



Finance Act 1965

1965 CHAPTER 25

PART IV

TAXATION OF COMPANIES AND OF COMPANY DISTRIBUTIONS.

Commencement and transitional.

- 80 Commencement of corporation tax for existing companies, and transition from income tax.**
- (1) A company not within the charge to income tax for the year 1965-66 in respect of a source of income shall not come within the charge to corporation tax in respect of that source for any period before the end of that year.
 - (2) Where a company is within the charge to income tax for that year in respect of a source of income, the company shall not come within the charge to corporation tax in respect of the source for any period before the end of that year, unless the charge to income tax for that year falls to be ascertained by reference to a period ending before the end of that year and the company possesses the source at the end of that year, but shall in that case be within the charge to corporation tax in respect of the source from the end of the basis period for income tax for that year or, if it is later, the end of the basis period for the year 1964-65.
 - (3) Where, in respect of a trade chargeable under Case I or II of Schedule D, a company is within the charge to income tax from a time before the financial year 1965, then (so long as the company continues to be within the charge to corporation tax in respect of that trade) section 49(4) of this Act shall not apply to the company, but corporation tax assessed on the company (or on some person in its place) for any accounting period, whether or not in respect of the trade, shall be paid within the like interval from the end of the accounting period as there was between the end of the basis period of the trade for the year 1965-66 and 1st January 1966 or, if it is later, within one month from the making of the assessment:

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Provided that this subsection shall not apply unless the said interval is longer than nine months. Where this subsection applies to a company having distinct trades with different basis periods, that one of the basis periods which ends soonest shall be taken.

- (4) In this section any reference to the basis period for the year 1964-65 or 1965-66 is, in relation to any source of income, a reference to the period on the income of which the income tax (if any) chargeable for that year falls to be finally computed in respect of the source or, where by virtue of any provision of the Income Tax Acts the income of any other period is to be taken to be the income of the said period, that other period.
- (5) Where a company is within the charge to income tax in respect of a trade at the end of the year 1965-66, and continues to carry on the trade after the end of that year, section 54(2) of this Act shall not apply to treat the trade as permanently discontinued and a new trade as set up and commenced on the company first coming within the charge to corporation tax in respect of the trade.
- (6) Where in the case of a trade carried on by a company the year 1965-66 is the second year of assessment within the meaning of section 129 of the Income Tax Act 1952 (period of computation of profits for second and third years of trade), the company may at any time within the following six years give or revoke the like notice under that section for that year as, but for this Part of this Act, could be given for that and the succeeding year.
- (7) Section 130 of the Income Tax Act 1952 (period of computation of profits on discontinuance of trade) shall not apply in relation to income tax for any year of assessment on the discontinuance after the end of the year 1965-66 of a trade carried on by a company; nor shall section 18 of the Finance Act 1952 (period of computation under Case III, IV or V of Schedule D for source of income disposed of etc.) apply in the case of a company in relation to income tax for the year 1965-66, unless that year is the last year in which the company possesses the source, or that year or the preceding year is to be treated under section 18(1)(c), (2) or (4) as if it were the last year.
- (8) Where a company is carrying on a trade at the end of the year 1965-66, and a relevant change within the meaning of Schedule 3 (company reconstructions) to the Finance Act 1954 has occurred in the trade before the end of that year, then for all purposes of corporation tax the company and all other persons affected shall be treated as if the company had carried on the trade from the end of the basis period for the year 1965-66 and as if anything done to or by its predecessors in carrying on the trade since the end of that period had been done to or by it; and they shall also be so treated for purposes of any relief from income tax in respect of losses incurred in the trade after the end of that basis period.
- (9) Where subsections (1), (2) and (7) above would operate differently for different parts of a source of income (not being a trade) if those parts were treated as separate sources for the purposes of those subsections, they shall be so treated.

81 Winding up of the profits tax.

- (1) Subject to subsection (4) below, there shall be disregarded for the purposes of the profits tax for any chargeable accounting period profits in respect of which a body corporate, society or other body is within the charge to corporation tax, and all amounts which would be deductible in computing any such profits for profits tax purposes (in so far as they are also deductible in computing other profits for those purposes) and which are deductible for corporation tax, except that—

