Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART IV

PROVISIONS RELATING TO THE SCHEDULE D CHARGE

CHAPTER I

SUPPLEMENTARY CHARGING PROVISIONS

53 Farming and other commercial occupation of land (except woodlands)

(1) All farming and market gardening in the United Kingdom shall be treated as the carrying on of a trade or, as the case may be, of a part of a trade, and the profits and gains thereof shall be charged to tax under Case I of Schedule D accordingly.

(2) All the farming carried on by any particular person or partnership or body of persons shall be treated as one trade.

(3) Subject to subsection (4) below, the occupation of land in the United Kingdom for any purpose other than farming or market gardening shall, if the land is managed on a commercial basis and with a view to the realisation of profits, be treated as the carrying on of a trade or, as the case may be, of a part of a trade, and the profits or gains thereof shall be charged to tax under Case I of Schedule D accordingly.

(4) Subsection (3) above shall not affect the taxation of woodlands which are managed on a commercial basis and with a view to the realisation of profits.

54 Woodlands managed on a commercial basis

(1) Any person occupying woodlands which are managed by him on a commercial basis and with a view to the realisation of profits may elect to be assessed and charged to tax in respect of those woodlands under Schedule D instead of under Schedule B.

(2) The election of any such person shall be signified by notice to the inspector not later than two years after the end of the chargeable period; and from and after the receipt of the notice—

(a) the charge upon him for that period shall be under Schedule D; and

(b) the profits or gains arising to him from the occupation of the woodlands shall for all purposes be deemed to be profits or gains of a trade chargeable under that Schedule.

(3) Any such election shall extend to all woodlands so managed on the same estate; and, for the purposes of this subsection, woodlands shall be treated as being on a separate estate if the person occupying them gives notice to the inspector within ten years after the time when they are planted or replanted.

(4) An election under this section shall have effect not only as respects the chargeable period, but also as respects all future chargeable periods so long as the woodlands are occupied by the person making the election.

55 Mines, quarries and other concerns

(1) Profits or gains arising out of land in the case of any concern specified in subsection (2) below shall be charged to tax under Case I of Schedule D.

(2) The concerns are—

(a) mines and quarries (including gravel pits, sand pits and brickfields);

(b) ironworks, gasworks, salt springs or works, alum mines or works (not being mines falling within the preceding paragraph) and waterworks and streams of water;

(c) canals, inland navigation, docks and drains or levels;

(d) fishings;

(e) rights of markets and fairs, tolls, bridges and ferries;

(f) railways and other ways;

(g) other concerns of the like nature as any of the concerns specified in paragraphs (b) to (e) above.

56 Transactions in deposits with and without certificates or in debts

(1) Subsection (2) below applies to the following rights—

(a) the right to receive the amount, with or without interest, stated in a certificate of deposit;

(b) the right to receive an amount payable with interest—

(i) in a transaction in which no certificate of deposit or security is issued, and

(ii) which is payable by a bank or similar institution or a person regularly engaging in similar transactions;

and the right to receive that interest.

(2) Profits or gains arising to a person from the disposal of a right to which this subsection applies or, except so far as it is a right to receive interest, from the exercise of any such right (whether by the person to whom the certificate was issued or by some other person, or, as the case may be, by the person who acquired the right in the transaction referred to in subsection (1) above or by some person acquiring it directly or indirectly

from that person), shall, if not falling to be taken into account as a trading receipt, be treated as annual profits or gains chargeable to tax under Case VI of Schedule D.

(3) Subsection (2) above does not apply in the case of the disposal or exercise of a right to receive an amount stated in a certificate of deposit or interest on such an amount—

(a) if the person disposing of the right acquired it before 7th March 1973;

(b) to any profits or gains arising to a fund or scheme in the case of which provision is made by section 592(2), 613, 614(1) to (3) or 620(6) for exempting the whole or part of its income from income tax;

(c) in so far as they are applied to charitable purposes only, to any profits or gains arising to a charity within the meaning of section 506.

(4) For the purposes of this section, profits or gains shall not be treated as falling to be taken into account as a trading receipt by reason only that they are included in the computation required by section 76(2).

(5) In this section—

"certificate of deposit" means a document relating to money, in any currency, which has been deposited with the issuer or some other person, being a document which recognises an obligation to pay a stated amount to bearer or to order, with or without interest, and being a document by the delivery of which, with or without endorsement, the right to receive that stated amount, with or without interest, is transferable; and

"security" has the same meaning as in section 82 of the 1979 Act.

57 Deep discount securities

Schedule 4 shall have effect with respect to the treatment for the purposes of income tax and corporation tax of deep discount securities (within the meaning of that Schedule).

58 Foreign pensions

(1) A pension which—

(a) is paid by or on behalf of a person outside the United Kingdom, and

(b) is not charged under paragraph 4 of Schedule E,

shall be charged to tax under Case V of Schedule D.

(2) Where—

(a) a person has ceased to hold any office or employment, and

(b) a pension or annual payment is paid to him, or to his widow or child or to any relative or dependant of his, by the person under whom he held the office or by whom he was employed, or by the successors of that person, and

(c) that pension or annual payment is paid by or on behalf of a person outside the United Kingdom,

then, notwithstanding that the pension or payment is paid voluntarily, or is capable of being discontinued, it shall be deemed to be income for the purposes of assessment to tax and shall be assessed and charged to tax under Case V of Schedule D as income from a pension.

59 Persons chargeable

(1) Subject to subsections (2) and (3) below, income tax under Schedule D shall be charged on and paid by the persons receiving or entitled to the income in respect of which the tax is directed by the Income Tax Acts to be charged.

(2) Income tax to be charged under Schedule D in respect of any of the concerns mentioned in section 55 shall be assessed and charged on the person carrying on the concern, or on the agents or other officers who have the direction or management of the concern or receive the profits thereof.

(3) Where, in accordance with that section, income tax is charged under Schedule D on the profits of markets or fairs, or on tolls, fisheries or any other annual or casual profits not distrainable, the owner or occupier or receiver of the profits thereof shall be answerable for the tax so charged, and may retain and deduct the same out of any such profits.

(4) Subsections (1) to (3) above shall not apply for the purposes of corporation tax.

CHAPTER II

INCOME TAX: BASIS OF ASSESSMENT ETC.

Cases I and II

60 Assessment on preceding year basis

(1) Subject to the provisions of this section and sections 61 to 63, income tax shall be charged under Cases I and II of Schedule D on the full amount of the profits or gains of the year preceding the year of assessment.

(2) Subsection (3) or (4) below shall apply where, in the case of a trade, profession or vocation, an account has, or accounts have, been made up to a date or dates within the period of three years immediately preceding the year of assessment.

(3) If—

(a) an account was made up to a date within the year preceding the year of assessment, and

(b) that account was the only account made up to a date in that year, and

(c) it was for a period of one year beginning either—

(i) at the commencement of the trade, profession or vocation, or

(ii) at the end of the period on the profits or gains of which the assessment for the last preceding year of assessment was to be computed,

the profits or gains of the year ending on that date shall be taken to be the profits or gains of the year preceding the year of assessment.

(4) If subsection (3) does not apply, the Board shall decide what period of 12 months ending on a date within the year preceding the year of assessment shall be deemed to be the year the profits or gains of which are to be taken to be the profits or gains of the year preceding the year of assessment.

(5) Where—

(a) the Board have given a decision under subsection (4) above, and

(b) it appears to them that, in consequence of that decision, income tax for the last preceding year of assessment in respect of the profits or gains from the same source should be computed on the profits or gains of a corresponding period,

they may give a direction to that effect, and an assessment or, on a claim therefor, repayment of tax shall be made accordingly.

(6) The decision whether or not to give a direction under subsection (5) above shall be subject to an appeal which shall lie to the General Commissioners unless the appellant elects (in accordance with section 46(1) of the Management Act) to bring it before the Special Commissioners, and the Commissioners hearing the appeal shall grant such relief, if any, as is just.

(7) An appeal under subsection (6) above shall be brought within 30 days of receipt of notice of the decision, save that, if the decision is to give a direction and an assessment is made in accordance with the direction, the appeal against the decision shall be by way of an appeal against the assessment.

(8) In the case of the death of a person who, if he had not died, would under subsections (2) to (5) above have become chargeable to income tax for any year, the tax which would have been so chargeable shall be assessed and charged on his executors or administrators, and shall be a debt due from and payable out of his estate.

61 Special basis at commencement of trade, profession or vocation

(1) Subject to subsection (4) below, where the trade, profession or vocation has been set up and commenced within the year of assessment, the computation of the profits or gains chargeable to income tax under Case I or Case II of Schedule D shall be made either on the full amount of the profits or gains arising in the year of assessment or according to the average of such period, not being greater than one year, as the case may require and as may be directed by the inspector.

(2) On an appeal to the General or Special Commissioners, the Commissioners shall have jurisdiction to review the inspector's decision under subsection (1) above.

(3) Where the trade, profession or vocation has been set up and commenced within the year preceding the year of assessment, the computation of the profits or gains chargeable to income tax under Case I or Case II of Schedule D shall be made on the profits or gains for one year from its first being set up.

(4) Subsections (1) to (3) above shall not apply in any case where section 113(1) and (2) apply but no election is made under section 113(2), but in such a case the computation of the profits or gains chargeable to income tax under Case I or II of Schedule D for the year of assessment in which the new trade, profession or vocation is treated as having been set up and commenced, and for each of the three years following that year of assessment, shall be made on the full amount of the profits or gains arising in the year of assessment in question.

62 Special basis for early years following commencement

(1) In this section —

"charged" means charged to income tax in respect of the profits or gains of a trade, profession or vocation;

"the second year of assessment" and "the third year of assessment" mean respectively the year next after, and the year next but one after, the year of

assessment in which the trade, profession or vocation in question was set up and commenced; and

"the fifth year of assessment" and "the sixth year of assessment" mean respectively the year next but three after, and the year next but four after, the year of assessment in which the trade, profession or vocation in question was set up and commenced.

(2) Subject to subsection (4) below, the person charged, or liable to be charged, shall be entitled, on giving notice to the inspector within seven years after the end of the second year of assessment, to require that tax shall be charged for both the second year of assessment and the third year of assessment (but not for one or other only of those years) on the amount of the profits or gains for each such year respectively.

(3) A notice under subsection (2) above may be revoked by the person who gave it by notice given to the inspector within six years after the end of the third year of assessment and, where it is so revoked, tax shall be charged for both the second year of assessment and the third year of assessment as if the first notice had never been given.

(4) Subsections (2) and (3) above shall not apply in any case where—

(a) section 113(1) and (2) apply and the change in the persons engaged in carrying on the trade, profession or vocation in partnership occurs after 19th March 1985; but

(b) no election is made under section 113(2);

but in such a case the person charged, or liable to be charged, shall be entitled, on giving notice to the inspector within seven years after the end of the fifth year of assessment, to require that tax shall be charged for both the fifth year of assessment and the sixth year of assessment (but not for one or other only of those years) on the amount of the profits or gains for each such year respectively.

(5) A notice under subsection (4) above may be revoked by the person who gave it by notice given to the inspector within six years after the end of the sixth year of assessment and, where it is so revoked, tax shall be charged for both the fifth year of assessment and the sixth year of assessment as if the first notice had never been given.

(6) If at any time during the second or third year of assessment—

(a) a change occurs, by reason of retirement or death, in a partnership of persons engaged in the trade, profession or vocation, or the dissolution of the partnership as to one or more of the partners, or the admission of a new partner, in such circumstances that one or more of the persons who until that time were engaged in the trade, profession or vocation continue to be engaged in it; or

(b) a change occurs such that a person who until that time was engaged in the trade, profession or vocation on his own account continues to be engaged in it but as a partner in a partnership;

a notice given for the purposes of subsection (2) above must, if given after the occurrence of the change and after notice has been given as respects the change under section 113(2), comply with the requirements of subsection (7) or (8) below, as the case may require.

(7) A notice given within 12 months after the end of the second year of assessment must be signed by—

(a) each of the individuals who were engaged in the trade, profession or vocation at any time between the commencement of that year and the giving of the notice; or

(b) in the case of a deceased person, his personal representatives.

(8) A notice given after the end of the third year of assessment must be signed by—

(a) each of the individuals who were engaged in the trade, profession or vocation at any time during the second or third year of assessment; or

(b) in the case of a deceased person, his personal representatives.

(9) In the case of the death of a person who, if he had not died, would under the provisions of this section have become chargeable to income tax for any year, the tax which would have been so chargeable shall be assessed and charged on his personal representatives, and shall be a debt due from and payable out of his estate.

(10) There shall be made such assessments, reductions of assessments or, on a claim in that behalf, repayments of tax as may in any case be required in order to give effect to the preceding provisions of this section.

63 Special basis on discontinuance

(1) Where in any year of assessment a trade, profession or vocation is permanently discontinued, then notwithstanding anything in sections 60 to 62—

(a) the person charged or chargeable with income tax in respect thereof shall be charged for that year on the amount of the profits or gains of the period beginning on the 6th April in that year and ending on the date of the discontinuance, but subject to any deduction or set-off to which he may be entitled under section 385 in respect of any loss; and

(b) if the aggregate of the profits or gains (if any) of the years ending on the 5th April in each of the two years preceding the year of assessment in which the discontinuance occurs exceeds—

(i) the aggregate of the amounts on which that person has been charged for each of those two years; or

(ii) the aggregate of the amounts on which he would have been so charged if no deduction or set-off under section 385 had been allowed;

he may be charged instead, for each of those two years, but subject to any such deduction or set-off, on the amount of the profits or gains of the year ending on the 5th April in that year.

(2) Where a person has been charged with income tax otherwise than in accordance with subsection (1) above, any such assessment to tax, reduction or discharge of an assessment to tax, or on a claim therefor, repayment of tax shall be made as may be necessary to give effect to that subsection.

(3) In the case of the death of a person who, if he had not died, would under the provisions of this section have become chargeable to income tax for any year, the tax which would have been so chargeable shall be assessed and charged on his executors or administrators, and shall be a debt due from and payable out of his estate.

(4) Subsection (1)(b) above shall not apply where a trade is permanently discontinued in consequence of the nationalisation of any property constituting the assets of the trade.

For the purposes of this subsection "nationalisation" means, in relation to any property, a transfer of the property for which provision is made by any Act passed after the beginning of August 1945 and embodying a scheme for the carrying on of any industry or part of an industry, or of any undertaking, under national ownership or control, being a transfer, as part of the initial putting into force of the scheme, either to the

Crown or to a body corporate constituted for the purposes of the scheme or of some previous scheme for such national ownership or control.

Cases III, IV and V

64 Case III assessments: general

Subject to sections 66 and 67, income tax under Case III of Schedule D shall be computed on the full amount of the income arising within the year preceding the year of assessment, and shall be paid on the actual amount of that income, without any deduction.

65 Cases IV and V assessments: general

(1) Subject to the provisions of this section and sections 66 and 67, income tax chargeable under Case IV or Case V of Schedule D shall be computed on the full amount of the income arising in the year preceding the year of assessment, whether the income has been or will be received in the United Kingdom or not, subject in the case of income not received in the United Kingdom—

(a) to the same deductions and allowances as if it had been so received, and

(b) to a deduction on account of any annuity or other annual payment (not being interest) payable out of the income to a person not resident in the United Kingdom.

(2) Subject to section 330, income tax chargeable under Case IV or V of Schedule D on income arising from any pension shall be computed on the amount of that income subject to a deduction of one-tenth of the amount of the income.

(3) Income tax chargeable under Case IV or V of Schedule D on income which is immediately derived by a person from the carrying on by him of any trade, profession or vocation either solely or in partnership shall be computed in accordance with the rules applicable to Cases I and II of Schedule D; and subsection (1)(a) above shall not apply.

