

# Finance Act 1965

## CHAPTER 25

### ARRANGEMENT OF SECTIONS

#### PART I

##### CUSTOMS AND EXCISE

Section

1. Increase of duties on spirits, beer, wine, British wine, and tobacco.
2. Amendments as to relief from import duties.
3. Valuation for purchase tax of goods containing copyright material.
4. Continuation of powers under s. 9 of Finance Act 1961.
5. Vehicles excise duty: increases and alterations.
6. Vehicles excise duty: exemptions and reliefs.
7. Evidence of admissions in proceedings under Vehicles (Excise) Act 1962.
8. Use of rebated oil as fuel for works trucks.

#### PART II

##### INCOME TAX

###### *General*

9. Surtax rates for 1964-65.
10. Alterations in reliefs.
11. George Cross.
12. Surtax on income under certain settlements.
13. Withdrawal of initial allowances for cars.
14. Annual allowances for new ships.
15. Business entertaining expenses.
16. Cost of maintenance etc. of agricultural land: restriction of relief under Finance Act 1963.

###### *Short-term capital gains*

17. Amendments of Case VII of Schedule D.
18. Amendments of Case VII of Schedule D: chattels sold for £1,000 or less.

#### PART III

##### CAPITAL GAINS

###### *General*

19. Taxation of capital gains.

*Capital gains tax*

## Section

20. Capital gains tax.
21. Capital gains accruing to an individual: alternative charge to tax.

*Chargeable gains*

22. Disposal of assets and computation of gains.
23. Losses.
24. Death.
25. Settled property.
26. Estate duty.

*Exemptions and reliefs*

27. Miscellaneous exemptions for certain kinds of property.
28. Life assurance and deferred annuities.
29. Private residences.
30. Chattels sold for £1,000 or less.
31. Works of art, etc.
32. Assets given, devised or bequeathed in connexion with preservation of land for public benefit.
33. Replacement of business assets.
34. Transfer of business on retirement.
35. Exemption for charities and other miscellaneous exemptions.
36. Superannuation funds.
37. Unit trusts and investment trusts.
38. Unit trusts for exempt unit holders.
39. Double taxation relief.
40. Relief in respect of delayed remittances of gains.

*Chargeable gains accruing to non-resident companies and trusts*

41. Non-resident company.
42. Non-resident trust.

*Supplemental*

43. Residence and location of assets.
44. Valuation.
45. Interpretation and other supplemental provisions.

## PART IV

## TAXATION OF COMPANIES AND COMPANY DISTRIBUTIONS

*General system of taxation*

46. Introduction for companies etc. of corporation tax, in place of income tax and profits tax.
47. Taxation of company distributions.
48. Tax on distributions etc. received by U.K. company.

*Corporation tax*

## Section

49. General scheme of corporation tax.
50. Companies not resident in U.K.
51. Basis of, and periods for, assessment.
52. Allowance of charges on income.
53. General rules for computation of income.
54. Miscellaneous special rules for computation of income.
55. Computation of chargeable gains.
56. Deductions and additions in computation of profits for capital allowances and related charges.
57. Deduction of management expenses of investment companies (including savings banks).
58. Relief for trading losses, other than terminal losses.
59. Relief for terminal loss in a trade.
60. Losses in transactions from which income would be chargeable under Schedule D Case VI.
61. Company reconstructions without change of ownership.

*General provisions affecting both income tax and corporation tax*

62. Set-off of losses etc. against franked investment income.
63. Application and adaptation of Income Tax Acts as to capital allowances and other matters.
64. Double taxation relief, and overseas trade corporations.
65. Dividend stripping, and bond washing.

*Local authorities, unit trusts and special classes of company*

66. Local authorities.
67. Unit trusts and investment trusts.
68. Rate of tax for unit trusts and investment trusts.
69. Insurance companies.
70. Industrial and provident societies.
71. Building societies.
72. Companies carrying on mutual business, or not carrying on a business.
73. Company partnerships.

*Close companies*

74. Restriction for close companies on deduction for directors' remuneration.
75. Assessment of close companies to income tax in respect of certain loans.
76. Assessment of close companies on consideration for certain restrictive covenants etc.

## Section

77. Shortfall in distributions of close company (income tax at standard rate).
78. Apportionment for surtax of close company's income.
79. Supplementary provisions about close companies.

*Commencement and transitional*

80. Commencement of corporation tax for existing companies, and transition from income tax.
81. Winding up of the profits tax.
82. Interim charge of tax on capital gains of companies, and exclusion of companies and local authorities from Case VII of Schedule D.
83. Dividend increases in 1965-66.
84. Transitional relief for existing companies with overseas trading income.
85. Transitional relief for companies paying dividends out of pre-1966-67 profits.
86. Transitional assistance to water companies in respect of taxation on dividends.
87. Transitional relief for existing companies on cessation of trade etc.