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- (a) if that body or society is within the charge to corporation tax in respect of the profits for part only of the chargeable accounting period, this subsection shall apply in relation to that part, and there shall be made the like apportionments between that part and the remainder, as if the two parts were separate chargeable accounting periods; and
 - (b) in the case of a close company, a deduction may be made in respect of the remuneration of directors other than whole-time service directors, so long as the deduction, when added to the amount of any deduction that may be made for corporation tax (or such part of any such deduction as is apportionable to the chargeable accounting period), does not exceed the deduction which would have been permitted under paragraph 11 of Schedule 4 to the Finance Act 1937 if this subsection had not had effect.
- (2) Subject to subsection (4) below, where a body or society is within the charge to corporation tax in respect of a trade for periods comprising the whole or part of the year 1964-65 or 1965-66, then in respect of allowances and charges made for purposes of income tax in charging the profits or gains of the trade for that year no deduction or addition shall be made under paragraph 1 or 2 (capital allowances) of Part I of Schedule 8 to the Finance Act 1947 for purposes of the profits tax for any accounting period falling wholly or partly within the said periods, except such deduction or addition, if any, as would be made for any part of that accounting period falling outside the said periods if that part were a separate accounting period.
- (3) Paragraph 4 of Part I of Schedule 8 to the Finance Act 1947 (which provides for capital allowances and charges to be made in the case of businesses not chargeable to income tax under Case I of Schedule D) shall not have effect for the making of deductions or additions by reference to the period after the year 1965-66.
- (4) Where, apart from this provision, the profits tax would be chargeable in accordance with this section on profits of any trade or business, the body or society chargeable may, by notice in writing given to the Board before 6th April 1968 or within such longer time as the Board may in any case allow, elect that this section, except subsection (3), shall not have effect in relation to that body or society.
- (5) No enactment limiting the time for making assessments to the profits tax shall prevent the making of such an assessment in consequence of an election under section 80(6) of this Act, if it is made within the time allowed for making an assessment to income tax in consequence of that election.
- (6) No assessment shall be made to profits tax in respect of any distribution made after 5th April 1966.

82 Interim charge of tax on capital gains of companies, and exclusion of companies and local authorities from Case VII of Schedule D.

- (1) Where after the end of the year 1964-65 a company is resident in the United Kingdom, or is carrying on a trade there through a branch or agency, but has not come within the charge to corporation tax in respect of any source of income or part of a source, capital gains tax at the rate of thirty-five per cent. shall be assessed and charged on the company in respect of the total amount of chargeable gains accruing to the company before it comes within the charge to corporation tax as aforesaid, after deducting any allowable losses accruing to it in that period and any losses which, under Chapter II of Part II of the Finance Act 1962, are allowable against gains accruing to it in the year 1964-65 but cannot be so allowed.

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- (2) Income tax shall not be charged by virtue of section 10 or section 14 of the Finance Act 1962 (short-term gains) in respect of an acquisition and disposal of any chargeable assets by a company or by a local authority (as defined in section 66 of this Act) or a local authority association (as so defined), and section 10(7) (profits tax on short-term gains) shall cease to have effect; and accordingly sections 10 and 14 shall not apply for corporation tax.

This subsection has effect—

- (a) in relation to an acquisition or disposal if either the acquisition or the disposal, whichever is the earlier, occurs on or before 6th April 1965 but the disposal or acquisition, whichever is the later, occurs after 6th April 1965 ; and
 - (b) in relation to an acquisition and disposal if both the acquisition and the disposal occur on or after 6th April 1965.
- (3) In the case of a gain of any amount accruing to a company on an acquisition and disposal within subsection (2)(a) above, the gain shall be treated for purposes of subsection (1) above or, as the case may be, of corporation tax as if it were a chargeable gain, and any loss so accruing shall be brought into account accordingly; and for those purposes the question whether any and, if so what, gain or loss so accrues shall accordingly be determined in accordance with the provisions applicable to income tax chargeable under Case VII of Schedule D and not in accordance with the provisions of Part III of this Act.
- (4) Any losses which are allowable against chargeable gains under subsection (1) above or would be so allowable but for the company being within the charge to corporation tax from the beginning of the year 1965-66, in so far as they cannot be allowed against chargeable gains under subsection (1), shall be treated for purposes of corporation tax as if they were allowable losses accruing to the company while within the charge to corporation tax and not earlier than the year 1965-66.
- (5) Capital gains tax shall not be charged under this section in respect of gains accruing to an overseas trade corporation on the disposal of assets which constitute property, or an interest in property, which is situated outside the United Kingdom and directly employed for the purposes of a trade carried on by the overseas trade corporation; and accordingly losses arising on the disposal of assets situated outside the United Kingdom which constitute property, or an interest in property, directly employed for the purposes of a trade carried on by an overseas trade corporation shall not be allowable losses for purposes of this section.
- (6) The provisions applicable by virtue of this Part of this Act to corporation tax in respect of chargeable gains shall, with any necessary modifications, apply in relation to capital gains tax chargeable by virtue of this section, in so far as they are provisions which—
- (a) confer or relate to any exemption or relief from tax, including the relief from tax of gains not received in the United Kingdom, or provide for any corresponding restriction of allowable losses; or
 - (b) affect the incidence of tax or the computation of gains or losses, or the matters which may give rise to a charge to tax;
- and the provisions so applied shall extend to all the provisions of Schedule 13 to this Act, including those relating to the recovery of tax, and to the provisions relating to the apportionment of chargeable gains accruing to unit trusts and investment trusts:

Provided that references in Part I of the said Schedule 13 to a company shall not apply to an overseas trade corporation.