Nothing in this subsection shall be taken to apply sections 60 to 63 or 113 in relation to income chargeable under Case V of Schedule D but computed in accordance with this subsection.

(4) Subsections (1), (2) and (3) above shall not apply to any person who, on a claim made to the Board, satisfies the Board that he is not domiciled in the United Kingdom, or that, being a Commonwealth citizen or a citizen of the Republic of Ireland, he is not ordinarily resident in the United Kingdom.

(5) Where subsection (4) above applies the tax shall, subject to sections 66 and 67, be computed—

(a) in the case of tax chargeable under Case IV, on the full amount, so far as the same can be computed, of the sums received in the United Kingdom in the year preceding the year of assessment, without any deduction or abatement; and

(b) in the case of tax chargeable under Case V, on the full amount of the actual sums received in the United Kingdom in the year preceding the year of assessment from remittances payable in the United Kingdom, or from property imported, or from money or value arising from property not imported, or from money or value so received on credit or on account in respect of any such

remittances, property, money or value brought or to be brought into the United Kingdom, without any deduction or abatement other than is allowed under the provisions of the Income Tax Acts in respect of profits or gains charged under Case I of Schedule D.

(6) For the purposes of subsection (5) above, any income arising from securities or possessions out of the United Kingdom which is applied outside the United Kingdom by a person ordinarily resident in the United Kingdom in or towards satisfaction of—

(a) any debt for money lent to him in the United Kingdom or for interest on money so lent, or

(b) any debt for money lent to him outside the United Kingdom and received in or brought to the United Kingdom, or

(c) any debt incurred for satisfying in whole or in part a debt falling within paragraph (a) or (b) above,

shall be treated as received by him in the United Kingdom (and, for the purposes of subsection (5)(b) above, as so received from remittances payable in the United Kingdom).

(7) Where a person ordinarily resident in the United Kingdom receives in or brings to the United Kingdom money lent to him outside the United Kingdom, but the debt for that money is wholly or partly satisfied before he does so, subsection (6) above shall apply as if the money had been received in or brought to the United Kingdom before the debt was so satisfied, except that any sums treated by virtue of that subsection as received in the United Kingdom shall be treated as so received at the time when the money so lent is actually received in or brought to the United Kingdom.

(8) Where—

(a) a person ("the borrower") is indebted for money lent to him, and

(b) income is applied by him in such a way that the money or property representing it is held by the lender on behalf of or to the account of the borrower in such circumstances as to be available to the lender for the purpose of satisfying or reducing the debt by set-off or otherwise,

that income shall be treated as applied by the borrower in or towards satisfaction of the debt if, under any arrangement between the borrower and the lender, the amount for the time being of the borrower's indebtedness to the lender, or the time at which the debt is to be repaid in whole or in part, depends in any respect directly or indirectly on the amount or value so held by the lender.

(9) For the purposes of subsections (6) to (8) above—

(a) a debt for money lent shall, to the extent to which that money is applied in or towards satisfying another debt, be deemed to be a debt incurred for satisying that other debt, and a debt incurred for satisfying in whole or in part a debt falling within paragraph (c) of subsection (6) above shall itself be treated as falling within that paragraph; and

(b) "lender" includes, in relation to any money lent, any person for the time being entitled to repayment.

66 Special rules for fresh income

(1) Income tax under Case III, IV or V of Schedule D shall, in the following cases, be computed on the following amounts, and, where the tax is charged under Case III, paid on those actual amounts without any deduction—

(a) as respects the year of assessment in which the income first arises, on the full amount of the income arising within that year;

(b) where the income first arose on some day in the year preceding the year of assessment other than 6th April, on the amount of the income of the year of assessment; and

(c) where the income first arose on 6th April in the year preceding the year of assessment, or on some day in the year next before the year preceding the year of assessment other than 6th April, and the person charged so requires by notice given to the inspector at any time within six years after the end of the year of assessment, on the amount of the income of that year.

(2) Where subsection (1)(c) above applies, and income tax charged otherwise than in accordance with that provision has been paid, any amount overpaid shall be repaid.

(3) If at any time a person acquires a new source of any income in respect of which he is chargeable under Case III, IV or V of Schedule D, or an addition to any source of any such income, then, for the year of assessment in which income first arises from the source or addition and the two following years of assessment, income tax in respect of the income from the source or addition shall, notwithstanding section 73, be computed separately and subsection (1) above shall apply.

(4) For the purposes of the charge under Case III, if at any time interest on a debt ceases to be payable subject to deduction of income tax, subsection (3) above shall apply as if the debt were a new source of income acquired by the creditor at that time.

(5) Where income arising to any person from any security or possession in any place out of the United Kingdom ceases at any time to be chargeable to income tax by deduction under the provisions of section 123, subsection (3) above shall apply as if that security or possession were a new source of income acquired by that person at that time.

(6) In any case where tax is to be charged under Case IV or V by reference to the amount of income received in the United Kingdom, references in this section to income which arises or arose shall have effect as references to income which is or was so received.

67 Special rules where source of income disposed of or yield ceases

(1) Subject to the provisions of this section, if in any year of assessment a person charged or chargeable to income tax in respect of any income chargeable under Case III, IV or V of Schedule D ceases to possess any particular source of any such income or any part of any such source, the following provisions shall apply to the tax in respect of the income from that source or part—

(a) notwithstanding section 73, the tax shall for that year, and (if necessary) for the preceding year, be computed separately;

(b) subject to paragraph (c) below, the tax shall for that year be computed on the amount of the income arising within the year (instead of the income arising within the preceding year), and shall for that preceding year also be computed on the amount of the income arising within it if greater than the amount on which tax is to be computed for that preceding year apart from this provision; and

(c) if no income arose within those two years and the person charged or chargeable makes a claim under this section not later than two years after the end of them, then, subject to subsection (4) below—

(i) paragraphs (a) and (b) above shall apply to the year of assessment in which income did last arise and the year preceding it as, apart from this paragraph, they would apply to the year in which he ceases to possess the source or part and the year preceding it, and

(ii) tax for the year of assessment following that in which income did last arise shall not be chargeable on the amount of the income so arising.

(2) For the purposes of the charge under Case III, if at any time interest on a debt begins to be payable subject to deduction of income tax, subsection (1) above shall apply as if the debt were a source of income which the creditor ceased to possess at that time.

(3) Where income in respect of which a person has previously been charged or chargeable to income tax under Case IV or V of Schedule D becomes at any time chargeable to income tax by deduction under the provisions of section 123, subsection (1) above shall apply as if the security or possession in question were a source of income which he ceased to possess at that time.

(4) Without prejudice to subsection (5) below, a person shall not be entitled by virtue of subsection (1)(c) above to make a claim under this section in respect of any source of income or any part of such a source more than eight years after the end of the year of assessment in which income last arose from that source.

(5) A person possessing a source of income chargeable to income tax under Case III, IV or V of Schedule D and having possessed it for six consecutive years of assessment without any income arising from it, shall be entitled, if income did arise from it in the year preceding those six years, to make a claim under this section not later than two years after the end of those six years; and if he does so—

(a) subsection (1) above shall apply as if he had ceased to possess the source of income immediately before the end of those six years; and

(b) section 66(3) shall apply in relation to later years of assessment as if he had acquired the source as a new source immediately after the end of those six years.

(6) References in this section to income arising shall, in cases where tax under Case IV or V is to be computed by reference to the amount of income received in the United Kingdom, be construed as references to income being so received.

(7) There shall be made all such adjustments, whether by way of repayment of tax, assessment or otherwise, as may be necessary to give effect to this section.

(8) A person's executors or administrators may make any claim under this section which he might have made, if he had not died, in respect of any source of income, or part of such a source, which he ceased to possess before his death, and may also make a claim under this section in respect of sources of income which he ceased to possess by dying; and after a person's death—

(a) any tax paid by him and repayable by virtue of a claim under this section (whether made by him or by his executors or administrators) shall be repaid to his executors or administrators, and

(b) any additional tax chargeable by virtue of such a claim shall be assessed and charged on his executors or administrators, and shall be a debt due from and payable out of his estate.

68 Special rules where property etc. situated in Republic of Ireland

(1) Notwithstanding anything in sections 65 or 66, but subject to the provisions of this section, income tax chargeable under Case IV or V of Schedule D shall, in the case of property situated and profits or gains arising in the Republic of Ireland, be computed on the full amount of the income arising in the year of assessment, whether the income has been or will be received in the United Kingdom or not, subject in the case of income not received in the United Kingdom—

(a) to the same deductions and allowances as if it had been so received; and

(b) to a deduction on account of any annuity or other annual payment (not being interest) payable out of the income to a person not resident in the United Kingdom.

(2) Subsection (1) above shall not apply—

(a) to any income which is immediately derived by a person from the carrying on by him of any trade, profession or vocation, either solely or in partnership; or

(b) to any income which arises from any pension.

(3) The tax in respect of any such income as is mentioned in subsection (2) above arising in the Republic of Ireland shall be computed either—

(a) on the full amount thereof arising in the year of assessment; or

(b) on the full amount thereof on an average of such period as the case may require and as may be directed by the inspector;

so that, according to the nature of the income, the tax may be computed on the same basis as that on which it would have been computed if the income had arisen in the United Kingdom, and subject in either case to a deduction on account of any annuity or other annual payment (not being interest) payable out of the income to a person not resident in the United Kingdom; and the person chargeable and assessable shall be entitled to the same allowances, deductions and reliefs as if the income had arisen in the United Kingdom.

The jurisdiction of the General or Special Commissioners on any appeal shall include jurisdiction to review the inspector's decision under this subsection.

(4) In charging any income which is excluded from subsection (1) above by subsection (2)(a) above there shall be the same limitation on reliefs as under section 391(2) in the case of income computed by virtue of section 65(3) in accordance with the rules applicable to Cases I and II of Schedule D.

(5) In charging income arising from a pension under subsection (3) above, a deduction of one-tenth shall be allowed unless it is the income of a person falling within section 65(4).

Case VI

69 Assessment on current year basis unless otherwise directed

(1) Income tax under Case VI of Schedule D shall be computed either on the full amount of the profits or gains arising in the year of assessment or according to an average of such period, not being greater than one year, as the case may require and as may be directed by the inspector.

(2) On an appeal to the General or Special Commissioners, the Commissioners shall have jurisdiction to review the inspector's decision under this section.

CHAPTER III

CORPORATION TAX: BASIS OF ASSESSMENT ETC

70 Basis of assessment etc

(1) In accordance with sections 6 to 12 and 337 to 344, for the purposes of corporation tax for any accounting period income shall be computed under Cases I to VI of Schedule D on the full amount of the profits or gains or income arising in the period (whether or not received in or transmitted to the United Kingdom), without any other deduction than is authorised by the Corporation Tax Acts.

(2) Where a company is chargeable to corporation tax in respect of a trade or vocation under Case V of Schedule D, the income from the trade or vocation shall be computed in accordance with the rules applicable to Case I of Schedule D.

(3) Cases IV and V of Schedule D shall for the purposes of corporation tax extend to companies not resident in the United Kingdom, so far as those companies are chargeable to tax on income of descriptions which, in the case of companies resident in the United Kingdom, fall within those Cases (but without prejudice to any provision of the Tax Acts specially exempting non-residents from tax on any particular description of income).

CHAPTER IV

PROVISIONS SUPPLEMENTARY TO CHAPTERS II AND III

71 Computation of income tax where no profits in year of assessment

Where it is provided by the Income Tax Acts that income tax under Schedule D in respect of profits or gains or income from any source is to be computed by reference to the amount of the profits or gains or income of some period preceding the year of assessment, tax as so computed shall be charged for that year of assessment notwithstanding that no profits or gains or income arise from that source for or within that year.

72 Apportionments etc. for purposes of Cases I, II and VI

(1) Where in the case of any profits or gains chargeable under Case I, II or VI of Schedule D it is necessary in order to arrive for the purposes of income tax or corporation tax at the profits or gains or losses of any year of assessment, accounting period or other period, to divide and apportion to specific periods the profits or gains or losses for any period for which the accounts have been made up, or to aggregate any such profits, gains or losses or any apportioned parts thereof, it shall be lawful to make such a division and apportionment or aggregation.

(2) Any apportionment under this section shall be made in proportion to the number of months, or fractions of months, in the respective periods.

73 Single assessments for purposes of Cases III, IV and V

Except as otherwise provided by the Tax Acts all income in respect of which a person is chargeable to tax under Case III, IV or V of Schedule D may respectively be assessed and charged in one sum.

CHAPTER V

COMPUTATIONAL PROVISIONS

Deductions

74 General rules as to deductions not allowable

Subject to the provisions of the Tax Acts, in computing the amount of the profits or gains to be charged under Case I or Case II of Schedule D, no sum shall be deducted in respect of—

(a) any disbursements or expenses, not being money wholly and exclusively laid out or expended for the purposes of the trade, profession or vocation;

(b) any disbursements or expenses of maintenance of the parties, their families or establishments, or any sums expended for any other domestic or private purposes distinct from the purposes of the trade, profession or vocation;

(c) the rent of the whole or any part of any dwelling-house or domestic offices, except any such part as is used for the purposes of the trade, profession or vocation, and where any such part is so used, the sum so deducted shall not, unless in any particular case it appears that having regard to all the circumstances some greater sum ought to be deducted, exceed two-thirds of the rent bona fide paid for that dwelling-house or those offices;

(d) any sum expended for repairs of premises occupied, or for the supply, repairs or alterations of any implements, utensils or articles employed, for the purposes of the trade, profession or vocation, beyond the sum actually expended for those purposes;

(e) any loss not connected with or arising out of the trade, profession or vocation;

(f) any capital withdrawn from, or any sum employed or intended to be employed as capital in, the trade, profession or vocation, but so that this paragraph shall not be treated as disallowing the deduction of any interest;

(g) any capital employed in improvements of premises occupied for the purposes of the trade, profession or vocation;

(h) any interest which might have been made if any such sums as aforesaid had been laid out at interest;

(j) any debts, except bad debts proved to be such, and doubtful debts to the extent that they are respectively estimated to be bad, and in the case of the bankruptcy or insolvency of a debtor the amount which may reasonably be expected to be received on any such debt shall be deemed to be the value thereof;

(k) any average loss beyond the actual amount of loss after adjustment;

(l) any sum recoverable under an insurance or contract of indemnity;

(m) any annuity or other annual payment (other than interest) payable out of the profits or gains;

(n) any interest paid to a person not resident in the United Kingdom if and so far as it is interest at more than a reasonable commercial rate;

(o) any relevant loan interest within the meaning of section 369, other than interest to which section 375(2) applies;

(p) any royalty or other sum paid in respect of the user of a patent;

(q) any rent, royalty or other payment which is by section 119 or 120 declared to be subject to deduction of tax under section 348 or 349 as if it were a royalty or other sum paid in respect of the user of a patent.

75 Expenses of management: investment companies

(1) In computing for the purposes of corporation tax the total profits for any accounting period of an investment company resident in the United Kingdom there shall be deducted any sums disbursed as expenses of management (including commissions) for that period, except any such expenses as are deductible in computing profits apart from this section.

(2) For the purposes of subsection (1) above there shall be deducted from the amount treated as expenses of management the amount of any income derived from sources not charged to tax, other than franked investment income, group income and any regional development grant. In this subsection "regional development grant" means a payment by way of grant under Part II of the Industrial Development Act 1982.

(3) Where in any accounting period of an investment company the expenses of management deductible under subsection (1) above, together with any charges on income paid in the accounting period wholly and exclusively for purposes of the company's business, exceed the amount of the profits from which they are deductible—

(a) the excess shall be carried forward to the succeeding accounting period; and

(b) the amount so carried forward to the succeeding accounting period shall be treated for the purposes of this section, including any further application of this subsection, as if it had been disbursed as expenses of management for that accounting period.

