents

Chapter 4 Research and development allowances	55
Introduction	55
Qualifying research and development	56
Qualifying expenditure	56
Tax deduction	58
Tax charge on disposal	59
Adjustments	61
Checklist	63
 Chapter 5 Acquiring intellectual property—individuals and non-corporates	 65
Introduction	65
Acquisition expenditure	66
General rules	69
Patents	71
Copyright	82
Know-how and show-how	86
Checklist	90
 Chapter 6 Exploiting intellectual property	 92
Introduction	92
Exploitation or disposal?	93
Expenditure	95
Receipts: general rules	95
Revenue or capital?	96
International aspects	98
Patents	100
Copyright	102
Know-how	103
Checklist	104
 Chapter 7 Disposing of intellectual property	 106
Introduction	106
Part-disposals	107
Receipts: general rules	107
Particular issues	111
Patents	112
Copyright	117
Know-how	118
Other unregistered intellectual property	120
Checklist	120
 Chapter 8 Corporate intangibles tax rules: introduction	 124
Introduction	124
GAAP-compliant accounts	125
What is an intangible fixed asset?	126