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83 Dividend increases in 1965-66.

- (1) Where in the year 1965-66 a company resident in the United Kingdom pays a gross amount in dividends greater than the standard amount, then subject to the provisions of this section the excess shall (as regards that company) be brought into account under sections 47(3) and 48 of this Act as if it were the gross amount of dividends paid by the company on the first day of the year 1966-67 after deduction of income tax at the standard rate for that year (and were not the subject of an election under section 48(3)):

Provided that, in relation to the cases dealt with by Schedule 19 to this Act, this section shall have effect subject to the provisions of that Schedule.

- (2) Except in the case of a company not carrying on business earlier than December 1963, the standard amount shall be taken to be the amount of the standard dividends unless and until the standard amount is ascertained in accordance with subsection (3) below.
- (3) Except in the case of a company not carrying on business earlier than December 1963, if the amount ascertained in accordance with this subsection is higher than the amount of the standard dividends, the standard amount shall be whichever is the higher of—
- (a) seven and a half per cent. of the company's share capital in the financial year 1965; and
 - (b) up to the amount of the company's profits in the financial year 1965, the amount of the standard dividends increased (if there is occasion) in proportion either—
 - (i) to any increase in the profits in the financial year 1965 as compared with the standard profits; or
 - (ii) if it is the larger proportionate increase, to any increase in the share capital in the financial year 1965 as compared with that in the standard period:

Provided that in the case of a company not having a period of account ending before December 1964, or not having commenced to carry on business three years at least before the end of the last such period of account, the standard amount shall not be less than one half the amount of the profits of the financial year 1965.

- (4) In the case of a company not carrying on business earlier than December 1963, the standard amount shall be whichever is the higher of—
- (a) seven and a half per cent. of the company's share capital in the financial year 1965; and
 - (b) one-half the amount of the company's profits in the financial year 1965.
- (5) Where in the year 1965-66 a company pays a dividend for a period ending in the financial year 1964, being a period of account of not more than twelve months, then if the company so requires subsection (3) above, or in the case of a company not carrying on business earlier than December 1963 subsection (4), shall have effect in relation to the company with the company's profits in that period of account substituted for those in the financial year 1965.
- (6) For purposes of this section, except as otherwise provided by subsection (7) below—
- (a) a company's profits and share capital in the financial year 1965, if the company so requires, shall both be ascertained by reference to a period of twelve months selected by the company, being a period ending in that year and not beginning earlier than the end of the standard period or earlier than the time when the company commenced to carry on business ;

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- (b) the standard period of a company is the three years ending with the company's last accounting date before December 1964;
 - (c) the standard dividends of a company are whichever is the greater of—
 - (i) one third of the gross amount of the dividends of the company which were paid in the three years up to the beginning of December 1964 ; and
 - (ii) seven and a half per cent. of the company's share capital in the standard period;
 - (d) the standard profits of a company are whichever is the greater of—
 - (i) one third of the company's profits for the standard period; and
 - (ii) ten per cent. of the company's share capital in the standard period.
- (7) Where a company's last accounting date before December 1964 is less than three years after it commenced to carry on business, the company's standard period is the period between its commencing to carry on business and the beginning of December 1964, or if that is more than three years, the last three years or such other three years as the company may select in that period ; and if the standard period is less than three years, then the three years referred to in subsection (6)(c) above shall be replaced for the company by the standard period, and the references to one third in subsection (6)(c) and (d) above shall be replaced for the company by references to the fraction which one year is of the standard period.
- (8) For purposes of this section a company's share capital in any period shall be computed by taking the initial capital and adjusting it—
- (a) by adding the amount or value of any consideration actually received during the period for the issue of share capital or on the payment up of issued share capital, but so that the addition shall be reduced in each case by such fraction of the amount or value as the part of the period before receipt is of the whole period; and
 - (b) by deducting the amount or value of any money or other assets paid or transferred by the company during the period for the repayment of any share capital, but so that the deduction shall be reduced in each case by such fraction of the amount or value as the part of the period before the payment or transfer is of the whole period.