*Supplementary*

88. Consequential amendments of estate duty.
89. Interpretation.

## PART V

## MISCELLANEOUS AND GENERAL

90. Stamp duty: conveyances and transfers.
91. Interest where stamp duty repaid under judgment.
92. Grants towards duty charged on bus fuel.
93. Grants to housing associations for affording relief from tax.
94. Funds in court.
95. Loans to Government of Northern Ireland.
96. Reserved taxes for purposes of Government of Ireland Act 1920.
97. Short title, construction, extent and repeal.

## SCHEDULES:

- Schedule 1—Spirits (rates of customs and excise duties).
- Schedule 2—Beer (rates of customs and excise duties and drawbacks).
- Schedule 3—Wine (rates of customs duties).

- Schedule 4—British Wine (rates of excise duties).
- Schedule 5—Vehicles excise duty.
- Schedule 6—Capital gains: computation.
- Schedule 7—Capital gains: miscellaneous rules.
- Schedule 8—Capital gains: leases.
- Schedule 9—Capital gains: Government securities issued at a discount.
- Schedule 10—Capital gains: administration.
- Schedule 11—Meaning of “distribution.”
- Schedule 12—Supplementary provisions about tax on distributions, etc.
- Schedule 13—Chargeable gains of companies.
- Schedule 14—Adaptation of system of capital allowances.
- Schedule 15—Miscellaneous adaptations of Income Tax Acts for corporation tax.
- Schedule 16—Double taxation relief, and overseas trade corporations.
- Schedule 17—Supplementary provisions about dividend stripping.
- Schedule 18—Supplementary provisions about close companies.
- Schedule 19—Supplementary provisions about dividend increases in 1965–66.
- Schedule 20—Supplementary provisions about transitional relief for existing companies with overseas trading income.
- Schedule 21—Transitional cessation relief (special rules for trades).
- Schedule 22—Repeals.

## ELIZABETH II



## 1965 CHAPTER 25

An Act to grant certain duties, to alter other duties, and to amend the law relating to the National Debt and the Public Revenue, and to make further provision in connection with Finance. [5th August 1965]

Most Gracious Sovereign,

**W**E, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and grant unto Your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART I

## CUSTOMS AND EXCISE

- 1.—(1) For the rates of customs and excise duty and of drawback set out in—
- |  |  |
|--|--|
| <p>(a) Table 1 in Schedule 1 to the Finance Act 1964 (spirits other than imported perfumed spirits);</p> <p>(b) Schedule 2 to that Act (beer);</p> <p>(c) Schedule 3 to that Act (wine);</p> | <p>Increase of duties on spirits, beer, wine, British wine, and tobacco. 1964 c. 49.</p> |
|--|--|

## PART I

(d) Schedule 4 to that Act (British wine);

there shall be substituted respectively the rates of duty and drawback set out in Schedules 1, 2, 3 and 4 to this Act.

(2) For each of the rates of customs and excise duty and of drawback set out in Schedule 5 to the said Act of 1964 (tobacco) there shall be substituted a rate increased by ten shillings per pound.

(3) Subsections (1) and (2) of this section shall not affect the rates of drawback payable in the case of goods in respect of which duty has been paid otherwise than at the rates having effect by virtue of this section; and drawback allowable by virtue of the said subsection (1) shall be subject to the supplementary provisions in Schedule 2 to the said Act of 1964.

(4) This section shall have effect as from 7th April 1965.

Amendments  
as to relief  
from import  
duties.  
1958 c. 6.

2.—(1) For the purposes of section 7 of the Import Duties Act 1958 (power to exempt importations intended for export) goods brought to a registered shipbuilding yard shall be deemed to be exported; but relief under that section granted by virtue of this subsection shall be subject to such conditions (in addition to any other conditions imposed under that section) as the Commissioners see fit to impose for securing that the goods will be used in the building, repairing or refitting in the yard of ships within the meaning of section 5(6) of that Act.

(2) In paragraph (b) of subsection (1) of the said section 7 (by virtue of which the power conferred by that section is not exercisable unless the Commissioners are satisfied that there are special reasons why, with a view to promoting the interests of the export trade or similar interests, the duty should not be charged) the word "special" shall be omitted.

(3) So much of subsection (3) of that section as requires any application for the exercise of the power conferred by that section to be made by the importer, to be made in writing and, except where the Commissioners otherwise allow, to be made before the imported articles are released from customs control shall cease to have effect.

(4) In Schedule 5 to the said Act of 1958, paragraph 2(b) (which precludes the payment of drawback on the exportation of imported articles or of goods incorporating those articles except where they are exported by the importer or a person who has taken delivery of those articles or goods directly from him) shall cease to have effect.

(5) An order under section 9 of the said Act of 1958 providing for drawback in accordance with paragraph 3 of the said Schedule 5 on the exportation of goods produced or manufactured from imported articles may, instead of prescribing a

rate of drawback in relation to any such goods in accordance with paragraph 3(1) of that Schedule, provide that the drawback shall, in relation to those goods, be of an amount equal to the duty appearing to the Commissioners to have been paid in respect of the quantity of the imported articles which in their opinion has been used in the production or manufacture of the exported goods.