(4) For the purposes of this section there shall be added to a company's expenses of management in any accounting period the amount of any allowances falling to be made to the company for that period by virtue of section 306 of the 1970 Act (capital allowances for machinery and plant) in so far as effect cannot be given to them under subsection (2) of that section.

(5) Where an appeal against an assessment to corporation tax or against a decision on a claim under section 242 relates exclusively to the relief to be given under subsection (1) above, the appeal shall lie to the Special Commissioners, and if and so far as the question in dispute on any such appeal which does not lie to the Special Commissioners relates to that relief, that question shall, instead of being determined on the appeal, be referred to and determined by the Special Commissioners, and the Management Act shall apply as if that reference were an appeal.

76 Expenses of management: insurance companies

(1) Subject to the provisions of this section and of section 432, section 75 shall apply for computing the profits of a company carrying on life assurance business, whether mutual or proprietary, (and not charged to corporation tax in respect of it under Case

I of Schedule D), whether or not the company is resident in the United Kingdom, as that section applies in relation to an investment company except that—

(a) there shall be deducted from the amount treated as the expenses of management for any accounting period the amount of any fines, fees or profits arising from reversions, and

(b) no deduction shall be made under section 75(2).

(2) Relief in respect of management expenses shall not be given to any such company, whether under section 242 or subsection (1) above, so far as it would, if given in addition to all other reliefs to which the company is entitled, reduce the corporation tax borne by the company on the income and gains of its life assurance business for any accounting period to less than would have been paid if the company had been charged to tax in respect of that business under Case I of Schedule D.

In this subsection the references to reliefs do not include references to any set-off under section 239.

(3) For the purposes of subsection (2) above—

(a) any tax credit to which the company is entitled in respect of a distribution received by it shall be treated as an equivalent amount of corporation tax borne or paid in respect of that distribution; and

(b) any payment in respect of that credit under section 242 shall be treated as reducing the tax so treated as borne or paid.

(4) In applying subsection (2) above to an accounting period in which a company—

(a) carries on any business in addition to life assurance business, or

(b) carries on both ordinary life assurance business and industrial life assurance business,

the tax that would have been paid if the company had been charged under Case I of Schedule D in respect of its life assurance business, or its life assurance business of either of those classes, shall be calculated as if any advance corporation tax set against the company's liability to corporation tax for that accounting period were apportioned to the corporation tax attributable to each business in proportion to the profits of that business charged to corporation tax for that accounting period.

(5) Where relief has been withheld in respect of any accounting period by virtue of subsection (2) above, the excess to be carried forward by virtue of section 75(3) shall be increased accordingly.

(6) The relief under this section available to an overseas life insurance company (within the meaning of section 431) in respect of its expenses of management shall be limited to expenses attributable to the life assurance business carried on by the company at or through its branch or agency in the United Kingdom.

(7) For the purposes of this section any sums paid by a company under a long term business levy imposed by virtue of the Policyholders Protection Act 1975 shall be treated as part of its expenses of management.

(8) In subsections (2) and (6) above "life assurance business" includes the business of granting annuities on human life.

77 Incidental costs of obtaining loan finance

(1) Subject to subsection (5) below, in computing the profits or gains to be charged under Case I or II of Schedule D there may be deducted the incidental costs of obtaining finance by means of a qualifying loan or the issue of qualifying loan stock or a qualifying security; and the incidental costs of obtaining finance by those means shall be treated for the purposes of section 75 as expenses of management.

(2) Subject to subsections (3) and (4) below, in this section—

(a) "a qualifying loan" and "qualifying loan stock" mean a loan or loan stock the interest on which is deductible—

(i) in computing for tax purposes the profits or gains of the person by whom the incidental costs in question are incurred; or

(ii) under section 338 against his total profits; and

(b) "qualifying security" means any deep discount security, as defined by paragraph 1 of Schedule 4, in respect of which the income elements, as defined by paragraph 4 of that Schedule, are deductible under paragraph 5(1) of that Schedule in computing the total profits of the company by which the incidental costs in question are incurred.

(3) Except as provided by subsection (4) below, a loan or loan stock which carries the right of conversion into or to the acquisition of—

(a) shares, or

(b) other securities not being a qualifying loan or qualifying loan stock,

is not a qualifying loan or qualifying loan stock if that right is exercisable before the expiry of the period of three years from the date when the loan was obtained or the stock issued.

(4) A loan or loan stock—

(a) which carries such a right as is referred to in subsection (3) above, and

(b) which by virtue of that subsection is not a qualifying loan or qualifying loan stock,

shall nevertheless be regarded as a qualifying loan or qualifying loan stock, as the case may be, if the right is not, or is not wholly, exercised before the expiry of the period of three years from the date when the loan was obtained or the stock was issued.

(5) For the purposes of the application of subsection (1) above in relation to a loan or loan stock which is a qualifying loan or qualifying loan stock by virtue of subsection (4) above—

(a) if the right referred to in subsection (4)(a) above is exercised as to part of the loan or stock within the period referred to in that subsection, only that proportion of the incidental costs of obtaining finance which corresponds to the proportion of the stock in respect of which the right is not exercised within that period shall be taken into account; and

(b) in so far as any of the incidental costs of obtaining finance are incurred before the expiry of the period referred to in subsection (4) above they shall be treated as incurred immediately after that period expires.

(6) In this section "the incidental costs of obtaining finance" means expenditure on fees, commissions, advertising, printing and other incidental matters (but not including stamp duty), being expenditure wholly and exclusively incurred for the purpose of obtaining the finance (whether or not it is in fact obtained), or of providing security for it or of repaying it.

(7) This section shall not be construed as affording relief—

(a) for any sums paid in consequence of, or for obtaining protection against, losses resulting from changes in the rate of exchange between different currencies; or

(b) for the cost of repaying a loan or loan stock or a qualifying security so far as attributable to its being repayable at a premium or to its having been obtained or issued at a discount.

78 Discounted bills of exchange

(1) This section applies in any case where—

(a) a bill of exchange drawn by a company is or was accepted by a bank and discounted by that or any other bank or by a discount house; and

(b) the bill becomes or became payable on or after 1st April 1983; and

(c) the discount suffered by the company is not (apart from this section) deductible in computing the company's profits or any description of those profits for purposes of corporation tax.

(2) Subject to subsection (3) below, in computing, in a case where this section applies, the corporation tax chargeable for the accounting period of the company in which the bill of exchange is paid, an amount equal to the discount referred to in subsection (1)(c) above shall be allowed as a deduction against the total profits for the period as reduced by any relief other than group relief and, except for the purposes of an allowance under section 338(1), that amount shall be treated for the purposes of the Corporation Tax Acts as a charge on income.

(3) Subsection (2) above shall not apply if the discount is not ultimately suffered by the company and shall not apply unless—

(a) the company exists wholly or mainly for the purposes of carrying on a trade; or

(b) the bill is drawn to obtain funds which are wholly and exclusively expended for the purposes of a trade carried on by the company; or

(c) the company is an investment company.

(4) Where an amount falls to be allowed as mentioned in subsection (2) above, there may be deducted, in computing the profits or gains of the company to be charged under Case I of Schedule D, the incidental costs incurred on or after 1st April 1983 in securing the acceptance of the bill by the bank; and those incidental costs shall be treated for the purposes of section 75 as expenses of management.

(5) For the purposes of subsection (4) above "incidental costs" means fees, commission and any other expenditure wholly and exclusively incurred for the purpose of securing the acceptance of the bill.

(6) In this section "bank" means a bank carrying on a bona fide banking business in the United Kingdom and "discount house" means a person bona fide carrying on the business of a discount house in the United Kingdom.

79 Contributions to local enterprise agencies

(1) Notwithstanding anything in section 74, but subject to the provisions of this section, where a person carrying on a trade, profession or vocation makes any contribution (whether in cash or in kind) to an approved local enterprise agency, any expenditure incurred by him in making the contribution may be deducted as an expense in

computing the profits or gains of the trade, profession or vocation for the purposes of tax if it would not otherwise be so deductible.

(2) Where any such contribution is made by an investment company any expenditure allowable as a deduction under subsection (1) above shall for the purposes of section 75 be treated as expenses of management.

(3) Subsection (1) above does not apply in relation to a contribution made by any person if either he or any person connected with him receives or is entitled to receive a benefit of any kind whatsoever for or in connection with the making of that contribution, whether from the agency concerned or from any other person.

(4) In this section "approved local enterprise agency" means a body approved by the Secretary of State for the purposes of this section; but he shall not so approve a body unless he is satisfied that—

(a) its sole objective is the promotion or encouragement of industrial and commercial activity or enterprise in a particular area in the United Kingdom with particular reference to encouraging the formation and development of small businesses; or

(b) one of its principal objectives is that set out in paragraph (a) above and it maintains or is about to maintain a fund separate from its other funds which is or is to be applied solely in pursuance of that objective;

and where the Secretary of State approves a body by virtue of paragraph (b) above, the approval shall specify the fund concerned and, in relation to a body so approved, any reference in this section to a contribution is a reference to a contribution which is made wholly to or for the purposes of that fund.

(5) A body may be approved under subsection (4) above whether or not it is a body corporate or a body of trustees or any other association or organisation and whether or not it is described as a local enterprise agency.

(6) A body may not be approved under subsection (4) above unless it is precluded, by virtue of any enactment, contractual obligation, memorandum or otherwise, from making any direct or indirect payment or transfer to any of its members, or to any person charged with the control and direction of its affairs, of any of its income or profit by way of dividend, gift, division, bonus or otherwise howsoever by way of profit.

(7) For the purposes of subsection (6) above, the payment—

(a) of reasonable remuneration for goods, labour or power supplied or for services rendered, or

(b) of reasonable interest for money lent, or

(c) of reasonable rent for any premises,

does not constitute a payment or transfer which is required to be so precluded.

(8) Any approval given by the Secretary of State may be made conditional upon compliance with such requirements as to accounts, provision of information and other matters as he considers appropriate; and if it appears to the Secretary of State that—

(a) an approved local enterprise agency is not complying with any such requirement, or

(b) one or other of the conditions for his approval contained in subsection (4) above or the precondition for his approval in subsection (6) above has ceased to be fulfilled with respect to an approved local enterprise agency,

he shall by notice withdraw his approval from the body concerned with effect from such date as he may specify in the notice (which may be a date earlier than the date on which the notice is given).

(9) In any case where—

(a) a contribution has been made to an approved local enterprise agency in respect of which relief has been given under subsection (1) above, and

(b) any benefit received in any chargeable period by the contributor or any person connected with him is in any way attributable to that contribution,

the contributor shall in respect of that chargeable period be charged to tax under Case I or Case II of Schedule D or, if he is not chargeable to tax under either of those Cases for that period, under Case VI of Schedule D on an amount equal to the value of that benefit.

(10) Section 839 applies for the purposes of subsections (3) and (9) above.

(11) This section applies to contributions made on or after 1st April 1982 and before 1st April 1992.

80 Expenses connected with foreign trades etc

(1) This section applies in the case of a trade, profession or vocation carried on wholly outside the United Kingdom by an individual ("the taxpayer") who does not satisfy the Board as mentioned in section 65(4); and it is immaterial in the case of a trade or profession whether the taxpayer carries it on solely or in partnership.

(2) Expenses of the taxpayer—

(a) in travelling from any place in the United Kingdom to any place where the trade, profession or vocation is carried on;

(b) in travelling to any place in the United Kingdom from any place where the trade, profession or vocation is carried on; or

(c) on board and lodging for the taxpayer at any place where the trade, profession or vocation is carried on;

shall, subject to subsections (3) and (4) below, be treated for the purposes of section 74(a) as having been wholly and exclusively expended for the purposes of the trade, profession or vocation.

(3) Subsection (2) above does not apply unless the taxpayer's absence from the United Kingdom is occasioned wholly and exclusively for the purpose of performing the functions of the trade, profession or vocation or of performing those functions and the functions of any other trade, profession or vocation (whether or not one in the case of which this section applies).

(4) Where subsection (2) above applies and more than one trade, profession or vocation in the case of which this section applies is carried on at the place in question, the expenses shall be apportioned on such basis as is reasonable between those trades, professions or vocations; and the expenses so apportioned to a particular trade, profession or vocation shall be treated for the purposes of section 74(a) as having been wholly and exclusively expended for the purposes of that trade, profession or vocation.

(5) Where the taxpayer is absent from the United Kingdom for a continuous period of 60 days or more wholly and exclusively for the purpose of performing the functions of one or more trades, professions or vocations in the case of which this section applies,

expenses to which subsection (6) below applies shall be treated in accordance with subsection (7) or (8) below (as the case may be).

(6) This subsection applies to the expenses of any journey by the taxpayer's spouse, or any child of his, between any place in the United Kingdom and the place of performance of any of those functions outside the United Kingdom, if the journey—

(a) is made in order to accompany him at the beginning of the period of absence or to visit him during that period; or

(b) is a return journey following a journey falling within paragraph (a) above;

but this subsection does not apply to more than two outward and two return journeys by the same person in any year of assessment.

(7) The expenses shall be treated for the purposes of section 74(a) as having been wholly and exclusively expended for the purposes of the trade, profession or vocation concerned (if there is only one).

(8) The expenses shall be apportioned on such basis as is reasonable between the trades, professions or vocations concerned (if there is more than one) and the expenses so apportioned to a particular trade, profession or vocation shall be treated for the purposes of section 74(a) as having been wholly and exclusively expended for the purposes of that trade, profession or vocation.

(9) In subsection (6) above "child" includes a stepchild and an illegitimate child but does not include a person who is aged 18 or over at the beginning of the outward journey.

(10) Nothing in this section shall permit the same sum to be deducted for more than one trade, profession or vocation in respect of expenses in computing profits or gains.

81 Travel between trades etc

(1) Where a taxpayer (within the meaning of section 80) travels between a place where he carries on a trade, profession or vocation in the case of which section 80 applies and a place outside the United Kingdom where he carries on another trade, profession or vocation (whether or not one in the case of which that section applies) expenses of the taxpayer on such travel shall, subject to subsections (3) to (5) below, be treated for the purposes of section 74(a) as having been wholly and exclusively expended for the purposes of the trade, profession or vocation mentioned in subsection (2) below.

(2) The trade, profession or vocation is—

(a) the one carried on at the place of the taxpayer's destination; or

(b) if that trade, profession or vocation is not one in the case of which section 80 applies, the one carried on at the place of his departure.

(3) This section does not apply unless the journey was made—

(a) after performing functions of the trade, profession or vocation carried on at the place of departure; and

(b) for the purpose of performing functions of the trade, profession or vocation carried on at the place of destination.

(4) This section does not apply unless the taxpayer's absence from the United Kingdom is occasioned wholly and exclusively for the purpose of performing the functions of both the trades, professions or vocations concerned or of performing those functions and the functions of any other trade, profession or vocation.

(5) Where this section applies and more than one trade, profession or vocation in the case of which section 80 applies is carried on at the place of the taxpayer's destination or (in a case falling within subsection (2)(b) above) at the place of his departure, the expenses shall be apportioned on such basis as is reasonable between those trades, professions or vocations; and the expenses so apportioned to a particular trade, profession or vocation shall be treated for the purposes of section 74(a) as having been wholly and exclusively expended for the purposes of that trade, profession or vocation.

(6) Nothing in this section shall permit the same sum to be deducted for more than one trade, profession or vocation in respect of expenses in computing profits or gains.

82 Interest paid to non-residents

(1) In computing the profits or gains arising from a trade, profession or vocation, no sum shall be deducted in respect of any annual interest paid to a person not resident in the United Kingdom unless—

(a) the person making the payment has deducted income tax from the payment in accordance with section 349(2) and accounts for the tax so deducted, or

(b) the conditions set out in subsection (2) below are satisfied.