In this subsection " the initial capital " means—

- (i) in relation to the standard period, the amount at the beginning of the period of the paid-up share capital and of any share premium account (or other comparable account by whatever name called); and
 - (ii) in relation to any later period, the said amount adjusted by making for the period from the beginning of the standard period to the beginning of the later period the like additions and deductions as are provided for by paragraphs (a) and (b) above, but so that no such addition or deduction shall be reduced as there mentioned.
- (9) For purposes of this section the amount of a company's profits for any period shall be taken to be the amount (as it would, apart from the provisions of this Act, be computed for purposes of the profits tax) of the profits of the company, computed without abatement and including franked investment income, except that regard shall not be had to section 22 of the Finance Act 1937 (under which profits or losses of a subsidiary may be treated as those of the principal company) or to any limitation on the deductions that may be allowed in respect of the remuneration of the directors, nor to

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any investment allowances, initial allowances or balancing charges, to any scientific research allowance in respect of expenditure incurred after 5th November 1962 or to so much of any annual allowance made at a rate determined under section 38 or 39 of the Finance Act 1963 (free depreciation in development districts) or under section 14 of this Act, as exceeds an allowance at a yearly rate of fifteen per cent. of the relevant amount of expenditure.

- (10) For purposes of this section the amount of a company's profits for any period when it was an overseas trade corporation shall be computed as if it had never been an overseas trade corporation; and any amount treated by virtue of this section as dividends paid in the year 1966-67 shall be disregarded for purposes of section 26 of the Finance Act 1957 (under which an overseas trade corporation is chargeable to income tax by reference to dividends paid out of exempt trading income), and shall for this purpose be treated as comprising dividends paid later rather than dividends paid earlier.
- (11) Where a company has in the year 1965-66 paid a gross amount in dividends greater than the standard amount, it may, not later than two years after the end of that year, apply to the Board to be exempted from the foregoing provisions of this section, and if the company shows that it was not the company's main purpose or one of its main purposes in paying that excess to avoid or reduce a liability under section 47(3) of this Act in respect of dividends paid after that year, the Board shall certify that the company is entitled to exemption under this subsection, and subsection (1) above shall then not apply to the company.

If on an application duly made by a company the Board refuse a certificate under this subsection, the company shall have the like right of appeal to the Special Commissioners against the refusal as if it were an assessment made on the company under Schedule D, and the enactments relating to an appeal against such an assessment (including any enactment relating to the statement of a case for the opinion of the High Court) shall apply accordingly.

- (12) In the foregoing subsections " dividend " does not include a capital dividend; but where in the year 1965-66 after 27th April 1965 a company resident in the United Kingdom pays an amount in capital dividends greater than the yearly average of the amounts so paid by it before that year and since the beginning of the year 1962-63 (or, if later, the date the company commenced to carry on business) the excess shall as regards that company be brought into account under sections 47(3) and 48 of this Act as if it were the gross amount of dividends paid by the company on the first day of the year 1966-67 after deduction of income tax at the standard rate for that year (and were not the subject of an election under section 48(3)):

Provided that any capital dividend paid after 27th April 1965 shall be regarded for the purposes of this subsection as having been paid before that date if—

- (i) it was declared by the company in general meeting before that date ; or
 - (ii) it was declared in general meeting after that date but in accordance with a recommendation of the directors and the directors' decision to make that recommendation was, with the authority of the directors, publicly announced before that date; or
 - (iii) it was paid in accordance with a decision of the directors, and that decision was, with their authority, publicly announced before that date.
- (13) For the purposes of this section " gross amount " in relation to any dividends paid or treated as paid means the amount which, after deduction of income tax thereon at the

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standard rate for the year of assessment when the payment or supposed payment takes place, is equal to the amount paid or treated as paid:

Provided that the gross amount of dividends paid after deduction of income tax at a reduced rate in accordance with section 19 of the Finance Act 1962 shall be determined by reference to that reduced rate instead of the standard rate.

- (14) This section shall not apply to a company which has ceased to carry on business before the year 1966-67 or of which the business is at the beginning of that year being carried on by a liquidator in the winding up of the company, nor shall this section have effect by virtue of section 69 of the Finance Act 1960 in relation to the trustees of a unit trust scheme.

84 Transitional relief for existing companies with overseas trading income.

- (1) Where a company resident in the United Kingdom shows, as regards the base year (that is to say, such one of the years 1962-63, 1963-64 and 1964-65 as the company may select as its base year for purposes of this section).—

- (a) that the company possessed an overseas source of trading income; and
- (b) that in respect of that source there was allowed credit for foreign tax which exceeds the current charge to corporation tax in any of the seven years of assessment beginning with the year 1966-67, calculated on the income from the source in the base year;

then for each source and each of those seven years for which it is shown to be so, the company shall, subject to the adjustments and restrictions below mentioned, be given relief in an amount equal to the excess at (b) above:

Provided that the aggregate relief for all sources, as calculated apart from this proviso, shall be reduced by one-fifth in the year 1969-70, by two-fifths in the year 1970-71, by three-fifths in the year 1971-72 and by four-fifths in the year 1972-73.