(6) This section shall be construed as one with the said Act of 1958.

3. In Schedule 2 to the Purchase Tax Act 1963 (which prescribes assumptions to be made in computing the price which goods to be valued for purchase tax would fetch on a sale by wholesale as mentioned in section 3 of that Act) the following paragraph shall be inserted after paragraph 3—

“3A. Where the goods to be valued are goods consisting of or containing matter in which copyright subsists it shall also be assumed for the purpose of computing the price aforesaid that the buyer under the sale mentioned in section 3 of this Act is not the owner of the copyright and has not paid any sum or given any consideration by way of royalty or otherwise in respect of the copyright and, on payment of the price, will be entitled to deal with the goods free from any restriction as regards the copyright.”

4. The period after which orders of the Treasury under section 9 of the Finance Act 1961 may not be made or continue in force (which, by section 8(1) of the Finance Act 1964, was extended until the end of August 1965) shall extend until the end of August 1966 or such later date as Parliament may hereafter determine.

5.—(1) For the rates of duty set out in Part II of Schedule 1, of Schedule 3, of Schedule 4 and of Schedule 5 to the Vehicles (Excise) Act 1962 (annual rates of duty for licences other than trade licences) there shall be substituted respectively the rates of duty set out in Parts I, II, III and IV of Schedule 5 to this Act.

(2) In section 12(5) of the said Act of 1962 (trade licences)—

(a) in paragraph (a) (general trade licences) for the words “thirty pounds” and “six pounds” there shall be substituted respectively the words “forty-five pounds” and “nine pounds”;

(b) in paragraph (b) (limited trade licences) for the words “six pounds” and “one pound five shillings” there shall be substituted respectively the words “nine pounds” and “two pounds”.

Valuation for purchase tax of goods containing copyright material.

1963 c. 9.

Continuation of powers under s. 9 of Finance Act 1961.

1961 c. 36.

1964 c. 49.

Vehicles excise duty: increases and alterations.

1962 c. 13.



## PART I

(3) The said Act of 1962 shall have effect subject to the amendments set out in Part V of Schedule 5 to this Act (being amendments consequential on subsection (1) of this section so far as it abolishes the special rate of duty for bicycles with side-cars and charges works trucks under Schedule 3 instead of Schedule 4 to that Act).

(4) In paragraph 2(*d*) of Part I of Schedule 4 to the said Act of 1962 (which has the effect that a goods vehicle of which the unladen weight exceeds twelve hundredweight and which is not used commercially is charged with duty at the rate applicable to private cars) the words “of which the unladen weight exceeds twelve hundredweight and” shall cease to have effect.

(5) Subsection (4) of this section and the provisions of Parts II and V of Schedule 5 to this Act relating to works trucks shall have effect as from the passing of this Act; and the other provisions of this section and of that Schedule shall apply to licences taken out after 6th April 1965, except that, in the case of licences taken out after the said 6th April and before 1st September 1965, for the reference in subsection (1) of this section to Parts II and III of that Schedule there shall be substituted a reference to those Parts as modified by Part VI of that Schedule.

(6) The holder of a licence current on 1st September 1965 on which duty was chargeable under the said Part II or III modified as aforesaid who makes application before the expiration of twelve months beginning with that date to the council with which the vehicle is for the time being registered shall be entitled to a refund of duty, in respect of any period after the end of August 1965 during which the licence has been or (on the assumption that it is not surrendered) will have been current, of an amount equal to one-twelfth for each complete month in the said period of the difference between—

(*a*) the annual rate of duty chargeable in respect of that vehicle under the said Part II or III modified as aforesaid, and

(*b*) the annual rate of duty appropriate to that vehicle under the said Part II or III without such modification.

(7) On the surrender after the end of August 1965 of any such licence as is mentioned in subsection (6) of this section, the rebate of duty payable under section 9 of the said Act of 1962 shall be computed as if the rate of duty on the licence had been the appropriate rate specified in the said Part II or III without such modification as is mentioned in that subsection.

6.—(1) In subsection (1) of section 6 of the Vehicles (Excise) Act 1962 (which in paragraphs (*a*) to (*i*) lists vehicles exempt from duty under that Act) there shall be added after paragraph (*i*) the following paragraphs—

“ (*j*) local authority’s watering vehicles ;

(k) tower wagons used solely by a street lighting authority, or by any person acting in pursuance of a contract with such an authority, for the purpose of installing or maintaining materials or apparatus for lighting streets, roads or public places.”;

and at the end of subsection (8) of that section (definitions) there shall be added the following—

“ ‘local authority’s watering vehicle’ means a vehicle used solely within the area of a local authority by that local authority, or by any person acting in pursuance of a contract with that local authority, for the purpose of cleansing or watering roads or cleansing gulleys ;

‘tower wagon’ has the same meaning as in Schedule 4 to this Act ;

‘street lighting authority’ means any local authority or Minister having power under any enactment to provide or maintain materials or apparatus for lighting streets, roads, or public places.”