(2) The conditions referred to in subsection (1)(b) above are as follows—

(a) that the trade, profession or vocation is carried on by a person residing in the United Kingdom, and

(b) that the liability to pay the interest was incurred exclusively for the purposes of the trade, profession or vocation, and

(c) that either—

(i) the liability to pay the interest was incurred wholly or mainly for the purposes of activities of the trade, profession or vocation carried on outside the United Kingdom, or

(ii) the interest is payable in a currency other than sterling, and

(d) that, under the terms of the contract under which the interest is payable, the interest is to be paid, or may be required to be paid, outside the United Kingdom, and

(e) that the interest is in fact paid outside the United Kingdom.

(3) Where the trade, profession or vocation is carried on by a partnership, subsection (1)(b) above shall not apply to any interest which is payable to any of the partners, or is payable in respect of the share of any partner in the partnership capital.

(4) Subsection (1)(b) above shall not apply where—

(a) the trade, profession or vocation is carried on by a body of persons over whom the person entitled to the interest has control; or

(b) the person entitled to the interest is a body of persons over whom the person carrying on the trade, profession or vocation has control; or

(c) the person carrying on the trade, profession or vocation and the person entitled to the interest are both bodies of persons and some other person has control over both of them.

In this subsection, the references to a body of persons include references to a partnership, and "control" has the meaning given by section 840.

(5) If interest paid under deduction of tax in accordance with section 349(2) is deductible in computing the profits or gains of a trade, profession or vocation the amount so deductible shall be the gross amount.

(6) This section does not apply for the purposes of corporation tax.

83 Patent fees etc. and expenses

Notwithstanding anything in section 74, in computing the profits or gains of a trade there may be deducted as expenses any fees paid or expenses incurred—

(a) in obtaining for the purposes of the trade the grant of a patent, an extension of the term of a patent, the registration of a design or trade mark, the extension of the period of copyright in a design or the renewal of registration of a trade mark, or

(b) in connection with a rejected or abandoned application for a patent made for the purposes of the trade.

References in this section to a trade mark include references to a service mark within the meaning of the Trade Marks (Amendment) Act 1984.

84 Payments for technical education

(1) Notwithstanding anything in section 74, where a person carrying on a trade makes any payment to be used for the purposes of technical education related to that trade at any university or university college or at any such technical college or other similar institution as may for the time being be approved for the purposes of this section by the Secretary of State, the payment may be deducted as an expense in computing the profits or gains of the trade for the purposes of tax.

(2) For the purposes of this section, technical education shall be deemed to be related to a trade if, and only if, it is technical education of a kind specially requisite for persons employed in the class of trade to which that trade belongs.

(3) In relation to technical colleges or other institutions in Northern Ireland, this section shall have effect as if for the reference to the Secretary of State there were substituted a reference to the Department of Education for Northern Ireland.

85 Payments to trustees of approved profit sharing schemes

(1) Any sum expended in making a payment to the trustees of an approved profit sharing scheme by a company which is in relation to that scheme the grantor or a participating company—

(a) shall be deducted in computing for the purposes of Schedule D the profits or gains of a trade carried on by that company; or

(b) if that company is an investment company or a company in the case of which section 75 applies by virtue of section 76, shall be treated as expenses of management,

if, and only if, one of the conditions in subsection (2) below is fulfilled.

(2) The conditions referred to in subsection (1) above are—

(a) that before the expiry of the relevant period the sum in question is applied by the trustees in the acquisition of shares for appropriation to individuals who

are eligible to participate in the scheme by virtue of their being or having been employees or directors of the company making the payment; and

(b) that the sum is necessary to meet the reasonable expenses of the trustees in administering the scheme.

(3) For the purposes of subsection (2)(a) above "the relevant period" means the period of nine months beginning on the day following the end of the period of account in which the sum in question is charged as an expense of the company incurring the expenditure or such longer period as the Board may allow by notice given to that company.

(4) For the purposes of this section, the trustees of an approved profit sharing scheme shall be taken to apply sums paid to them in the order in which the sums are received by them.

(5) In this section—

"approved profit sharing scheme" means a profit sharing scheme approved under Schedule 9; and

"the grantor" and "participating company" have the meaning given by paragraph 1(3) and (4) of that Schedule.

86 Employees seconded to charities and educational establishments

(1) If a person ("the employer") carrying on a trade, profession, vocation or business for the purposes of which he employs a person ("the employee") makes available to a charity, on a basis which is expressed and intended to be of a temporary nature, the services of the employee then, notwithstanding anything in section 74 or 75, any expenditure incurred (or disbursed) by the employer which is attributable to the employment of that employee shall continue to be deductible in the manner and to the like extent as if, during the time that his services are so made available to the charity, they continued to be available for the purposes of the employer's trade, business, profession or vocation.

(2) In subsection (1) above—

"charity" has the same meaning as in section 506;

"deductible" means deductible as an expense in computing the profits or gains of the employer to be charged under Case I or II of Schedule D or, as the case may be, deductible as expenses of management for the purposes of section 75.

(3) With respect to expenditure attributable to the employment of a person on or after 26th November 1986 and before 1st April 1997, this section shall have effect as if the references to a charity included references to any of the following bodies, that is to say—

(a) in England and Wales, any local education authority and any educational institution maintained by such an authority;

(b) in Scotland, any education authority, any educational establishment maintained by such an authority, and any college of education or central institution within the meaning of the Education (Scotland) Act 1980;

(c) in Northern Ireland, any education and library board, college of education or controlled school within the meaning of the Education and Libraries (Northern Ireland) Order 1986 and any institution of further education which is under the management of an education and library board by virtue of Article 28 of that Order; and

(d) any other educational body which is for the time being approved for the purposes of this section by the Secretary of State or, in Northern Ireland, the Department of Education for Northern Ireland.

87 Taxable premiums etc

(1) This section applies where in relation to any land used in connection with a trade, profession or vocation—

(a) tax has become chargeable under section 34 or 35 on any amount (disregarding any reduction in that amount under section 37(2) and (3)); or

(b) tax would have become so chargeable on that amount but for the operation of section 37(2) and (3) or but for any exemption from tax;

and that amount is referred to below as "the amount chargeable".

(2) Subject to subsections (3) to (8) below, where—

(a) during any part of the relevant period the land in relation to which the amount chargeable arose is occupied by the person for the time being entitled to the lease as respects which it arose, and

(b) that occupation is for the purposes of a trade, profession or vocation carried on by him,

he shall be treated, in computing the profits or gains of the trade, profession or vocation chargeable to tax under Case I or II of Schedule D, as paying in respect of that land rent for the period (in addition to any actual rent), becoming due from day to day, of an amount which bears to the amount chargeable the same proportion as that part of the relevant period bears to the whole.

(3) As respects any period during which a part only of the land in relation to which the amount chargeable arose is occupied as mentioned in subsection (2) above, that subsection shall apply as if the whole were so occupied, but the amount chargeable shall be treated as reduced by so much thereof as, on a just apportionment, is attributable to the remainder of the land.

(4) Where a person, although not in occupation of the land or any part of the land, deals with his interest in the land or that part as property employed for the purposes of a trade, profession or vocation carried on by him, subsections (2) and (3) above shall apply as if the land or part were occupied by him for those purposes.

(5) Where section 37(2) and (3) has effect in relation to a lease granted out of the interest referred to in subsection (4) above, subsections (5) and (6) of that section shall apply for modifying the operation of subsections (2) and (3) above as they apply for modifying the operation of subsection (4) of that section.

(6) In computing profits or gains chargeable under Case I or II of Schedule D for any chargeable period, rent shall not by virtue of subsection (4) above be treated as paid by a person for any period in respect of land in so far as rent treated under section 37(4) as paid by him for that period in respect of the land has in any previous chargeable period been deducted, or falls in that chargeable period to be deducted under Part II.

(7) Where, in respect of expenditure on the acquisition of his interest in the land in relation to which the amount chargeable arose, a person has become entitled to an allowance under section 60 of the 1968 Act (mineral depletion) for any chargeable period, then—

(a) if the allowance is in respect of the whole of the expenditure, no deduction shall be allowed him under this section for that or any subsequent chargeable period; or

(b) if the allowance is in respect of part only of the expenditure ("the allowable part"), a deduction allowed him under this section for that or any subsequent chargeable period shall be the fraction—

$$\frac{A}{A} \quad \frac{B}{}$$

of the amount which apart from this subsection would fall to be deducted, where—

A is the whole of the expenditure, and

B is the allowable part of the expenditure;

and the reference in this subsection to an allowance under section 60 of the 1968 Act includes a reference to an allowance under Part III of Schedule 13 to the Finance Act 1986 in respect of expenditure falling within paragraph 4(1)(b) of that Schedule.

(8) Where the amount chargeable arose under section 34(2) by reason of an obligation which included the carrying out of work in respect of which any capital allowance has fallen or will fall to be made, this section shall apply as if the obligation had not included the carrying out of that work and the amount chargeable had been calculated accordingly.

(9) In this section "the relevant period" means—

(a) where the amount chargeable arose under section 34, the period treated in computing that amount as the duration of the lease;

(b) where the amount chargeable arose under section 35, the period treated in computing that amount as the duration of the lease remaining at the date of the assignment.

88 Payments to Export Credit Guarantee Department

Any sums paid by a person to the Export Credits Guarantee Department under an agreement entered into under arrangements made by the Secretary of State in pursuance of section 11 of the Export Guarantees and Overseas Investment Act 1978, or with a view to entering into such an agreement, shall be included—

(a) in the sums to be deducted in computing for the purposes of Case I or Case II of Schedule D the profits or gains of any trade, profession or vocation carried on by that person; or

(b) if that person is an investment company or a company in the case of which section 75 applies by virtue of section 76, in the sums to be deducted as expenses of management in computing the company's profits for the purposes of corporation tax;

whether or not they would fall to be so included apart from this section.

89 Debts proving irrecoverable after event treated as discontinuance

Where section 113 or 337(1) applies to treat a trade, profession or vocation as discontinued by reason of any event, then, in computing for tax purposes the profits or gains of the trade, profession or vocation in any period after the event, there may be

deducted a sum equal to any amount proved during that period to be irrecoverable in respect of any debts credited in computing for tax purposes the profits or gains for any period before the event (being debts the benefit of which was assigned to the persons carrying on the trade, profession or vocation after the event) in so far as the total amount proved to be irrecoverable in respect of those debts exceeds any deduction allowed in respect of them under section 74(j) in a computation for any period before the event.

90 Additional payments to redundant employees

(1) Where a payment is made by way of addition to a redundancy payment or to the corresponding amount of any other employer's payment and the additional payment would be—

(a) allowable as a deduction in computing for the purposes of Schedule D the profits or gains or losses of a trade, profession or vocation; or

(b) eligible for relief under section 75 or 76 as expenses of management of a business,

but for the permanent discontinuance of the trade, profession, vocation or business, the additional payment shall, subject to subsection (2) below, be so allowable or so eligible notwithstanding that discontinuance and, if made after the discontinuance, shall be treated as made on the last day on which the trade, profession, vocation or business was carried on.

(2) Subsection (1) above applies to an additional payment only so far as it does not exceed three times the amount of the redundancy payment or of the corresponding amount of the other employer's payment.

(3) In this section references to the permanent discontinuance of a trade, profession, vocation or business include references to any occasion on which it is treated as permanently discontinued by virtue of section 113(1) or 337(1).

(4) In this section references to a redundancy payment or to the corresponding amount of an employer's payment shall be construed as in sections 579 and 580.

91 Cemeteries

(1) In computing the profits or gains or losses for any period of a trade which consists of or includes the carrying on of a cemetery, there shall be allowed as a deduction—

(a) any capital expenditure incurred by the person engaged in carrying on the trade in providing any land in the cemetery sold during that period for the purpose of interments, and

(b) the appropriate fraction of the residue at the end of that period of the relevant capital expenditure.

(2) Subject to subsection (3) below, the relevant capital expenditure is capital expenditure incurred for the purposes of the trade in question by the person engaged in carrying it on, being—

(a) expenditure on any building or structure other than a dwelling-house, being a building or structure in the cemetery likely to have little or no value when the cemetery is full; and

(b) expenditure incurred in providing land taken up by any such building or structure, and any other land in the cemetery not suitable or adaptable for use for interments and likely to have little or no value when the cemetery is full.

(3) Relevant capital expenditure—

(a) does not include expenditure incurred on buildings or structures which have been destroyed before the beginning of the first period to which subsection (1) above applies in the case of the trade in question; and

(b) of other expenditure incurred before that time, includes only the fraction—

$$\frac{A}{A+B}$$

where—

A is the number of grave-spaces which at that time were or could have been made available in the cemetery for sale, and

B is the number already sold.

(4) For the purposes of this section—

(a) the residue of any expenditure at the end of a period is the amount incurred before that time which remains after deducting—

(i) any amount allowed in respect of that expenditure under subsection (1)(b) above in computing the profits or gains or losses of the trade for any previous period, and

(ii) if, after the beginning of the first period to which subsection (1) above applies in the case of a trade and before the end of the period mentioned at the beginning of this subsection, any asset representing that expenditure is sold or destroyed, the net proceeds of sale or, as the case may be, any insurance money or other compensation of any description received by the person carrying on the trade in respect of the destruction and any money received by him for the remains of the asset; and

(b) the appropriate fraction of the residue of any expenditure at the end of any period is—

$$\frac{A}{A+B}$$

where—

A is the number of grave-spaces in the cemetery sold in the period, and

B is the number of grave-spaces which at the end of the period are or could be made available in the cemetery for sale.

(5) Where in any chargeable period there is a change in the persons engaged in carrying on a trade which consists of or includes the carrying on of a cemetery, any allowance to be made under this section to the persons carrying on the trade after the change shall, whether or not it is to be assumed for other purposes that the trade was discontinued and a new trade set up and commenced, be computed—

(a) as if they had at all times been engaged in carrying on the trade;

(b) as if everything done to or by any of their predecessors in carrying on the trade had been done to or by them; and

(c) without regard to the price paid on any sale on the occasion of any such change.

(6) No expenditure shall be taken into account under both paragraph (a) and paragraph (b) of subsection (1) above, whether for the same or different periods.

(7) This section shall apply in relation to a trade which consists of or includes the carrying on of a crematorium and, in connection therewith, the maintenance of memorial garden plots, as it applies in relation to a trade which consists of or includes the carrying on of a cemetery, but subject to the modifications that—

(a) references to the cemetery or land in the cemetery shall be taken as references to the land which is devoted wholly to memorial garden plots, and

(b) references to grave-spaces shall be taken as references to memorial garden plots, and

(c) references to the sale or use of land for interments shall be taken as references to its sale or use for memorial garden plots.

(8) In this section—

(a) references to the sale of land include references to the sale of a right of interment in land, and to the appropriation of part of a memorial garden in return for a dedication fee or similar payment;

(b) references to capital expenditure incurred in providing land shall be taken as references to the cost of purchase and to any capital expenditure incurred in levelling or draining it or otherwise rendering it suitable for the purposes of a cemetery or a memorial garden; and

(c) the reference in subsection (4)(a)(ii) to subsection (1) above includes a reference to section 141 of the 1970 Act and section 22 of the Finance Act 1952 (which made similar provision to that made by this section).

(9) Section 84 of the 1968 Act (which relates to expenditure which is reimbursed to a person carrying on a trade) shall apply for the purposes of this section as it applies for the purposes of Part I of that Act.

Treatment of regional development and other grants and debts released etc.

92 Regional development grants

(1) A regional development grant which, apart from this subsection, would be taken into account as a receipt in computing the profits of a trade, profession or vocation which are chargeable under Case I or II of Schedule D, shall not be taken into account as a receipt in computing those profits.

(2) A regional development grant which is made to an investment company—

(a) shall not be taken into account as a receipt in computing its profits under Case VI of Schedule D; and

(b) shall not be deducted, by virtue of section 75(2), from the amount treated as expenses of management.