- (2) The aggregate relief for any year of assessment, as calculated in accordance with subsection (1) above apart from any reduction under the proviso to that subsection, shall, where necessary, be reduced so as not to exceed the adjusted aggregate amount in the related period of the unused credit for foreign tax in respect of the company's income from overseas sources of trading income; and for this purpose the said aggregate amount is to be adjusted by computing the unused credit for foreign tax in respect of the income from any source—

- (a) where the company is not within the charge to corporation tax in respect of the source, by treating the income as nevertheless chargeable to corporation tax and not chargeable to income tax or profits tax; and
- (b) where the foreign tax is more than 56 ¼ per cent., by disallowing the unused credit in respect of the excess; and
- (c) by calculating the income without any deduction for the unused credit.

- (3) The aggregate relief for any year of assessment, as calculated in accordance with the foregoing subsections apart from any reduction under the proviso to subsection (1), shall, where necessary, be reduced so as not to exceed the amount after deducting income tax borne by the company on franked investment income of the income tax deducted or deductible from the company's dividends paid in that year, reduced in the proportion (if it is less than one) which, in the related period, the amount charged to corporation tax of the company's income from overseas sources of trading

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income having an unused credit for foreign tax bears to the amount so charged of the company's income from all sources:

Provided that—

- (a) the amount of any income shall for purposes of this subsection be calculated without deduction for any unused credit for foreign tax; and
 - (b) where in the related period or any part of it, the company is not within the charge to corporation tax in respect of any source of income, this subsection shall have effect in relation thereto as if income from the source (so far as of a description chargeable to corporation tax) had been charged to corporation tax and not charged to income tax or profits tax.
- (4) If, in any year of assessment for which relief is claimed, the net amount of the dividends paid by the company exceeds the net amount of the company's dividends in each of the four years of assessment 1962-63, 1963-64, 1964-65 and 1965-66, then the aggregate relief, as calculated in accordance with the foregoing subsections apart from any reduction under the proviso to subsection (1), shall be reduced by four-fifths of whichever excess is the least:

Provided that—

- (a) if the net amount of the dividends in any of the years 1962-63, 1963-64 and 1964-65 is higher than the corresponding amount for the year before that year, and is also higher than the corresponding amount for the year after (adjusted, if it is the year 1965-66, for the increase in the standard rate of income tax), the year to which this applies shall be left out of account, but if it applies to the year 1962-63, the year 1961-62 shall be substituted; and
 - (b) in determining whether there is any such excess in the case of the year 1965-66, or what is the amount of that excess, there shall be deducted from the dividends paid in that year any amount treated under section 83 of this Act as paid in the following year; and
 - (c) if between any earlier year of assessment and that for which relief is claimed there has been any increase in the paid up share capital of the company for any new consideration received by the company, then the dividends paid in the earlier year shall be treated as increased by such amount as is equal before deduction of income tax therefrom to six per cent. of the amount or value of that consideration.
- (5) Where, in any year of assessment for which relief is claimed, the company by virtue of an election under section 48 of this Act pays any dividends without deduction of income tax, then the relief shall be reduced in the proportion which those dividends bear to the total amount of the dividends paid by the company in that year or, if all the dividends so paid are paid without deduction of income tax, relief shall not be given to the company for that year.
- (6) In relation to the cases dealt with by Schedule 20 to this Act, this section shall have effect subject to the provisions of that Schedule.
- (7) A company entitled to relief under this section shall, on making a claim to the inspector and on proof to his satisfaction of the amount due, be paid by the Board out of moneys provided by Parliament a sum equal to that amount (which shall not be treated as income for purposes of corporation tax); but the Board may by statutory instrument make regulations as to the time and manner of making claims for relief, and the information and evidence to be furnished in connection therewith, and as to the manner

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in which any sums paid by way of relief and afterwards found not to have been due may be recovered.

Section 9 of the Income Tax Management Act 1964 shall apply to any claim under this section.

- (8) For the calculation of relief under this section—
- (a) references to income in the base year and to the profits tax thereon are references to income as computed for the charge to income tax for that year (omitting any amount on which relief from tax is allowed otherwise than by way of credit for foreign tax or on which the company charges the tax against any other person otherwise than under section 184 of the Income Tax Act 1952) and to the profits tax on the income of the period used in the computation;
 - (b) "credit for foreign tax" means a credit under Part XIII of the Income Tax Act 1952 and, in relation to the base year, means the credit allowed against income tax for that year and, where credit was allowed against income tax, any credit allowed against the profits tax on the income in the base year, and "unused credit for foreign tax" means foreign tax which cannot be allowed as a credit because the foreign tax exceeds the United Kingdom taxes;
 - (c) "the current charge to corporation tax" means in relation to any year of assessment the corporation tax which, at the rate for the preceding financial year, would be chargeable on the income in question;
 - (d) "dividend" does not include a capital dividend, and in relation to any dividends "net amount" means the amount, less any income tax deducted or deductible, and "income tax deducted or deductible" includes any income tax that might have been deducted but for the dividends being group income;
 - (e) "the related period" in relation to any year of assessment is the company's accounting period ending at or last before the beginning of that year or, if that is a period of less than twelve months, the twelve months ending with that period (the necessary amounts for any such period of twelve months being found by division and aggregation or apportionment of amounts for accounting periods wholly or partly comprised in it).
- (9) For the purposes of this section "overseas source of trading income" means a trade exercised outside the United Kingdom by the company claiming relief (a trade exercised in more than one territory being for this purpose regarded as so many separate trades), except that it includes also any investment of that company in a company resident in a territory outside the United Kingdom where either—
- (a) the company claiming relief controls directly or indirectly, not less than one-tenth of the voting power in the latter company; or
 - (b) a third company having such control also controls directly or indirectly, not less than one-half of the voting power in the company claiming relief.