(2) A goods vehicle shall not be charged with any increased duty under paragraph 1(2) of Part I of Schedule 4 to the said Act of 1962 (vehicles used for drawing trailers) by reason of being used for drawing any vehicle which, if mechanically propelled, would be exempt from duty by virtue of subsection (1) of this section.

(3) In determining whether a vehicle is an agricultural machine within the meaning of Schedule 3 to the said Act of 1962 (which charges duty at a preferential rate in respect of such machines) no account shall be taken of any use of that vehicle on public roads—

(a) for hauling, within fifteen miles of a farm in the occupation of the person in whose name the vehicle is registered under that Act, material to be spread on roads to deal with frost, ice or snow ; or

(b) for clearing snow by means of a snow plough or similar contrivance.

(4) This section shall have effect as from 7th April 1965.

7. Where in any proceedings in England and Wales for an offence under section 7 or section 12(9) of the Vehicles (Excise) Act 1962—

(a) it is proved to the satisfaction of the court, on oath or in manner prescribed by rules made under section 15 of the Justices of the Peace Act 1949, that a requirement under section 18(1) of the said Act of 1962 to give information as to the identity of the driver of, or the person using or keeping, a particular

Evidence of admissions in proceedings under Vehicles (Excise) Act 1962. 1962 c. 13. 1949 c. 101.

## PART I

vehicle on the particular occasion on which the offence is alleged to have been committed has been served on the accused by post; and

- (b) a statement in writing is produced to the court purporting to be signed by the accused that the accused was the driver of, or the person using or keeping, that vehicle on that occasion,

the court may accept that statement as evidence that the accused was the driver of, or the person using or keeping, that vehicle on that occasion.

Use of rebated oil as fuel for works trucks. 1952 c. 44. 1962 c. 13.

8. In section 200(6)(c) of the Customs and Excise Act 1952 (under which oil on which rebate has been allowed may be used as fuel for certain vehicles mentioned in Schedule 3 to the Vehicles (Excise) Act 1962) after the words "mobile crane" there shall be inserted the words "works truck".

## PART II

## INCOME TAX

*General*

Surtax rates for 1964-65.

9. Income tax for the year 1964-65 shall be charged, in the case of an individual whose total income exceeded £2,000, at the same higher rates in respect of the excess as were charged for the year 1963-64.

Alterations in reliefs.

10.—(1) As respects the year 1965-66 and subsequent years of assessment, the Income Tax Acts shall be amended as shown in the following provisions of this section:

Provided that subsections (2), (4), (5) and (6) of this section shall not affect the amounts of tax deductible or repayable under section 157 (pay as you earn) of the Income Tax Act 1952 before 8th June 1965, but this provision shall not prevent any necessary corrections being made on or after that day by adjusting subsequent deductions or repayments under that section or, if need be, by an assessment.

1952 c. 10.

1963 c. 25.

(2) In section 210 of the Income Tax Act 1952 (personal reliefs), as amended by section 12(1) of the Finance Act 1963, in paragraph (a) of subsection (1) (married) for the reference to £320 there shall be substituted a reference to £340, in paragraph (b) of that subsection (single) for the reference to £200 there shall be substituted a reference to £220, and in subsection (2) of the said section 210 (wife's earned income relief) for the reference to £200 (the maximum amount of that relief) there shall be substituted a reference to £220.

(3) The amounts of £255 and £180 (relating to the total income of the dependent relative) specified, for the purposes of section 216 of the said Act of 1952, by section 12(4) of the Finance Act 1963 shall each be increased by £30. PART II  
1963 c. 25.

(4) Section 377(2) of the said Act of 1952 and section 19 of the Finance Act 1960 (relief for National Insurance contributions) shall cease to have effect; and no relief or deduction shall be given or allowed under any other provision of the said Act of 1952 in respect of any contribution in respect of which relief could, but for this subsection, be given under the said section 377(2). 1960 c. 64.

(5) In section 15(2) of the Finance Act 1952 (relief for small incomes), as amended by section 12(6) of the Finance Act 1963, for the reference to £680 (income limit for marginal relief) there shall be substituted a reference to £705. 1952 c. 33.

(6) In section 13 of the Finance Act 1957 (relief for persons over 65 with small incomes), as amended by section 14 of the Finance Act 1964, for the references to £360 and to £575 (the income limits for exemption) there shall be substituted references to £390 and £625; and (as regards the marginal relief) for the reference to £130 (the addition to the income limit) there shall be substituted a reference to £160. 1957 c. 49.  
1964 c. 49.