(3) In this section "regional development grant" means a payment by way of grant under Part II of the Industrial Development Act 1982.

93 Other grants under Industrial Development Act 1982 etc

(1) A payment to which this section applies which is made to a person carrying on a trade the profits of which are chargeable under Case I of Schedule D shall be taken into

account as a receipt in computing those profits; and any such payment which is made to an investment company shall be taken into account as a receipt in computing its profits under Case VI of Schedule D.

(2) This section applies to any payment which would not, apart from this section, be taken into account as mentioned in subsection (1) above, being a payment by way of a grant under—

(a) section 7 or 8 of the Industrial Development Act 1982 or section 7 or 8 of the Industry Act 1972; or

(b) section 1 of the Industries Development Act (Northern Ireland) 1966 or section 4 of the Industries Development Act (Northern Ireland) 1971; or

(c) any of Articles 7, 9 and 30 of the Industrial Development (Northern Ireland) Order 1982;

other than a grant designated as made towards the cost of specified capital expenditure or as made by way of compensation for the loss of capital assets and other than a grant falling within subsection (3) below.

(3) A payment by way of grant which is made—

(a) under Article 7 of the Order referred to in subsection (2)(c) above, and

(b) in respect of a liability for corporation tax (including a liability which has already been met),

shall not be taken into account as mentioned in subsection (1) above, whether by virtue of this section or otherwise.

94 Debts deducted and subsequently released

Where, in computing for tax purposes the profits or gains of a trade, profession or vocation, a deduction has been allowed for any debt incurred for the purposes of the trade, profession or vocation, then, if the whole or any part of the debt is thereafter released, the amount released shall be treated as a receipt of the trade, profession or vocation arising in the period in which the release is effected.

95 Taxation of dealer's receipts on purchase by company of own shares

(1) Where a company purchases its own shares from a dealer, the purchase price shall be taken into account in computing the profits of the dealer chargeable to tax under Case I or II of Schedule D; and accordingly—

(a) tax shall not be chargeable under Schedule F in respect of any distribution represented by any part of the price, and

(b) the dealer shall not be entitled in respect of the distribution to a tax credit under section 231, and

(c) sections 208 and 234(1) shall not apply to the distribution.

(2) For the purposes of subsection (1) above a person is a dealer in relation to shares of a company if the price received on their sale by him otherwise than to the company would be taken into account in computing his profits chargeable to tax under Case I or II of Schedule D.

(3) Subject to subsection (4) below, in subsection (1) above—

(a) the reference to the purchase of shares includes a reference to the redemption or repayment of shares and to the purchase of rights to acquire shares, and

(b) the reference to the purchase price includes a reference to any sum payable on redemption or repayment.

(4) Subsection (1) above shall not apply in relation to—

(a) the redemption of fixed-rate preference shares, or

(b) the redemption, on terms settled or substantially settled before 6th April 1982, of other preference shares issued before that date,

if in either case the shares were issued to and continuously held by the person from whom they are redeemed.

(5) In this section—

"fixed-rate preference shares" means shares which—

(a) were issued wholly for new consideration, and

(b) do not carry any right either to conversion into shares or securities of any other description or to the acquisition of any additional shares or securities, and

(c) do not carry any right to dividends other than dividends which—

(i) are of a fixed amount or at a fixed rate per cent. of the nominal value of the shares, and

(ii) together with any sum paid on redemption, represent no more than a reasonable commercial return on the consideration for which the shares were issued;

"new consideration" has the meaning given by section 254; and

"shares" includes stock.

Special provisions

96 Farming and market gardening: relief for fluctuating profits

(1) Subject to the provisions of this section, a person who is or has been carrying on a trade of farming or market gardening in the United Kingdom may claim that subsection (2) or (3) below shall have effect in relation to his profits from that trade for any two consecutive years of assessment if his profits for either year do not exceed such part of his profits for the other year as is there specified.

(2) If the claimant's profits for either year do not exceed seven-tenths of his profits for the other year or are nil, his profits for each year shall be adjusted so as to be equal to one-half of his profits for the two years taken together or, as the case may be, for the year for which there are profits.

(3) If the claimant's profits for either year exceed seven-tenths but are less than three-quarters of his profits for the other year, his profits for each year shall be adjusted by adding to the profits that are lower and deducting from those that are higher an amount equal to three times the difference between them less three-quarters of those that are higher.

(4) No claim shall be made under this section—

(a) in respect of any year of assessment before a year in respect of which a claim has already been made under this section; or

(b) in respect of a year of assessment in which the trade is (or by virtue of section 113(1) is treated as) set up and commenced or permanently discontinued.

(5) Any adjustment under this section shall have effect for all the purposes of the Income Tax Acts (including any further application of this section where the second of any two years of assessment is the first of a subsequent pair) except that—

(a) subsection (2) above shall not prevent a person obtaining relief under those Acts for a loss sustained by him in any year of assessment;

(b) any adjustment under this section shall be disregarded for the purposes of section 63(1)(b); and

(c) where, after a claim has been made under this section in respect of the profits for any two years of assessment, the profits for both or either of those years are adjusted for any other reason, this section shall have effect as if the claim had not been made but without prejudice to the making of a further claim in respect of those profits as so adjusted.

(6) This section applies to the profits of a trade carried on by a person in partnership as it applies to the profits of a sole trader except that—

(a) the profits to which the claim relates shall be those chargeable in accordance with section 111; and

(b) any claim in respect of those profits shall be made jointly by all the partners who are individuals;

and where during the years of assessment to which the claim relates there is a change in the persons engaged in carrying on the trade but a notice is given under section 113(2), the claim shall be made jointly by all the persons who are individuals and have been engaged in carrying on the trade at any time during those years.

Where a person who is required by this subsection to join in the making of a claim has died, this subsection shall have effect as if it required his personal representatives to join in making the claim.

(7) In this section references to profits from a trade for a year of assessment are references to the profits or gains from that trade which are chargeable to income tax for that year before—

(a) any deduction for losses sustained in any year of assessment;

(b) any deduction or addition for capital allowances or charges (not being allowances or charges given or made by deduction or addition in the computation of profits or gains);

(c) any deduction for relief under Schedule 9 to the Finance Act 1981 (stock relief).

(8) Any claim under this section shall be made by notice given to the inspector not later than two years after the end of the second of the years of assessment to which the claim relates but any such further claim as is mentioned in subsection (5)(c) above shall not be out of time if made before the end of the year of assessment following that in which the adjustment is made.

(9) Where a person makes a claim under this section in respect of any year of assessment, any claim by him for relief for that year under any other provision of the Income Tax Acts—

(a) shall not be out of time if made before the end of the period in which the claim under this section is required to be made; and

(b) if already made, may be revoked or amended before the end of that period;

but no claim shall by virtue of this subsection be made, revoked or amended after the determination of the claim under this section.

(10) There shall be made all such alterations of assessments or repayments of tax (whether in respect of such profits as are mentioned in subsection (1) above or of other income of the person concerned) as may be required in consequence of any adjustment under this section.

(11) Nothing in this section shall be construed as applying to profits chargeable to corporation tax.

(12) This section applies where the first of the two years mentioned in subsection (1) above is the year 1987-88 or a subsequent year of assessment.

97 Treatment of farm animals etc

Schedule 5 shall have effect with respect to the treatment, in computing profits or gains for the purposes of Case I of Schedule D, of animals and other living creatures kept for the purposes of farming or any other trade.

98 Tied premises

(1) In computing for tax purposes the profits or gains or losses of a trade carried on by a lessor of tied premises—

(a) there shall be taken into account as a trading receipt any rent payable for the premises to him, and there shall be allowed as deduction any rent paid for the premises by him, but

(b) no deduction shall be allowed in respect of the premises either by reference to his being entitled to a rent for the premises which is less than the rent which might have been obtained (or less than their annual value or the rent payable by him for them) or in respect of the annual value of the premises.

(2) For the purposes of this section, premises shall be deemed to be tied premises in relation to any lessor of the premises, and in relation to any trade carried on by him, if, but only if, in the course of that trade, he is concerned (whether as principal or agent) in the supply of goods sold or used on the premises and accordingly deals with the premises or his interest in the premises as property employed for the purposes of that trade; and in this section "the relevant trade", in relation to any tied premises and to any lessor thereof, means any trade carried on by him in relation to which they are tied premises.

(3) Where part only of premises in respect of which rent is paid by or payable to a lessor of the premises are tied premises in relation to him, the rent paid or payable for the tied premises shall for the purposes of this section be taken to be that part of the entire rent which, on a fair and just apportionment, is attributable to them.

(4) Subject to subsection (5) below, a lessor of tied premises who is chargeable to tax for any chargeable period in respect of the profits or gains of the relevant trade shall not be liable for that period (or for the part of it during which he carries on that trade) to any tax in respect of the premises under Schedule A.

(5) Where, for any chargeable period or part of a chargeable period, a lessor of tied premises becomes entitled to any rent under a lease comprising the tied premises and

other premises, but is by virtue of subsection (4) above relieved of liability to tax in respect of the tied premises under Schedule A—

(a) his liability in respect of the rent shall be computed in the first instance as it would be apart from this section, but

(b) his total liability (so computed) in respect of the rent shall be reduced by the part which, on a fair and just apportionment, is attributable to the tied premises for the chargeable period or part thereof for which he is so relieved of liability in respect of them.

(6) If the lessor of tied premises outside the United Kingdom is chargeable to tax for any chargeable period in respect of the profits or gains of the relevant trade, he shall not be liable for that period (or for the part of it during which he carries on that trade) to tax under Case V of Schedule D in respect of any rent for the premises.

(7) Where the person carrying on a trade is, in the case of any premises, entitled in equity to the interest of any lessor of those premises, then, in relation to that person, subsections (1) to (3) above shall apply as if he were the lessor of the premises, and as if any rent payable to or paid by the lessor were payable to or paid by him; and, in relation to the lessor of the premises, subsections (4) and (5) above (or, in the case of premises outside the United Kingdom, subsection (6) above) shall apply as they would apply to the person carrying on the trade if the lessor's interest in the premises and in any other relevant land were vested in him.

(8) In this section "lease" includes an agreement for a lease if the term to be covered by the lease has begun, and any tenancy, but does not include a mortgage or heritable security, and "lessor" shall be construed accordingly, and includes the successors in title of a lessor.

99 Dealers in land

(1) In computing for tax purposes the profits or gains of a trade of dealing in land, there shall be disregarded—

(a) so much of the cost of woodlands in the United Kingdom purchased in the course of the trade as is attributable to trees or saleable underwood growing on the land; and

(b) where any amount has been disregarded under paragraph (a) above and, on a subsequent sale of the woodlands in the course of the trade, all or any of the trees or underwood to which the amount disregarded was attributable are still growing on the land, so much of the price for the land as is equal to the amount so disregarded in respect of those trees or underwood.

(2) In computing the profits or gains of a trade of dealing in land, any trading receipt falling within subsection (1), (4) or (5) of section 34 or section 35 or 36 shall be treated as reduced by the amount on which tax is chargeable by virtue of that section.

(3) Where, on a claim being made under subsection (2)(b) of section 36, the amount on which tax was chargeable by virtue of that section is treated as reduced, subsection (2) above shall be deemed to have applied to the amount as reduced, and any such adjustment of liability to tax shall be made (for all relevant chargeable periods) whether by means of an assessment or otherwise, as may be necessary, and may be so made at any time at which it could be made if it related only to tax for the chargeable period in which that claim is made.

(4) Subsection (1) above shall not apply where the purchase mentioned in paragraph (a) of that subsection was made under a contract entered into before 1st May 1963.

CHAPTER VI

DISCONTINUANCE, AND CHANGE OF BASIS OF COMPUTATION

Valuation of trading stock etc.

100 Valuation of trading stock at discontinuance of trade

(1) In computing for any tax purpose the profits or gains of a trade which has been discontinued, any trading stock belonging to the trade at the discontinuance shall be valued as follows—

(a) if—

(i) the stock is sold or transferred for valuable consideration to a person who carries on, or intends to carry on, a trade in the United Kingdom, and

(ii) the cost of the stock may be deducted by the purchaser as an expense in computing for any tax purpose the profits or gains of that trade,

the value of the stock shall be taken to be the amount realised on the sale or the value of the consideration given for the transfer; and

(b) if the stock does not fall to be valued under paragraph (a) above, its value shall be taken to be the amount which it would have realised if it had been sold in the open market at the discontinuance of the trade.

(2) For the purposes of this section "trading stock", in relation to any trade—

(a) means property of any description, whether real or personal, being either—

(i) property such as is sold in the ordinary course of the trade, or would be so sold if it were mature or if its manufacture, preparation or construction were complete; or

(ii) materials such as are used in the manufacture, preparation or construction of any such property as is referred to in sub-paragraph (i) above; and

(b) includes also any services, article or material which would, if the trade were a profession or vocation, be treated, for the purposes of section 101, as work in progress of the profession or vocation, and references to the sale or transfer of trading stock shall be construed accordingly.

101 Valuation of work in progress at discontinuance of profession or vocation

(1) Where, in computing for any tax purpose the profits or gains of a profession or vocation which has been discontinued, a valuation is taken of the work of the profession or vocation in progress at the discontinuance, that work shall be valued as follows—

(a) if—

(i) the work is transferred for money or any other valuable consideration to a person who carries on, or intends to carry on, a profession or vocation in the United Kingdom, and

(ii) the cost of the work may be deducted by that person as an expense in computing for any tax purpose the profits or gains of that profession or vocation,

the value of the work shall be taken to be the amount paid or other consideration given for the transfer; and

(b) if the work does not fall to be valued under paragraph (a) above, its value shall be taken to be the amount which would have been paid for a transfer of the work on the date of the discontinuance as between parties at arm's length.

(2) Where a profession or vocation is discontinued, and the person by whom it was carried on immediately before the discontinuance so elects by notice sent to the inspector at any time within 12 months after the discontinuance—

(a) the amount (if any) by which the value of the work in progress at the discontinuance (as ascertained under subsection (1) above) exceeds the actual cost of the work shall not be brought into account in computing the profits or gains of the period immediately before the discontinuance; but

(b) the amount by which any sums received for the transfer of the work exceed the actual cost of the work shall be included in the sums chargeable to tax by virtue of section 103 as if it were a sum to which that section applies received after the discontinuance.

(3) References in this section to work in progress at the discontinuance of a profession or vocation shall be construed as references to—

(a) any services performed in the ordinary course of the profession or vocation, the performance of which was wholly or partly completed at the time of the discontinuance and for which it would be reasonable to expect that a charge would have been made on their completion if the profession or vocation had not been discontinued; and

(b) any article produced, and any such material as is used, in the performance of any such services,

and references in this section to the transfer of work in progress shall include references to the transfer of any benefits and rights which accrue, or might reasonably be expected to accrue, from the carrying out of the work.

102 Provisions supplementary to sections 100 and 101

(1) Any question arising under section 100(1)(a) or 101(1)(a) shall be determined as follows, for the purpose of computing for any tax purpose the profits or gains of both the trades or, as the case may be, the professions or vocations concerned—

(a) in a case where the same body of General Commissioners have jurisdiction with respect to both the trades, professions or vocations concerned, the question shall be determined by those Commissioners unless all parties concerned agree that it shall be determined by the Special Commissioners;

(b) in any other case, the question shall be determined by the Special Commissioners; and

(c) the General or Special Commissioners shall determine the question in like manner as an appeal.

(2) Where, by virtue of section 113 or 337(1), a trade, profession or vocation is treated as having been permanently discontinued for the purpose of computing tax, it shall also be so treated for the purposes of sections 100 and 101; but those sections shall not

apply in a case where a trade, profession or vocation carried on by a single individual is discontinued by reason of his death.