85 Transitional relief for companies paying dividends out of pre-1966-67 profits.

- (1) With a view to taking account in relation to distributions made by a company in or after the year 1966-67 (but not after the year 1968-69) of income tax borne by the company in earlier years of assessment, a company resident in the United Kingdom shall be entitled to be treated for purposes of section 48 of this Act as if the provisions of that section about the carry forward from one year to another of a surplus of franked investment income applied to a carry forward from the year 1965-66, and as if in

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that year the company had had a surplus of franked investment income of an amount computed in accordance with this section (" the notional surplus ").

- (2) Subject to subsections (7) and (8) below, the notional surplus shall be whichever is the greater of—
- (a) an amount (" the one year surplus ") calculated so that income tax on it at the standard rate for the year 1965-66 may represent, according to the rules prescribed by this section, the proportion referable to the company's income arising in that year which is subject to income tax and profits tax of the extra charge to those taxes as compared with a charge to corporation tax, but so that the one year surplus shall not exceed the amount on which the repayments of income tax under this section would equal the income tax paid by the company on distributions made by it in the year 1966-67;
 - (b) an amount ("the three year surplus") calculated in accordance with the rules prescribed by this section to represent the excess, adjusted for any relief under section 84 of this Act, of the company's dividends (other than capital dividends) in the years 1966-67, 1967-68 and 1968-69 over the distributable profits of the financial years 1966, 1967 and 1968, but so that the three-year surplus shall not exceed the amount on which the repayments of income tax under this section would equal the income tax ultimately borne by the company in the years 1963-64, 1964-65 and 1965-66.
- (3) For the calculation of the one year surplus, the extra charge to income tax and profits tax as compared with a charge to corporation tax for the year 1965-66 shall be arrived at (subject to subsection (4) below) by aggregating—
- (a) the income tax (at the standard rate or the net United Kingdom rate, as the case may be) deducted from dividends received by the company in the year from companies resident in the United Kingdom, in so far as that tax is ultimately borne by the company; and
 - (b) the profits tax charged on the company for any chargeable accounting period or part of a chargeable accounting period falling within the year (or, if the liability to profits tax was affected by a notice under section 22 of the Finance Act 1937 (groups of companies), the tax which would have been so charged but for the notice); and
 - (c) the appropriate fraction of the income tax ultimately borne by the company on income arising in the year other than the tax deducted from dividends received from companies resident in the United Kingdom, the appropriate fraction being that obtained by dividing by the standard rate of income tax for the year the difference between that rate and the rate of corporation tax for the financial year 1965 ;

and the proportion of this referable to the company's income arising in the year which is subject to income tax and profits tax shall be taken to be the fraction obtained by dividing the aggregate amount of the income tax at (a) and (c) above by the sum of that amount and the amount of the corporation tax charged on the company for the financial year 1965.

The reference in paragraph (c) above to income arising in the year shall, where income tax is to be computed by reference to the amount received in the United Kingdom, be construed as a reference to the income so received.

- (4) Where the dividends received by the company in the year 1965-66 include dividends from a member of the same group of companies, and that member pays in the year a gross amount in dividends greater than its standard amount, then there shall be

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excluded from the dividends taken into account under subsection (3) (a) above a part of the dividends received from that member which bears to the whole the same proportion as the excess bears to all the dividends paid by that member in the year 1965-66:

Provided that this subsection shall not apply unless the gross amount of the dividends received by the company in the year 1965-66 from members of the same group of companies exceeds one-third of the gross amount of the dividends received by the company in its standard period from companies then being members of the same group of companies (or, if the standard period is less than three years, an amount bearing to the dividends last mentioned the same proportion as one year bears to the standard period), and where any dividends would fall to be excluded under this subsection, the company may elect that the exclusion shall be of such part of the dividends received from members of the same group as is equal to the excess referred to in this proviso.