(7) Where a person is a registered blind person within the meaning of section 9 of the Finance Act 1962 (relief for blind persons) during part only of the year of assessment, that person, or, as the case may be, that person's husband, shall be entitled to relief under subsection (1) or (2) of that section in any case in which he would have been entitled to such relief if that person had been such a registered blind person throughout the year, but the amount of relief granted by virtue of this subsection shall be calculated in accordance with subsection (8) below. 1962 c. 44.

(8) For the purpose of calculating the said amount, the said section 9 shall have effect as if—

- (a) for references in subsections (1) and (2) of that section to the amounts of any tax-free disability payments receivable by a person in the year of assessment there were substituted references to the amounts of any such payments receivable by him in the part of the year during which he was a registered blind person within the meaning of that section; and
- (b) for references in the said subsection (1) to £100 (relief for one blind person) there were substituted references to that proportion of £100 which the period in the year of assessment during which the person in question was such a registered blind person bears to one year; and

## PART II

(c) for references in the said subsection (2) to £200 (relief for blind couple) there were substituted references to that proportion of £200 which the sum of the periods in the year of assessment during which each of the persons in question was such a registered blind person bears to two years.

George Cross.

**11.** Annuities paid to holders of the George Cross by virtue of holding that award shall be disregarded for all the purposes of the Income Tax Acts.

Surtax on  
income under  
certain  
settlements.  
1952 c. 10.

**12.**—(1) In subsection (1) of section 415 of the Income Tax Act 1952 (under which income arising under a settlement is treated for the purposes of surtax as the income of the settlor unless the income falls into one of the paragraphs of that subsection) paragraphs (a), (b) and (c) (which relate to income payable to or applicable for the benefit of individuals) shall cease to have effect.

(2) In subsection (2) of the said section 415 (which has the effect that income arising under a settlement is treated for the purposes of surtax as the income of the settlor if it is income from property and that property, or any property or income derived from it, is, or will or may become payable to him or applicable for his benefit) for the words “payable to him or applicable for his benefit”, where they first occur, there shall be substituted the words “payable to or applicable for the benefit of the settlor or the wife or husband of the settlor”, and, where they next occur, there shall be substituted the words “payable or applicable as aforesaid”.

(3) Notwithstanding subsection (1) of this section, subsection (1) of the said section 415 shall not apply to income consisting of annual payments made—

(a) under a partnership agreement, by a member of a partnership to or for the benefit of a person, or, if he is dead, the widow or dependants of a person, who has ceased to be a member of the partnership by retirement or death; or

(b) by any person, in connection with the acquisition by him of the whole or part of a business, to or for the benefit of the person from whom it is acquired or, if he is dead, his widow or dependants,

being, in either case, payments made under a liability incurred for full consideration; or to income arising under a settlement made by one party to a marriage by way of provision for the other after the dissolution or annulment of the marriage or while they are separated under an order of a court or under

a separation agreement, being income payable to or applicable for the benefit of that other party. PART II

(4) This section applies to settlements made on or after 7th April 1965.

13.—(1) Subject to subsection (2) of this section, no initial allowance under Chapter II of Part X of the Income Tax Act 1952 shall be made in respect of any expenditure incurred after 6th April 1965 on the provision of road vehicles unless they are of a type not commonly used as private vehicles and unsuitable to be so used or are provided wholly or mainly for hire to or for the carriage of members of the public in the ordinary course of a trade. Withdrawal of initial allowances for cars. 1952 c. 10.

(2) Subsection (1) of this section shall not affect initial allowances under the said Chapter II in respect of any expenditure in so far as it consists (and is stated in the claim for the allowance to consist) of sums payable under a contract entered into on a date (to be specified in the claim) not later than the said 6th April.

(3) Subsection (2) of section 41 of the Finance Act 1963 (which limits the amount which may be allowed by way of initial allowance for a vehicle of the kind to which subsection (1) of this section applies) shall cease to have effect, and accordingly— 1963 c. 25.

(a) in subsection (1) of that section for the words “the six following subsections” there shall be substituted the words “the five following subsections”;

(b) in subsection (3)(b) of that section (and in section 291 of the Income Tax Act 1952 as amended by that subsection) for the words “subsections (2) and (3)” there shall be substituted the words “subsection (3)”;

and

(c) in subsection (6) of the said section 41 for the words “for the references to six hundred pounds and to five hundred pounds there were substituted references to sums which bear” there shall be substituted the words “for the reference to five hundred pounds there were substituted a reference to a sum which bears”;

but this subsection shall not affect initial allowances in respect of expenditure incurred before 7th April 1965 or such expenditure as is mentioned in subsection (2) of this section, nor other allowances, or charges, in respect of vehicles the expenditure on the provision of which was incurred before that date or is such expenditure as is mentioned in that subsection.

(4) This section shall be construed as if contained in Chapter II of Part X of the said Act of 1952.

PART II  
Annual  
allowances for  
new ships.  
1952 c. 10.

1963 c. 25.