Case VI charges on receipts

103 Receipts after discontinuance: earnings basis charge and related charge affecting conventional basis

(1) Where any trade, profession or vocation the profits or gains of which are chargeable to tax under Case I or II of Schedule D has been permanently discontinued, tax shall be charged under Case VI of that Schedule in respect of any sums to which this section applies which are received after the discontinuance.

(2) Subject to subsection (3) below, this section applies to the following sums arising from the carrying on of the trade, profession or vocation during any period before the discontinuance (not being sums otherwise chargeable to tax)—

(a) where the profits or gains for that period were computed by reference to earnings, all such sums in so far as their value was not brought into account in computing the profits or gains for any period before the discontinuance, and

(b) where those profits or gains were computed on a conventional basis (that is to say, were computed otherwise than by reference to earnings), any sums which, if those profits or gains had been computed by reference to earnings, would not have been brought into the computation for any period before the discontinuance because the date on which they became due, or the date on which the amount due in respect thereof was ascertained, fell after the discontinuance.

(3) This section does not apply to any of the following sums—

(a) sums received by a person beneficially entitled thereto who is not resident in the United Kingdom, or by a person acting on his behalf, which represent income arising directly or indirectly from a country or territory outside the United Kingdom, or

(b) a lump sum paid to the personal representatives of the author of a literary, dramatic, musical or artistic work as consideration for the assignment by them, wholly or partially, of the copyright in the work, or

(c) sums realised by the transfer of trading stock belonging to a trade at the discontinuance of the trade, or by the transfer of the work of a profession or vocation in progress at its discontinuance.

Paragraph (b) above shall have effect in relation to public lending right as it has effect in relation to copyright.

(4) Where—

(a) in computing for tax purposes the profits or gains of a trade, profession or vocation a deduction has been allowed for any debt incurred for the purposes of the trade, profession or vocation, and

(b) the whole or any part of that debt is thereafter released, and

(c) the trade, profession or vocation has been permanently discontinued at or after the end of the period for which the deduction was allowed and before the release was effected,

subsections (1) to (3) above shall apply as if the amount released were a sum received after the discontinuance.

(5) For the purposes of this section the value of any sum received in payment of a debt shall be treated as not brought into account in the computation of the profits or gains of a trade, profession or vocation to the extent that a deduction has been allowed in respect of that sum under section 74(j).

104 Conventional basis: general charge on receipts after discontinuance or change of basis

(1) Where any trade, profession or vocation the profits or gains of which are chargeable to tax under Case I or II of Schedule D has been permanently discontinued, and the profits or gains for any period before the discontinuance were computed on a conventional basis, tax shall be charged under Case VI of that Schedule in respect of any sums to which this subsection applies which are received on or after the discontinuance.

(2) Subject to subsection (3) below, subsection (1) above applies to all sums arising from the carrying on of the trade, profession or vocation during any period before the discontinuance, not being sums otherwise chargeable to tax, in so far as the amount or value of the sums was not brought into account in computing the profits or gains for any period before the discontinuance.

(3) In subsection (2) above the reference to sums otherwise chargeable to tax includes any sums which (disregarding this section) are chargeable to tax under section 103 or to which that section would have applied but for subsection (3)(a) and (b) of that section.

(4) Where, in the case of any trade, profession or vocation the profits or gains of which are chargeable to tax under Case I or II of Schedule D, there has been—

(a) a change from a conventional basis to the earnings basis, or

(b) a change of conventional basis which may result in receipts dropping out of computation,

tax shall be charged under Case VI of that Schedule in respect of sums to which this subsection applies which are received after the change and before the trade, profession or vocation is permanently discontinued.

(5) Subsection (4) above applies to all sums arising from the carrying on of the trade, profession or vocation during any period before the change, not being sums otherwise chargeable to tax, in so far as the amount or value of the sums was not brought into account in computing the profits or gains for any period.

(6) It is hereby declared that where work in progress at the discontinuance of a profession or vocation, or the responsibility for its completion, is transferred, the sums to which subsection (1) above applies include any sums received by way of consideration for the transfer, and any sums received by way of realisation by the transferee, on behalf of the transferor, of the work in progress transferred.

(7) Where in the case of any profession or vocation, the profits or gains of which are chargeable to tax under Case II of Schedule D—

(a) there has been a change from a conventional basis to the earnings basis, or a change of conventional basis, and

(b) the value of the work in progress at the time of the change was debited in the accounts and allowed as a deduction in computing profits for tax purposes for a period after the change,

then, in so far as no counterbalancing credit was brought into account in computing profits for tax purposes for any period ending before or with the date of the change,

tax shall be charged under subsection (4) above in respect of that amount for the year of assessment in which the change occurred as if that amount were a sum to which that subsection applies, and the change of basis were a change of the kind described in that subsection.

105 Allowable deductions

(1) In computing the charge to tax in respect of sums received by any person which are chargeable to tax by virtue of section 103 or 104(1) (including amounts treated as sums received by him by virtue of section 103(4)), there shall be deducted from the amount which, apart from this subsection, would be chargeable to tax—

(a) any loss, expense or debit (not being a loss, expense or debit arising directly or indirectly from the discontinuance itself) which, if the trade, profession or vocation had not been discontinued, would have been deducted in computing for tax purposes the profits or gains of the person by whom it was carried on before the discontinuance, or would have been deducted from or set off against those profits or gains as so computed, and

(b) any capital allowance to which the person who carried on the trade, profession or vocation was entitled immediately before the discontinuance and to which effect has not been given by way of relief before the discontinuance.

(2) No amount shall be deducted under subsection (1) above if that amount has been allowed under any other provision of the Tax Acts.

(3) No amount shall be deducted more than once under subsection (1) above; and—

(a) any expense or debit shall be apportioned between a sum chargeable under section 103 and a sum chargeable under section 104(1) in such manner as may be just;

(b) as between sums chargeable, whether under section 103 or 104(1), for one chargeable period and sums so charged for a subsequent chargeable period, any deduction in respect of a loss or capital allowance shall be made against sums chargeable for the earlier chargeable period;

(c) subject to paragraph (b) above, as between sums chargeable for any chargeable period under section 103 and sums so chargeable under section 104(1), any deduction in respect of a loss or capital allowance shall be made against the last-mentioned sums rather than the first-mentioned;

but, in the case of a loss which is to be allowed after the discontinuance, not so as to authorise its deduction from any sum chargeable for a chargeable period preceding that in which the loss is incurred.

(4) In computing the charge to tax in respect of sums received by any person which are chargeable to tax by virtue of section 104(4), there shall be deducted any expense or debit which is not otherwise allowable and which, but for the change in basis, would have been deducted in computing for tax purposes the profits or gains of the trade, profession or vocation, but no amount shall be deducted more than once under this subsection.

106 Application of charges where rights to payments transferred

(1) Subject to subsection (2) below, in the case of a transfer for value of the right to receive any sum to which section 103, 104(1) or 104(4) applies, any tax chargeable by virtue of either of those sections shall be charged in respect of the amount or value of the

consideration (or, in the case of a transfer otherwise than at arm's length, in respect of the value of the right transferred as between parties at arm's length), and references in this Chapter, except section 101(2), to sums received shall be construed accordingly.

(2) Where a trade, profession or vocation is treated as permanently discontinued by reason of a change in the persons carrying it on, and the right to receive any sum to which section 103 or 104(1) applies is or was transferred at the time of the change to the persons carrying on the trade, profession or vocation after the change, tax shall not be charged by virtue of either of those sections, but any sum received by those persons by virtue of the transfer shall be treated for all purposes as a receipt to be brought into the computation of the profits or gains of the trade, profession or vocation in the period in which it is received.

Reliefs

107 Treatment of receipts as earned income

Where an individual is chargeable to tax by virtue of section 103 or 104, and the profits or gains of the trade, profession or vocation to which he was entitled before the discontinuance or, as the case may be, change of basis fell to be treated as earned income for the purposes of income tax, the sums in respect of which he is so chargeable shall also be treated as earned income for those purposes (but, in the case of sums chargeable by virtue of section 104, after any reduction in those sums under section 109).

108 Election for carry-back

Where any sum is—

(a) chargeable to tax by virtue of section 103 or 104, and

(b) received in any year of assessment beginning not later than six years after the discontinuance or, as the case may be, change of basis by the person by whom the trade, profession or vocation was carried on before the discontinuance or change, or by his personal representatives,

that person or (in either case) his personal representatives may, by notice sent to the inspector within two years after that year of assessment, elect that the tax so chargeable shall be charged as if the sum in question were received on the date on which the discontinuance took place or, as the case may be, on the last day of the period at the end of which the change of basis took place; and, in any such case, an assessment shall (notwithstanding anything in the Tax Acts) be made accordingly, and, in connection with that assessment, no further deduction or relief shall be made or given in respect of any loss or allowance deducted in pursuance of section 105.

109 Charge under section 104: relief for individuals born before 6th April 1917

(1) If an individual born before 6th April 1917, or the personal representatives of such an individual, is chargeable to tax under section 104 and—

(a) the individual was engaged in carrying on a trade, profession or vocation on 18th March 1968, and

(b) the profits or gains of the trade, profession or vocation were not computed by reference to earnings in the period in which that 18th March fell, or in any subsequent period ending before or with the relevant date,

the net amount with which he is so chargeable to tax shall be reduced by multiplying that net amount by the fraction given below.

(2) Where section 104(4) applies in relation to a change of basis taking place on a date before 19th March 1968, then, in relation to tax chargeable by reference to that change of basis, that earlier date shall be substituted for the date in subsection (1)(a) above and subsection (1)(b) above shall be omitted.

(3) The fraction referred to in subsection (1) above is—

(a) where on 5th April 1968 the individual had not attained the age of 52—

$$\frac{19}{20}$$

(b) where on that date he had attained the age of 52, but had not attained the age of 53—

$$\frac{18}{20}$$

and so on, reducing the fraction by—

$$\frac{1}{20}$$

for each year he had attained up to the age of 64;

(c) where on that date he had attained the age of 65, or any greater age—

$$\frac{5}{20}$$

(4) In this section—

"the net amount" with which a person is chargeable to tax under section 104 means the amount with which he is so chargeable after making any deduction authorised by section 105 but before giving any relief under this section; and

"relevant date"—

(a) in relation to tax under section 104(1), means the date of the permanent discontinuance, and

(b) in relation to tax under section 104(4), means the date of the change of basis.

(5) Subsections (1) to (4) above shall apply as follows as respects the net amount of any sum chargeable under section 104 which is assessed by reference to a sum accruing to a partnership—

(a) the part of that net amount which is apportioned to any partner (who is an individual), or the personal representative of such an individual, shall be a net amount with which that person is chargeable under that section, and

(b) if the part of that net amount which is so apportioned is a greater proportion of that amount than is the individual's share (that is to say, the part to be included in his total income) of the total amount of the partnership profits assessed to income tax for the three years of assessment ending with the year in which the discontinuance or change of basis took place, the amount of the reduction to

be given by way of relief shall not exceed the amount of relief which would have been so given if the apportionment had been made by reference to his share of that total amount.

(6) For the purposes of this section the trade, profession or vocation carried on before a permanent discontinuance shall not be treated as the same as any carried after the discontinuance.

Supplemental

110 Interpretation etc

(1) The following provisions have effect for the purposes of sections 103 to 109.

(2) For the purposes of those sections, any reference to the permanent discontinuance of a trade, profession or vocation includes a reference to the occurring of any event which, under section 113 or 337(1), is to be treated as equivalent to the permanent discontinuance of a trade, profession or vocation.

(3) The profits or gains of a trade, profession or vocation in any period shall be treated as computed by reference to earnings where all credits and liabilities accruing during that period as a consequence of its being carried on are brought into account in computing those profits or gains for tax purposes, and not otherwise, and "earnings basis" shall be construed accordingly.

(4) "Conventional basis" has the meaning given by section 103(2), so that profits or gains are computed on a conventional basis if computed otherwise than by reference to earnings.

(5) There is a change from a conventional basis to the earnings basis at the end of a period the profits or gains of which were computed on a conventional basis if the profits or gains of the next succeeding period are computed by reference to earnings; and, if the profits or gains of two successive periods are computed on different conventional bases, a change of conventional basis occurs at the end of the earlier period.

(6) In sections 103 and 104—

(a) "trading stock" has the meaning given by section 100(2);

(b) references to work in progress at the discontinuance of a profession or vocation, and to the transfer of work in progress, are to be construed in accordance with section 101(3); and

(c) the reference to work in progress at the time of a change of basis is also to be construed in accordance with section 101(3), substituting therein for this purpose references to the change of basis for references to the discontinuance.

CHAPTER VII

PARTNERSHIPS AND SUCCESSIONS

General

111 Partnership assessments to income tax

Where a trade or profession is carried on by two or more persons jointly, income tax in respect thereof shall be computed and stated jointly, and in one sum, and shall be separate and distinct from any other tax chargeable on those persons or any of them, and a joint assessment shall be made in the partnership name.

112 Partnerships controlled abroad

(1) Where a trade or business is carried on by two or more persons in partnership, and the control and management of the trade or business is situated abroad, the trade or business shall be deemed to be carried on by persons resident outside the United Kingdom, and the partnership shall be deemed to reside outside the United Kingdom, notwithstanding the fact that some of the members of the partnership are resident in the United Kingdom and that some of its trading operations are conducted within the United Kingdom.

(2) Where any part of the trade or business of a partnership firm whose management and control is situated abroad consists of trading operations within the United Kingdom, the firm shall, subject to subsection (3) below, be chargeable in respect of the profits of those trading operations within the United Kingdom to the same extent as, and no further than, a person resident abroad is chargeable in respect of trading operations by him within the United Kingdom, notwithstanding the fact that one or more members of the firm are resident in the United Kingdom.

(3) For the purpose of charging any such firm as is mentioned in subsection (2) above in respect of the profits of its trading operations within the United Kingdom, an assessment may be made on the firm in respect of those profits in the name of any partner resident in the United Kingdom.

(4) In any case where—

(a) a person resident in the United Kingdom (in this subsection and subsection (5) below referred to as "the resident partner") is a member of a partnership which resides or is deemed to reside outside the United Kingdom; and

(b) by virtue of any arrangements falling within section 788 any of the income or capital gains of the partnership is relieved from tax in the United Kingdom,

the arrangements referred to in paragraph (b) above shall not affect any liability to tax in respect of the resident partner's share of any income or capital gains of the partnership.

(5) If, in a case where subsection (4) above applies, the resident partner's share of the income of the partnership consists of or includes a share in a qualifying distribution made by a company resident in the United Kingdom, then, notwithstanding anything in the arrangements, the resident partner (and not the partnership as a whole) shall be regarded as entitled to that share of the tax credit in respect of the distribution which corresponds to his share of the distribution.

(6) Section 115(5) has effect as respects the application of this section where the partners in a partnership include a company.

113 Effect, for income tax, of change in ownership of trade, profession or vocation

(1) Where there is a change in the persons engaged in carrying on any trade, profession or vocation chargeable under Case I or II of Schedule D, then, subject to the provisions of this section and of section 114(3)(b), the amount of the profits or gains of the trade, profession or vocation on which income tax is chargeable for any year of assessment and the persons on whom it is chargeable, shall be determined as if the trade, profession or vocation had been permanently discontinued, and a new one set up and commenced, at the date of the change.

(2) Subject to section 114(3)(b), where there is such a change as is mentioned in subsection (1) above, and a person engaged in carrying on the trade, profession or vocation immediately before the change continues to be so engaged immediately after it, the persons so engaged immediately before and the persons so engaged immediately after the change may, by notice signed by them and sent to the inspector at any time within two years after the date of the change, elect that subsection (1) above shall not apply to treat the trade, profession or vocation as discontinued or a new one as set up and commenced.