This subsection shall be construed in accordance with section 83 of and Schedule 19 to this Act.

- (5) In arriving at the amount ultimately borne by the company of the income tax at (3)(c) and (c) above, the deduction of tax by the company under section 184 (dividends) of the Income Tax Act 1952 shall not be treated as reducing the tax ultimately borne by the company, but any tax otherwise charged against any person by the company and any relief under section 341 of that Act (relief for trade loss against general income) shall be set, as far as may be, against income tax borne by the company in the year other than the tax at 3(a) or (c), then against the tax at (3)(c), then against the tax at (3)(a).
- (6) For the calculation of the three year surplus—
- (a) the dividends in the three years of assessment shall be taken before deduction of income tax, and (except in the calculation under paragraph (c) below) shall be taken to include any amount treated under section 83 of this Act as a dividend paid in the year 1966-67 ;
 - (b) the distributable profits for the three financial years shall be arrived at by taking the profits on which corporation tax is charged for those years, less the corporation tax so charged and any credit for foreign tax allowed against corporation tax, and less the amount of any directors' remuneration not deductible in computing those profits, and adding—
 - (i) franked investment income and group income received in those years ;
 - (ii) the amount of any deductions made in assessing that tax for investment allowances or scientific research allowances (on the basis that deductions for capital allowances are referred to other allowances in priority to investment or scientific research allowances), and of any deductions so made for losses, allowances or expenses of management of any period falling outside those years;
 - (c) the excess of the dividends at (a) above over the distributable profits at (b) above shall be adjusted for relief under section 84 by—
 - (i) finding the balance of those dividends that remains after deduction of the amount on which income tax at the standard rate for the year 1965-66 would equal the aggregate relief under section 84 for the three years of assessment; and
 - (ii) reducing the excess in the proportion which that balance bears to the actual dividends ;
 - (d) the income tax ultimately borne by the company in the years 1963-64, 1964-65 and 1965-66 shall be taken to be the amount borne by it in respect of its income

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by deduction or otherwise (at the standard rate or at the net United Kingdom rate), after deduction of all reliefs and of all tax charged in any of those years against any other person under section 184 of the Income Tax Act 1952 or otherwise.

- (7) Where a company is wound up, the three year surplus shall be computed by reference to the period ending with its last accounting period, if that ends before the end of the financial year 1968.
- (8) If in the case of any company the income tax at (3)(a) and (c) above is not greater than the corporation tax with which the company is charged for the financial year 1965, any one year surplus shall be disregarded, and the notional surplus shall be taken to be the three year surplus (if any).
- (9) Relief may be claimed and allowed under this section by reference to any one year surplus, notwithstanding that the notional surplus may fall to be finally determined by reference to a three year surplus.
- (10) Part I of Schedule 12 to this Act shall have effect in relation to claims for relief under this section as it has effect in relation to other claims made for purposes of section 48 of this Act, except that a claim under this section may be made in relation to a one year surplus before the time otherwise allowed under the said Part I and, if made before the passing of an Act fixing the rate of corporation tax for the financial year 1965, may be determined (subject to later adjustment if need be) in accordance with any Resolution for fixing that rate which may have been passed by the Committee of Ways and Means of the House of Commons and agreed to by the House.
- (11) In a case where section 350 of the Income Tax Act 1952 applies, the tax deducted from a dividend shall be deemed for purposes of this section to be tax at the net United Kingdom rate, for the purpose of reckoning either the tax borne by the recipient or the tax charged against another person by the company paying the dividend; and the amount charged against another person by deduction of tax from any other payment shall for the purposes of this section, in a case to which section 350(2) applies, be taken not to include the tax chargeable under section 170 of that Act by virtue of section 350(2).
- (12) A company claiming relief under this section may, if the greater part of its undertaking consists in the ownership or operation of ships, elect that in the application to it of subsection (2) (b) above there shall be substituted for the income tax ultimately borne by the company in the years 1963-64, 1964-65 and 1965-66 the income tax ultimately borne by it in a period ending with the year 1965-66, but beginning with such year of assessment earlier than the year 1963-64, but not earlier than the year 1956-57, as may be specified in the election ; and subsection (6) (b) shall then apply to the years comprised in that period as it is expressed to apply to the years 1963-64, 1964-65 and 1965-66.

86 Transitional assistance to water companies in respect of taxation on dividends.

- (1) Where a water company is liable to account for and pay income tax in respect of dividends paid by it in the year 1966-67 or either of the two following years of assessment, the Minister of Housing and Local Government may, subject to such conditions as he sees fit to impose, make to the Board such payments towards satisfaction of that liability as are authorised by this section, and his expenses of so doing shall be defrayed out of moneys provided by Parliament.