14.—(1) Subject to the following subsections, annual (or writing-down) allowances under Chapter II of Part X of the Income Tax Act 1952 in respect of capital expenditure incurred after the beginning of the year 1965-66 on the provision of a new ship shall be computed in accordance with section 281 of that Act (normal method of computation) as if, instead of requiring such an allowance for a year of assessment to be five-fourths of the percentage therein specified of the relevant capital amount, that section required it to be so much of that amount as is specified by the person to whom the allowance is to be made in making his claim for the allowance; and accordingly (but subject as aforesaid) neither section 282 or 285 of that Act (alternative method of computation, and adjustments for abnormal use) nor section 35 of the Finance Act 1963 (rules for determination of rates of allowances) shall apply in relation to such allowances.

(2) Subsection (1) above shall not apply to allowances falling to be made to a person in respect of expenditure on the provision of a ship treated as incurred by him by virtue of section 299 of the Income Tax Act 1952 (allowances to lessees), unless the contract of letting provides that he shall or may become the owner of the ship on the performance of the contract; and where the contract so provides, but without becoming the owner of the ship he ceases to be entitled (otherwise than on his death) to the benefit of the contract so far as it relates to the ship, subsection (1) above shall be deemed not to have applied to allowances falling to be made to him in respect of the ship.

(3) Where subsection (1) above is to be deemed not to have applied to allowances for any period, there shall be made all such additional assessments and adjustments of assessments as may be necessary.

(4) For the purposes of this section—

(a) “new” means unused and not secondhand, but a ship shall not be treated as secondhand in relation to a claimant for an allowance in respect of it by reason of the property in the ship or any part thereof having previously passed to a person other than the claimant, if the ship has not been taken over from the builder by any such person; and

(b) “relevant capital amount” means the amount specified in section 281(1)(a) of the Income Tax Act 1952 as the amount by reference to which an annual allowance is to be computed.

(5) Expenditure shall not be treated for the purposes of this section as having been incurred after the beginning of the year 1965-66 by reason only of section 279(2) of the Income Tax

Act 1952 (which relates to expenditure incurred by a person for the purposes of a trade before he begins to carry it on). PART II

15.—(1) Subject to the provisions of this section—

- Business  
entertaining  
expenses.
- (a) no deduction shall be made in computing profits or gains chargeable to tax under Schedule D for any expenses incurred in providing business entertainment, and such expenses shall not be included in computing any expenses of management in respect of which relief may be claimed under the Income Tax Acts ;
  - (b) no deduction for expenses so incurred shall be made from emoluments chargeable to tax under Schedule E ; and
  - (c) for the purposes of Chapter II of Part X of the Income Tax Act 1952 (capital allowances for machinery and plant) the use of any asset for providing business entertainment shall be treated as use otherwise than for the purposes of a trade. 1952 c. 10.

(2) Subsection (1) of this section shall not apply to expenses incurred in, or the use of an asset for, the provision by a person carrying on a trade in the United Kingdom (in this section referred to as a “United Kingdom trader”), or by a member of his staff, of entertainment for an overseas customer of that person, being entertainment of a kind and on a scale which is reasonable having regard to all the circumstances.

(3) The expenses to which paragraph (a) of subsection (1) of this section applies include, in the case of any person, any sums paid by him to, or on behalf of, or placed by him at the disposal of, a member of his staff exclusively for the purpose of defraying expenses incurred or to be incurred by him in providing business entertainment, but where—

- (a) any such sum falls to be included in his emoluments chargeable to tax under Schedule E ; and
- (b) the deduction or inclusion of that sum as mentioned in that paragraph falls to be disallowed in whole or in part by virtue of this section ;

paragraph (b) of that subsection shall not preclude the deduction of any expenses defrayed out of that sum.

(4) Where by virtue of subsection (2) of this section a person claims to deduct or include any expenses as mentioned in paragraph (a) or (b) of subsection (1) of this section or claims any allowance under the provisions mentioned in paragraph (c) of that subsection he shall, if the inspector so requires, furnish particulars of the entertainment in question and of the person for whom it was provided ; and Part III of the Finance Act 1960 (penalties) shall have effect as if this subsection were 1960 c. 44.



## PART II

included among the provisions specified in column 3 of Schedule 6 to that Act.

(5) For the purposes of this section “business entertainment” means entertainment (including hospitality of any kind) provided by a person or by a member of his staff in connection with a trade carried on by that person, but does not include anything provided by him for bona fide members of his staff unless its provision for them is incidental to its provision also for others.

(6) For the purposes of this section “overseas customer” means, in relation to any United Kingdom trader—

(a) any person who is not ordinarily resident nor carrying on a trade in the United Kingdom and avails himself, or may be expected to avail himself, in the course of a trade carried on by him outside the United Kingdom, of any goods, services or facilities which it is the trade of the United Kingdom trader to provide; and

(b) any person who is not ordinarily resident in the United Kingdom and is acting, in relation to such goods, services or facilities, on behalf of an overseas customer within paragraph (a) of this subsection or on behalf of any government or public authority of a country outside the United Kingdom.