(3) Where there is in any year of assessment a change in the persons engaged in carrying on a trade, profession or vocation, and subsection (1) above does not apply by reason of a notice under subsection (2) above, then—

(a) income tax in respect of the trade, profession or vocation for that year shall be assessed and charged separately on those so engaged before the change and on those so engaged after the change, but the amount on which tax is chargeable shall be computed as if there had been no such change in that year, and shall be apportioned as may be just; and

(b) if, after the change but before the end of the second year of assessment following that in which the change occurred, there is a permanent discontinuance of the trade, profession or vocation (including a change treated as such), then, on that discontinuance, section 63 shall apply, as respects any period before the first-mentioned change, to the persons charged or chargeable for that period as it would apply if no such change had taken place and they had been charged to tax accordingly for the subsequent period up to the discontinuance.

(4) There shall be made any such assessment, reduction of an assessment or, on the making of a claim therefor, repayment of income tax as may in any case be necessary for giving effect to this section.

(5) Any question which arises as to the manner in which any sum is to be apportioned under subsection (3)(a) above shall be determined, for the purposes of the tax of all of the persons as respects whose liability to tax the apportionment is material—

(a) in a case where the same body of General Commissioners have jurisdiction with respect to all those persons, by those Commissioners, unless all those persons agree that it shall be determined by the Special Commissioners;

(b) in a case where different bodies of Commissioners have jurisdiction with respect to those persons, by such of those bodies as the Board may direct, unless all those persons agree that it shall be determined by the Special Commissioners; and

(c) in any other case, by the Special Commissioners;

and any such Commissioners shall determine the question in like manner as an appeal, except that all those persons shall be entitled to appear and be heard by the Commissioners who are to make the determination, or to make representations to them in writing.

(6) In the case of the death of a person who, if he had not died, would under the provisions of this section have become chargeable to tax for any year, the tax which would have been so chargeable shall be assessed and charged upon his executors or administrators, and shall be a debt due from and payable out of his estate; and where under those provisions an election may be made by any person, it may in the case of his death be made by his executors or administrators instead of by him.

(7) For the purposes of this section, a change in the personal representatives of any person, or in the trustees of any trust, shall not be treated as a change in the persons engaged in carrying on any trade, profession or vocation carried on by those personal representatives or trustees as such.

Partnerships involving companies

114 Special rules for computing profits and losses

(1) So long as a trade is carried on by persons in partnership, and any of those persons is a company, the profits and losses (including terminal losses) of the trade shall be computed for the purposes of corporation tax in like manner, and by reference to the like accounting periods, as if the partnership were a company, and without regard to any change in the persons carrying on the trade, except that—

(a) references to distributions shall not apply; and

(b) subject to section 116(5), no deduction or addition shall be made for charges on income, or for capital allowances and charges, nor in any accounting period for losses incurred in any other period nor for any expenditure to which section 401(1) applies; and

(c) a change in the persons engaged in carrying on the trade shall be treated as the transfer of the trade to a different company if there continues to be a company so engaged after the change, but not a company that was so engaged before the change.

(2) A company's share in the profits or loss of any accounting period of the partnership, or in any matter excluded from the computation by subsection (1)(b) above, shall be determined according to the interests of the partners during that period, and corporation tax shall be chargeable as if that share derived from a trade carried on by the company alone in its corresponding accounting period or periods; and the company shall be assessed and charged to tax for its corresponding accounting period or periods accordingly.

In this subsection "corresponding accounting period or periods" means the accounting period or periods of the company comprising or together comprising the accounting period of the partnership, and any necessary apportionment shall be made between corresponding accounting periods if more than one.

(3) Where any of the persons engaged in carrying on the trade is an individual, income tax shall be chargeable in respect of his share of the profits, and he shall be entitled to relief for his share of any loss, as if all the partners had been individuals except that—

(a) income tax shall be chargeable, and any relief from income tax shall be given, by reference to the computations made for corporation tax, but so that the amounts so computed for an accounting period of the capital allowances and charges falling to be made in taxing the trade shall (as regards the individual's share of them) be given or made for the year or years of assessment comprising that period and, where necessary, apportioned accordingly; and

(b) section 113 shall not apply by reason of any change in the persons engaged in carrying on the trade unless an individual begins or ceases to be so engaged, and, where it does apply, an election under subsection (2) of that section shall be made only by the individuals so engaged, and only if an individual so engaged before the change continues to be so engaged after it; and

(c) sections 388 and 389 shall not apply except where section 394 applies to the partnership as a whole.

(4) Section 111 shall apply to income tax chargeable in accordance with this section, matters relevant only to corporation tax being omitted from the assessment.

115 Provisions supplementary to section 114

(1) Subsections (2) and (3) below have effect as respects income tax chargeable in accordance with section 114 for any year of assessment throughout all or any part of which one or more of the persons engaged in carrying on the trade is an individual.

(2) Notwithstanding any difference between the partners' interests during the basis period and their interests during the year of assessment, the amount of the individual's income from the partnership for the year of assessment, or the total of the amounts of the individuals' incomes from the partnership for that year, shall be deemed to be not less than the profits of the basis period, reduced, where any share was apportioned to a company under section 114(2), by the amount of that company's share.

(3) Where there are two or more individuals and, but for subsection (2) above, the total of the amounts of the individuals' incomes from the partnership for the year would fall short of the profits of the basis period reduced, where any share was apportioned to a company under section 114(2), by the amount of that company's share, that amount shall be apportioned—

(a) according to the individuals' interests during the year of assessment, disregarding any company's interest; and

(b) in so far as that does not determine, or fully determine, the apportionment, between the individuals in equal shares.

(4) Where a trade or business is carried on by two or more persons in partnership, and the control and management of the trade or business is situated abroad but those persons include a company resident in the United Kingdom, then as regards that company, this section and section 114 shall have effect as if the partnership were resident in the United Kingdom, and an assessment may be made on the company accordingly.

(5) Subject to subsection (4) above, where the partners in a partnership include a company, section 112 shall apply whether for corporation tax or for income tax; and this section and section 114 shall have effect accordingly.

(6) In this section and section 114—

"basis period", in relation to a year of assessment, means any accounting period or part of an accounting period which is, or forms part of, the period on

the profits or gains of which income tax for the year of assessment in question falls to be computed under Schedule D in respect of the trade;

"capital allowances and charges" means any allowances or charges under any of the Capital Allowances Acts, not being allowances or charges which, for income tax, are given or made by deduction or addition in the computation of profits or gains;

and references in subsection (1) above to an individual's income from the partnership are references to that income before deduction of capital allowances or charges on income.

(7) For the purposes of this section and section 114 "profits" shall not be taken as including chargeable gains.

116 Arrangements for transferring relief

(1) The provisions of subsection (2) below shall apply in relation to a company ("the partner company") which is a member of a partnership carrying on a trade if arrangements are in existence (whether as part of the terms of the partnership or otherwise) whereby—

(a) in respect of the whole or any part of the value of, or of any portion of, the partner company's share in the profits or loss of any accounting period of the partnership, another member of the partnership or any person connected with another member of the partnership receives any payment or acquires or enjoys, directly or indirectly, any other benefit in money's worth; or

(b) in respect of the whole or any part of the cost of, or of any portion of, the partner company's share in the loss of any accounting period of the partnership, the partner company or any person connected with that company receives any payment or acquires or enjoys, directly or indirectly, any other benefit in money's worth, other than a payment in respect of group relief to the partner company by a company which is a member of the same group as the partner company for the purposes of group relief.

(2) In any case where the provisions of this subsection apply in relation to the partner company—

(a) the company's share in the loss of the relevant accounting period of the partnership and its share in any charges on income, within the meaning of section 338, paid by the partnership in that accounting period shall not be available for set-off for the purposes of corporation tax except against its share in the profits of the trade carried on by the partnership; and

(b) except in accordance with paragraph (a) above, no trading losses shall be available for set-off for the purposes of corporation tax against the company's share in the profits of the relevant accounting period of the partnership; and

(c) except in accordance with paragraphs (a) and (b) above, no amount which, apart from this subsection, would be available for relief against profits shall be available for set-off for the purposes of corporation tax against so much of the company's total profits as consists of its share in the profits of the relevant accounting period of the partnership; and

(d) notwithstanding anything in section 239, no advance corporation tax may be set against the company's liability to corporation tax on its share in the profits of the relevant accounting period of the partnership.

(3) In subsection (2) above "relevant accounting period of the partnership" means any accounting period of the partnership in which any such arrangements as are specified in subsection (1) above are in existence or to which any such arrangements apply.

(4) If a company is a member of a partnership and tax in respect of any profits of the partnership is chargeable under Case VI of Schedule D, this section shall apply in relation to the company's share in the profits or loss of the partnership as if—

(a) the profits or loss to which the company's share is attributable were the profits of, or the loss incurred in, a trade carried on by the partnership; and

(b) any allowance which falls to be made under section 46(1) of the Finance Act 1971 (machinery and plant on lease) were an allowance made in taxing that trade.

(5) For the purposes of this section, subsection (2) of section 114 shall have effect for determining a company's share in the profits or loss of any accounting period of a partnership as if, in subsection (1)(b) of that section, the words "or for capital allowances and charges" were omitted.

(6) In this section "arrangements" means arrangements of any kind whether in writing or not.

(7) Section 839 shall apply for the purposes of this section.

Limited partners

117 Restriction on relief: individuals

(1) An amount which may be given or allowed to an individual under section 353, 380 or 381 below or section 71 of the 1968 Act—

(a) in respect of a loss sustained by him in a trade, or of interest paid by him in connection with the carrying on of a trade, in a relevant year of assessment; or

(b) as an allowance falling to be made to him for a relevant year of assessment either in taxing a trade or by way of discharge or repayment of tax to which he is entitled by reason of his participation in a trade,

may be given or allowed otherwise than against income consisting of profits or gains arising from the trade only to the extent that the amount given or allowed or (as the case may be) the aggregate amount does not exceed the relevant sum.

(2) In this section—

"limited partner" means—

(i) a person who is carrying on a trade as a limited partner in a limited partnership registered under the Limited Partnerships Act 1907;

(ii) a person who is carrying on a trade as a general partner in a partnership, who is not entitled to take part in the management of the trade and who is entitled to have his liabilities, or his liabilities beyond a certain limit, for debts or obligations incurred for the purposes of the trade discharged or reimbursed by some other person; or

(iii) a person who carries on a trade jointly with others and who, under the law of any territory outside the United Kingdom, is not entitled to take part in the management of the trade and is not liable beyond a certain limit for debts or obligations incurred for the purposes of the trade;

"relevant year of assessment" means a year of assessment at any time during which the individual carried on the trade as a limited partner;

"the aggregate amount" means the aggregate of any amounts given or allowed to him at any time under section 353, 380 or 381 below or section 71 of the 1968 Act—

(a) in respect of a loss sustained by him in the trade, or of interest paid by him in connection with carrying it on, in a relevant year of assessment; or

(b) as an allowance falling to be made to him for a relevant year of assessment either in taxing the trade or by way of discharge or repayment of tax to which he is entitled by reason of his participation in the trade;

"the relevant sum" means the amount of his contribution to the trade as at the appropriate time; and

"the appropriate time" is the end of the relevant year of assessment in which the loss is sustained or the interest paid or for which the allowance falls to be made (except that where he ceased to carry on the trade during that year of assessment it is the time when he so ceased).

(3) A person's contribution to a trade at any time is the aggregate of—

(a) the amount which he has contributed to it as capital and has not, directly or indirectly, drawn out or received back (other than anything which he is or may be entitled so to draw out or receive back at any time when he carries on the trade as a limited partner or which he is or may be entitled to require another person to reimburse to him), and

(b) the amount of any profits or gains of the trade to which he is entitled but which he has not received in money or money's worth.

(4) To the extent that an allowance is taken into account in computing profits or gains or losses in the year of the loss by virtue of section 383(1) it shall, for the purposes of this section, be treated as falling to be made in the year of the loss (and not the year of assessment for which the year of loss is the basis year).

118 Restriction on relief: companies

(1) An amount which may be given or allowed under section 338, 393(2) or 403(1) to (3) and (7) below or section 74 of the 1968 Act—

(a) in respect of a loss incurred by a company in a trade, or of charges paid by a company in connection with the carrying on of a trade, in a relevant accounting period; or

(b) as an allowance falling to be made to a company for a relevant accounting period either in taxing a trade or by way of discharge or repayment of tax to which it is entitled by reason of its participation in a trade,

may be given or allowed to that company ("the partner company") otherwise than against profits or gains arising from the trade, or to another company, only to the extent that the amount given or allowed or (as the case may be) the aggregate amount does not exceed the relevant sum.

(2) In this section—

"relevant accounting period" means an accounting period of the partner company at any time during which it carried on the trade as a limited partner (within the meaning of section 117(2));

"the aggregate amount" means the aggregate of any amounts given or allowed to the partner company or another company at any time under section 338, 393(2) or 403(1) to (3) and (7) below or section 74 of the 1968 Act—

(a) in respect of a loss incurred by the partner company in the trade, or of charges paid by it in connection with carrying it on, in any relevant accounting period; or

(b) as an allowance falling to be made to the partner company for any relevant accounting period either in taxing the trade or by way of discharge or repayment of tax to which it is entitled by reason of its participation in the trade;

"the relevant sum" means the amount of the partner company's contribution (within the meaning of section 117(3)) to the trade as at the appropriate time; and

"the appropriate time" is the end of the relevant accounting period in which the loss is incurred or the charges paid or for which the allowance falls to be made (except that where the partner company ceased to carry on the trade during that accounting period it is the time when it so ceased).

CHAPTER VIII

MISCELLANEOUS AND SUPPLEMENTAL

119 Rent etc. payable in connection with mines, quarries and similar concerns

(1) Where rent is payable in respect of any land or easement, and either—

(a) the land or easement is used, occupied or enjoyed in connection with any of the concerns specified in section 55(2); or

(b) the lease or other agreement under which the rent is payable provides for the recoupment of the rent by way of reduction of royalties or payments of a similar nature in the event of the land or easement being so used, occupied or enjoyed,

the rent shall, subject to section 122, be charged to tax under Schedule D, and, subject to subsection (2) below, shall be subject to deduction of income tax under section 348 or 349 as if it were a royalty or other sum paid in respect of the user of a patent.

(2) Where the rent is rendered in produce of the concern, it shall, instead of being treated as provided by subsection (1) above, be charged under Case III of Schedule D, and the value of the produce so rendered shall be taken to be the amount of the profits or income arising therefrom.

(3) For the purposes of this section—

"easement" includes any right, privilege or benefit in, over or derived from land; and

"rent" includes a rent service, rentcharge, fee farm rent, feuduty or other rent, toll, duty, royalty or annual or periodical payment in the nature of rent, whether payable in money or money's worth or otherwise.

120 Rent etc. payable in respect of electric line wayleaves

(1) Where rent is payable in respect of any easement enjoyed in the United Kingdom in connection with any electric, telegraphic or telephonic wire or cable (not being such an easement as is mentioned in section 119(1)), the rent shall be charged to tax under Schedule D, and, subject to subsections (2) to (5) below, shall be subject to deduction of income tax under section 348 or 349 as if it were a royalty or other sum paid in respect of the user of a patent.

(2) Any payment of rent to which subsection (1) above applies which does not exceed £2.50 per year may, if the payer so elects, be treated as not affected by so much of that subsection as provides that the rent shall be subject to deduction of income tax, and shall in that event be made without deduction of income tax accordingly.

(3) Any payment of rent to which subsection (1) above applies which is made without deduction of income tax, whether by virtue of subsection (2) above or otherwise, shall, unless income tax is assessed thereon under section 350, be chargeable to tax under Case III of Schedule D.

(4) Any payment of rent to which subsection (1) above applies which is made subject to deduction of income tax shall, if it is paid by a person carrying on a trade which consists of or includes the provision of a radio relay service and the wire or cable in question is used by that person for the purposes of that service—

(a) be deductible (notwithstanding anything in section 74(q)) in computing the amount of the profits or gains of the trade to be charged under Case I of Schedule D, and

(b) be deemed for the purposes of sections 348 and 349 not to be payable out of profits or gains brought into charge to income tax.