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- (2) In computing the payments authorised by this section to be made for the benefit of a water company in respect of dividends paid in any year of assessment, there shall be deducted from the amount of the dividends paid in the year—
 - (a) the amount of any franked investment income received by the company in the year ; and
 - (b) forty per cent. of the related profits on which the company is charged to corporation tax.
- (3) For purposes of subsection (2) (b) above the related profits on which the company is charged to corporation tax are, in relation to dividends paid for any period, the amount of the profits on which the company is so charged in respect of that period (ascertained, if need be, by division and apportionment or aggregation of amounts for accounting periods wholly or partly comprised in that period), but where dividends are paid for the same period in more than one year of assessment, the said amount shall be apportioned rateably between the parts paid in each of those years.
- (4) The payment that may be made under this section in respect of a company's dividends shall be an amount not exceeding for the year 1966-67 three-quarters, for the year 1967-68 one-half and for the year 1968-69 one-quarter of the amount (if any) by which income tax at the standard rate on the amount ascertained in accordance with subsections (2) and (3) above exceeds the yield to the company in that year of a water rate of twopence in the pound.
- (5) No payment shall be made for the benefit of a company under this section except on a claim made to the Minister of Housing and Local Government in such manner, and supported by such evidence, as he may direct; and it shall be lawful for the Board and their officers to disclose to the Minister such particulars as he may reasonably require for determining whether any, and if so what, payment is authorised by this section in the case of any company.
- (6) In relation to water companies whose area of supply lies wholly or mainly in Wales references to the Secretary of State shall be substituted in this section for the references to the Minister of Housing and Local Government.
- (7) In this section " water company " means any company (being a body corporate) which is a statutory water undertaker for purposes of the Water Act 1945.
- (8) Notwithstanding anything in the Government of Ireland Act 1920 the Parliament of Northern Ireland shall have power to make laws for purposes similar to the purposes of this section.

87 Transitional relief for existing companies on cessation of trade etc.

- (1) Where a company is, in respect of any source of income, within the charge to corporation tax under any relevant Case of Schedule D during the year 1965-66, and ceases to possess that source at any time between that year and the year 1971-72, then subject to the provisions of this section the company shall be entitled to relief from tax in respect of any amount by which, if the company had ceased to possess the source at the end of the year 1965-66, the taxed income from the source during the cessation period would have been less than the actual taxed income during that period.
- (2) Relief under this section shall be an allowance equal to whichever is the less of—
 - (a) the amount referred to in subsection (1) above; and

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- (b) an amount equal to the appropriate fraction of the taxed income from the source during a period equal in length to the cessation period but ending when the company ceases to possess the source :

Provided that if the company ceases to possess the source in the year 1968-69 the allowance shall be reduced by one quarter: if in the year 1969-70, by one half: and if in the year 1970-71, by three-quarters.

- (3) Where a company is entitled to an allowance under this section in respect of any source of income, then for the purpose of any liability of the company to corporation tax or income tax (but not for any other purpose) the amount of the income arising to the company from the source shall be treated as reduced by the amount of the allowance (the reduction being made, as far as may be, in the income arising in accounting periods for which the company is chargeable to corporation tax in respect of the source and, subject to that, in the income chargeable to income tax before the year 1966-67, and being made, as far as may be, in the income of a later rather than in that of an earlier period or year); and relief under this section shall be given in priority to any other relief.
- (4) For purposes of this section " taxed income " means, in relation to any source, the amount of the income falling to be included in assessments for the purpose of charging the company to income tax or corporation tax in respect of the source.
- (5) For purposes of this section the relevant Cases of Schedule D are Cases I to V; and in relation to any source of income—
- (a) " the cessation period " means the period over which assessments to income tax might have been revised on the company ceasing to possess the source at the end of the year 1965-66 (and accordingly is three years for Cases I and II and two years for Cases III, IV and V); and
- (b) " the appropriate fraction " is such fraction of the cessation period as falls after the time when the company is first within the charge to corporation tax in respect of the source (and accordingly is, for Cases III, IV and V, one half).
- (6) In relation to Cases I and II of Schedule D, the provisions contained in Schedule 21 to this Act shall have effect to supplement the foregoing subsections, and those subsections shall have effect subject to and in accordance with those provisions.
- (7) In relation to Cases III, IV and V of Schedule D, this section shall, if a company at any material time ceases to possess part of a source of income, apply as if that part had been a separate source, but shall not apply to a source or part of a source where the income from it falls to be charged in accordance with section 430(1) of the Income Tax Act 1952 (which relates to the taxation of investment income of certain life assurance companies).
- (8) There shall be made any such adjustments of any person's liability to corporation tax or income tax, whether by way of repayment of tax, assessment or otherwise, as may be necessary to give effect to this section or Schedule 21 to this Act, and any such adjustment may be made at any time not later than six years after the event giving rise to the adjustment.