(7) In this section any reference to expenses incurred in, or to the use of an asset for, providing entertainment includes a reference to expenses incurred in, or to the use of an asset for, providing anything incidental thereto; references to a trade include references to any business, profession or vocation; and references to the members of a person’s staff are references to persons employed by that person, directors of a company or persons engaged in the management thereof being for this purpose deemed to be persons employed by it.

(8) This section shall apply in relation to the provision of a gift as it applies in relation to the provision of entertainment, except that it shall not by virtue of this subsection apply in relation to the provision for any person of a gift consisting of an article incorporating a conspicuous advertisement for the donor, being an article—

(a) which is not food, drink, tobacco or a token or voucher exchangeable for goods; and

(b) the cost of which to the donor, taken together with the cost to him of any other such articles given by him to that person in the same year, does not exceed £1.

(9) Nothing in this section shall be taken as precluding the deduction of expenses incurred in, or any claim for capital allowances in respect of the use of an asset for, the provision

by any person of anything which it is his trade to provide, and which is provided by him in the ordinary course of that trade for payment or, with the object of advertising to the public generally, gratuitously.

PART II

(10) Paragraphs (a) and (b) of subsection (1) of this section apply to expenses incurred after 6th April 1965, and paragraph (c) of that subsection applies to use after that date.

16.—(1) Section 29(4) of the Finance Act 1963 (under which a deduction is allowable in computing profits or gains chargeable under Case I or II of Schedule D for the year 1963-64 of the excess of certain maintenance payments over relief available under sections 99 to 101 of the Income Tax Act 1952 (general maintenance relief)), and paragraph 11 of Schedule 4 to that Act (under which relief may be given by reference to the excess of certain maintenance payments over relief available under the said sections 99 to 101, or under section 176(1)(g) of the Income Tax Act 1952) shall be amended as follows.

Cost of maintenance etc. of agricultural land: restriction of relief under Finance Act 1963. 1963 c. 25. 1952 c. 10.

(2) References in the said section 29(4) and in sub-paragraph (4) of the said paragraph 11 to any amount of relief under the said section 101 shall include, and be deemed from the passing of the Finance Act 1963 to have included, any additional amount of relief which, on a claim in that behalf, could have been allowed under the said section 101 if the assessments on the land in question, as reduced for the purposes of collection, had been sufficient for the purpose, so far as the additional amount which could have been so allowed is, under section 313 of the Income Tax Act 1952 (cost of maintenance etc. of agricultural land) to be treated as if it were the amount of an allowance falling to be made under the said Act by way of discharge or repayment of tax.

#### *Short term capital gains*

17.—(1) In section 10(2) of the Finance Act 1962 (which excludes from charge to tax gains accruing on disposals of land more than three years after acquisition and disposals of other assets more than six months after acquisition) for the words

Amendments of Case VII of Schedule D. 1962 c. 44.

“where the disposal occurs more than three years after the acquisition in the case of a disposal of land, or where the disposal occurs more than six months after the acquisition in any other case”

there shall be substituted the words

“where the disposal occurs more than twelve months after the acquisition”,

and section 14 of the Finance Act 1962 (disposal of land effected indirectly) shall cease to have effect.

PART II  
1962 c. 44.

(2) In section 11(1) of the Finance Act 1962 (exemption of tangible movable property from Case VII) the words "with the exception of tangible movable property" shall cease to have effect, but the charge to tax thereby imposed shall have effect subject to the provisions of this and the next following section.

(3) A mechanically propelled road vehicle constructed or adapted for the carriage of passengers shall not be a chargeable asset except for a vehicle of a type not commonly used as a private vehicle and unsuitable to be so used.

(4) Currency of any description other than sterling shall be chargeable assets except in relation to an acquisition and disposal by an individual for the personal expenditure outside the United Kingdom of himself or his family or dependants (including expenditure on the provision or maintenance of any residence outside the United Kingdom).

(5) A gain shall be exempt from tax chargeable under Case VII if accruing from the acquisition and disposal by any person of a decoration awarded for valour or gallant conduct which he acquired otherwise than for consideration in money or money's worth.

(6) Where in the year 1965-66 or any subsequent year of assessment an individual disposes by way of gift of an asset the market value of which at the time of the gift does not exceed one hundred pounds there shall be exempt from tax chargeable under Case VII any gains accruing to the donor on the disposal but this subsection, taken together with section 27(2) of this Act, shall not apply to gifts made by the same individual in the same year of assessment the total market value of which exceeds one hundred pounds, taking the market value of any gift at the time of the gift.

(7) If the adjusted sale price and adjusted purchase price to be taken into account in computing the amount of a gain accruing from an acquisition and disposal of securities of one of the descriptions in Schedule 9 to this Act are both within the exempt price range specified in that Schedule for those securities a gain accruing on that disposal shall be exempt from tax chargeable under Case VII (and a loss so accruing shall not be an allowable loss) and if the range between those prices overlaps that exempt price range a proportion of a gain so accruing shall be so exempt, which shall be the proportion which the part of the range between those prices which overlaps that exempt price range bears to the whole of the range between those prices (and correspondingly a part of a loss so accruing shall not be an allowable loss).