(5) In this section—

(a) "easement" and "rent" have the same meanings as in section 119;

(b) the reference to easements enjoyed in connection with any electric, telegraphic or telephonic wire or cable includes (without prejudice to the generality of that expression) references to easements enjoyed in connection with any pole or pylon supporting any such wire or cable, or with any apparatus (including any transformer) used in connection with any such wire or cable; and

(c) "radio relay service" means the retransmission by wire to their customers of broadcast programmes (which may or may not be television programmes) which the persons carrying on the service receive either by wire or by wireless from the British Broadcasting Corporation or from the persons outside the United Kingdom who broadcast the programmes in question.

121 Management expenses of owner of mineral rights

(1) Where for any year of assessment rights to work minerals in the United Kingdom are let, the lessor shall, subject to subsection (2) below, be entitled, on making a claim for the purpose, to be repaid so much of the income tax paid by him by deduction or otherwise in respect of the rent or royalties for that year as is equal to the amount of the tax on any sums proved to have been wholly, exclusively and necessarily disbursed by him as expenses of management or supervision of those minerals in that year.

(2) No repayment of tax shall be made under subsection (1) above if, or to such extent as, the expenses in question have been otherwise allowed as a deduction in computing income for the purposes of income tax.

(3) In computing for the purposes of corporation tax the income of a company for any accounting period from the letting of rights to work minerals in the United Kingdom, there may be deducted any sums disbursed by the company wholly, exclusively and necessarily as expenses of management or supervision of those minerals in that period.

122 Relief in respect of mineral royalties

(1) Subject to the following provisions of this section, a person resident or ordinarily resident in the United Kingdom who in any year of assessment or accounting period is entitled to receive any mineral royalties under a mineral lease or agreement shall be treated—

(a) for the purposes of income tax, or as the case may be for the purposes of corporation tax on profits exclusive of chargeable gains, as if the total of the mineral royalties receivable by him under that lease or agreement in that year or period and any management expenses available for set-off against those royalties in that year or period were each reduced by one-half; and

(b) for the purposes of the 1979 Act or as the case may be for the purposes of corporation tax on chargeable gains, as if there accrued to him in that year or period a chargeable gain equal to one-half of the total of the mineral royalties receivable by him under that lease or agreement in that year or period;

and this section shall have effect notwithstanding any provision of section 119(1) making the whole of certain kinds of mineral royalties chargeable to tax under Schedule D, but without prejudice to any provision of that section providing for any such royalties to be subject to deduction of income tax under section 348 or 349.

(2) For the purposes of subsection (1)(a) above, "management expenses available for set-off" against royalties means—

(a) where section 121 applies in respect of the royalties, any sum brought into account under subsection (1) of that section in determining the amount of the repayment of income tax in respect of those royalties or, as the case may be, deductible from those royalties under subsection (2) of that section in computing the income of a company for the purposes of corporation tax; and

(b) if the royalties are chargeable to tax under Schedule A, any sums deductible under Part II as payments made in respect of management of the property concerned;

and if neither paragraph (a) nor paragraph (b) above applies, the reference in subsection (1)(a) above to management expenses available for set-off shall be disregarded.

(3) The amount of the chargeable gain treated as accruing to any person by virtue of subsection (1)(b) above shall, notwithstanding anything in the enactments relating to the computation of chargeable gains, be the whole amount calculated in accordance with that subsection, and, accordingly, no reduction shall be made on account of expenditure incurred by that person or of any other matter whatsoever.

(4) Where subsection (1) above applies in relation to mineral royalties receivable under a mineral lease or agreement by a person not chargeable to corporation tax in respect of those royalties, then, in so far as the amount of income tax paid, by deduction or otherwise, by him in respect of those mineral royalties in any year of assessment exceeds the amount of income tax for which he is liable in respect of those royalties by virtue of subsection (1)(a) above—

(a) the amount of the excess shall in the first instance be set against the tax for which he is chargeable by virtue of subsection (1)(b) above; and

(b) on the making of a claim in that behalf, he shall be entitled to repayment of tax in respect of the balance of that excess.

(5) In this section references to mineral royalties refer only to royalties receivable on or after 6th April 1970, and the expression "mineral royalties" means so much of any rents, tolls, royalties and other periodical payments in the nature of rent payable under a mineral lease or agreement as relates to the winning and working of minerals; and the Board may by regulations—

(a) provide whether, and to what extent, payments made under a mineral lease or agreement and relating both to the winning and working of minerals and to other matters are to be treated as mineral royalties; and

(b) provide for treating the whole of such payments as mineral royalties in cases where the extent to which they relate to matters other than the winning and working of minerals is small.

(6) In this section—

"minerals" means all minerals and substances in or under land which are ordinarily worked for removal by underground or surface working but excluding water, peat, top-soil and vegetation; and

"mineral lease or agreement" means—

(a) a lease, profit ah prendre, licence or other agreement conferring a right to win and work minerals in the United Kingdom;

(b) a contract for the sale, or a conveyance, of minerals in or under land in the United Kingdom; and

(c) a grant of a right under section 1 of the Mines (Working Facilities and Support) Act 1966, other than an ancillary right within the meaning of that Act.

(7) In the application of this section to Northern Ireland—

(a) references to mineral royalties include references to periodical payments—

(i) of compensation under section 29 or 35 of the Mineral Development Act (Northern Ireland) 1969 ("the 1969 Act") or under section 4 of the Petroleum (Production) Act (Northern Ireland) 1964 ("the 1964 Act"); and

(ii) made as mentioned in section 37 of the 1969 Act or under section 55(4)(b) of that Act or under section 11 of the 1964 Act (payments in respect of minerals to persons entitled to a share of royalties under section 13(3) of the Irish Land Act 1903); and

(b) in its application to any such payments as are mentioned in paragraph (a) above, references to the mineral lease or agreement under which mineral royalties are payable shall be construed as references to the enactment under which the payments are made.

(8) In any case where, before the commencement of this section, for the purposes of the 1979 Act or of corporation tax on chargeable gains, a person was treated as if there had accrued to him in any year of assessment or accounting period ending before 6th April 1988 a chargeable gain equal to the relevant fraction, determined in accordance with section 29(3)(b) of the Finance Act 1970, of the total of the mineral royalties receivable by him under that lease or agreement in that year or period, subsection (1)(b) above shall have effect in relation to any mineral royalties receivable by him under

that lease or agreement in any later year or period with the substitution for the reference to one-half of a reference to the relevant fraction as so determined.

123 Foreign dividends

(1) In this section—

(a) "foreign dividends" means any interest, dividends or other annual payments payable out of or in respect of the stocks, funds, shares or securities of any body of persons not resident in the United Kingdom (but not including any such payment to which section 348 or 349(1) applies) and references to dividends shall be construed accordingly;

(b) "relevant foreign dividends" means foreign dividends payable out of or in respect of stocks, funds, shares or securities which are not held in a recognised clearing system;

(c) "banker" includes a person acting as a banker; and

(d) references to coupons include, in relation to any dividends, warrants for or bills of exchange purporting to be drawn or made in payment of those dividends.

(2) Where relevant foreign dividends are entrusted to any person in the United Kingdom for payment to any persons in the United Kingdom, they shall be assessed and charged to income tax under Schedule D by the Board, and Parts III and IV of Schedule 3 shall apply in relation to the income tax to be so assessed and charged.

(3) Where—

(a) a banker or any other person in the United Kingdom, by means of coupons received from any other person or otherwise on his behalf, obtains payment of any foreign dividends elsewhere than in the United Kingdom, or

(b) any banker in the United Kingdom sells or otherwise realises coupons for foreign dividends, and pays over the proceeds to any person or carries them to his account, or

(c) any dealer in coupons in the United Kingdom purchases any such coupons otherwise than from a banker or another dealer in coupons,

tax under Schedule D shall extend, in the cases mentioned in paragraph (a) above, to the dividends, and, in the cases mentioned in paragraphs (b) and (c) above, to the proceeds of the sale or other realisation, and income tax shall be assessed and charged and paid under this subsection in accordance with Parts III and IV of Schedule 3.

(4) In the cases mentioned in subsections (2) and (3) above, no tax shall be chargeable if it is proved, on a claim in that behalf made to the Board, that the person owning the stocks, funds, shares or securities and entitled to the dividends or proceeds is not resident in the United Kingdom.

(5) Where stocks, funds, shares or securities are held under a trust, and the person who is the beneficiary in possession under the trust is the sole beneficiary in possession and can, by means either of the revocation of the trust or the exercise of any power under the trust, call upon the trustees at any time to transfer the stocks, funds, shares or securities to him absolutely free from the trust, that person shall, for the purposes of subsection (4) above, be deemed to be the person owning the stocks, funds, shares or securities.

(6) Where any income of any person is by virtue of any provision of the Tax Acts (and in particular, but without prejudice to the generality of the preceding words, Chapter

III of Part XVII) to be deemed to be income of any other person, that income is not exempt from tax by virtue of subsection (4) above by reason of the first mentioned person not being resident in the United Kingdom.

124 Interest on quoted Eurobonds

(1) Section 349(2) shall not apply to interest paid on any quoted Eurobond where—

(a) the person by or through whom the payment is made is not in the United Kingdom; or

(b) the payment is made by or through a person who is in the United Kingdom but either of the conditions mentioned in subsection (2) below is satisfied.

(2) The conditions are—

(a) that it is proved, on a claim in that behalf made to the Board, that the person who is the beneficial owner of the quoted Eurobond and is entitled to the interest is not resident in the United Kingdom;

(b) that the quoted Eurobond is held in a recognised clearing system.

(3) In a case falling within subsection (1)(b) above the person by or through whom the payment is made shall deliver to the Board—

(a) on demand by the Board an account of the amount of any such payment; and

(b) not later than 12 months after making any such payment, and unless within that time he delivers an account with respect to the payment under paragraph (a) above, a written statement specifying his name and address and describing the payment.

(4) Where by virtue of any provision of the Tax Acts interest paid on any quoted Eurobond is deemed to be income of a person other than the person who is the beneficial owner of the quoted Eurobond, subsection (2)(a) above shall apply as if it referred to that other person.

(5) Subsections (3) to (6) of section 123 shall apply in relation to interest on quoted Eurobonds as they apply to foreign dividends but with the following modifications—

(a) subsection (4) shall apply as if it required a claim to have been made on or before the event by virtue of which tax would otherwise be chargeable; and

(b) paragraph 6(1) of Schedule 3 shall apply with the omission of paragraphs (a) and (b).

(6) In this section—

"quoted Eurobond" means a security which—

(a) is issued by a company;

(b) is quoted on a recognised stock exchange;

(c) is in bearer form; and

(d) carries a right to interest; and

"recognised clearing system" means any system for clearing quoted Eurobonds which is for the time being designated for the purposes of this section by order made by the Board, as a recognised clearing system.

(7) An order under subsection (6) above—

(a) may contain such transitional and other supplemental provisions as appear to the Board to be necessary or expedient; and

(b) may be varied or revoked by a subsequent order so made.

125 Annual payments for non-taxable consideration

(1) Any payment to which this subsection applies shall be made without deduction of income tax, shall not be allowed as a deduction in computing the income or total income of the person by whom it is made and shall not be a charge on income for the purposes of corporation tax.

(2) Subject to the following provisions of this section, subsection (1) above applies to any payment which—

(a) is an annuity or other annual payment charged with tax under Case III of Schedule D, not being interest; and

(b) is made under a liability incurred for consideration in money or money's worth all or any of which is not required to be brought into account in computing for the purposes of income tax or corporation tax the income of the person making the payment.

(3) Subsection (1) above does not apply to—

(a) any payment which in the hands of the recipient is income falling within section 683(1)(a) or (c) or (6);

(b) any payment made to an individual under a liability incurred in consideration of his surrendering, assigning or releasing an interest in settled property to or in favour of a person having a subsequent interest;

(c) any annuity granted in the ordinary course of a business of granting annuities; or

(d) any annuity charged on an interest in settled property and granted at any time before 30th March 1977 by an individual to a company whose business at that time consisted wholly or mainly in the acquisition of interests in settled property or which was at that time carrying on life assurance business in the United Kingdom.

(4) In the application of this section to Scotland the references in subsection (3) above to settled property shall be construed as references to property held in trust.

(5) Subsection (1) above applies to a payment made after 5th April 1988 irrespective of when the liability to make it was incurred.

126 Treasury securities issued at a discount

(1) Where a security to which this section applies is issued at a discount, tax shall not be charged in respect of the discount under Case III of Schedule D; but the discount shall not for that reason be regarded as annual profits or gains chargeable to tax under Case VI of Schedule D.

(2) This section applies to all securities issued by the Treasury after 6th March 1973 except Treasury bills.

127 Enterprise allowance

(1) This section applies to—

(a) payments known as enterprise allowance and made by the Manpower Services Commission in pursuance of arrangements under section 2(2)(d) of the Employment and Training Act 1973; and

(b) corresponding payments made in Northern Ireland by the Department of Economic Development.

(2) Any such payment which would (apart from this section) be charged to tax under Case I or II of Schedule D shall be charged to tax under Case VI of that Schedule.

(3) Nothing in subsection (2) above shall prevent such a payment—

(a) being treated for the purposes of section 623(2)(c) or 833(4)(c) as immediately derived from the carrying on or exercise of a trade, profession or vocation; or

(b) being treated for the purposes of paragraph 1 of Schedule 19 as trading income.

128 Commodity and financial futures etc.: losses and gains

Any gain arising to any person in the course of dealing in commodity or financial futures or in qualifying options, which apart from this section would constitute profits or gains chargeable to tax under Schedule D otherwise than as the profits of a trade, shall not be chargeable to tax under that Schedule.

In this section "commodity or financial futures" and "qualifying options" have the same meaning as in section 72 of the Finance Act 1985, and the reference to a gain arising in the course of dealing in commodity or financial futures includes any gain which is regarded as arising in the course of such dealing by virtue of subsection (2A) of that section.

129 Stock lending

(1) Subject to subsection (4) below, this section applies where a person ("A") has contracted to sell securities and, to enable him to fulfil the contract, he enters into an arrangement under which—

(a) another person ("B") is to transfer securities to A or his nominee; and

(b) in return securities of the same kind and amount are to be transferred (whether or not by A or his nominee) to B or his nominee.

(2) Subject to subsection (4) below, this section also applies where, to enable B to make the transfer to A or his nominee, B enters into an arrangement under which—

(a) another person ("C") is to transfer securities to B or his nominee; and

(b) in return securities of the same kind and amount are to be transferred (whether or not by B or his nominee) to C or his nominee.

(3) Any transfer made in pursuance of an arrangement mentioned in subsection (1) or (2) above shall not be taken into account for the purposes of the Tax Acts in computing the profits or losses of any trade carried on by the transferor or transferee.

(4) The Treasury may provide by regulations that this section or any provision of it or section 149B(9) of the 1979 Act does not apply unless such conditions as are specified in the regulations are fulfilled; and the conditions may relate to the capacity in which any person involved in any arrangement is acting, the Board's approval of any such person or of the arrangement, the nature of the securities or otherwise.

(5) In this section "securities" includes stocks and shares.

(6) This section applies to transfers made after such date as is specified for this purpose by regulations made under section 61 of the Finance Act 1986 or, if no such regulations have been made before 6th April 1988, under this section.

130 Meaning of "investment company" for purposes of Part IV

In this Part of this Act "investment company", means any company whose business consists wholly or mainly in the making of investments and the principal part of whose income is derived therefrom, but includes any savings bank or other bank for savings except any which, for the purposes of the Trustee Savings Bank Act 1985, is a successor or a further successor to a trustee savings bank.