In this and the next following subsection "adjusted sale price" means the amount of the consideration for the disposal and "adjusted purchase price" means the amount of the

consideration for the acquisition (that is the acquisition by the person making the disposal), both adjusted, where the nominal amount of the securities being disposed of is not one hundred pounds, to represent a price for a nominal amount of one hundred pounds.

(8) If in consequence of a conversion on their redemption date of securities of one of the descriptions in the said Schedule any securities of that description and a new holding of Government securities are, under paragraph 10(2) of Schedule 9 to the Finance Act 1962 as applied by paragraph 11 of that Schedule, to be treated as the same asset acquired as the converted securities were acquired, and the adjusted purchase price of the converted securities is less than one hundred pounds then, in computing the gain accruing on an acquisition and disposal of the new holding, or any part of the new holding, there shall be added to the amount of the expenditure which is allowable as a deduction the amount of the gain which would have been exempted by virtue of the last foregoing subsection if the converted securities, or as the case may be the corresponding part of them, had been disposed of at the time of their redemption for a consideration equal to their nominal value. 1962 c. 44.

(9) If a claim is made under subsection (1) or subsection (2) of section 33 of this Act—

- (a) that section shall apply as if references in those subsections to the purposes of Part III of this Act included references to the purposes of Chapter II of Part II of the Finance Act 1962 (Case VII),
- (b) tax shall not be chargeable under Case VII on a gain accruing to the claimant from the acquisition and disposal of, or of the interest in, the new assets unless the period between the date when the claimant acquired the old assets, or the interest in the old assets, and the date when he disposed of the new assets, or the interest in the new assets, is twelve months or less.

This subsection shall not be taken as applying the said section 33 where the disposal of, or of the interest in, the old assets occurred before 7th April 1965.

(10) At the end of section 12(4) of the Finance Act 1962 (amount or value of consideration to be equated to amount or value attributed for income tax purposes) for the words “for that purpose” there shall be substituted the words “or the interest or right in or over it for that purpose”, in section 12(5) of that Act (persons acting as nominees, etc.) for the words “(or for two or more persons jointly so entitled)” there shall be

## PART II

substituted the words “or for another person who would be so entitled but for being an infant or other person under disability (or for two or more persons who are or would be jointly so entitled)” and in the proviso to section 12(6) of that Act (residence of trustees) for the words “body corporate” there shall be substituted the word “person”.

1962 c. 44.

(11) Schedule 9 to the Finance Act 1962 shall be amended as follows—

- (a) paragraph 6(1) (transactions between husband and wife) shall not apply in relation to a disposal of an asset if until the disposal the asset formed part of trading stock of a trade carried on by the one making the disposal, or if the asset is acquired as trading stock for the purposes of a trade carried on by the one acquiring the asset,
- (b) in paragraph 8(6)(a) (identification of shares) for the reference to six months there shall be substituted a reference to twelve months,
- (c) for the purposes of paragraph 9(1) shares acquired for transfer or delivery after the date of transfer or delivery of the shares sold shall be deemed to have been acquired after the disposal of the shares sold,
- (d) in paragraph 10(3) proviso before the words “consisting of” there shall be inserted “any consideration”,
- (e) in paragraph 10(4) (reorganisation of share capital, etc.) references to any capital distribution from the company shall include references to any consideration given by any person, other than the company, in respect of the original shares,
- (f) at the beginning of paragraph 20(4) (definition of connected persons) there shall be inserted the words “Except in relation to acquisitions or disposals of partnership assets pursuant to bona fide commercial arrangements”.

(12) In this section references to a disposal chargeable under Case VII are references to cases where income tax under Case VII is chargeable on the gain accruing on the acquisition and disposal, or where it would be so chargeable if there were a gain so accruing.

(13) This and the next following section shall be construed as one with Chapter II of Part II of the Finance Act 1962.

(14) The foregoing provisions of this section shall not have effect in relation to an acquisition and disposal if either the acquisition or the disposal occurred before 7th April 1965, and the repeal by this section of section 14 of the Finance

Act 1962 shall not have effect where the relevant land of the land-owning company mentioned in that section was acquired by that company before 7th April 1965.

(15) Income tax shall not be charged by virtue of section 10 of the Finance Act 1962 in respect of an acquisition and disposal of land where—

- (a) 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) the disposal or acquisition, whichever is the later, occurs more than twelve months after the acquisition or disposal (but not more than three years after),

but in the case of a gain of any amount exempted by the foregoing provisions of this subsection, the gain shall be treated for the purposes of Part III of this Act as if it were a chargeable gain, as defined in Part III of this Act, 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.

This subsection shall apply to an option or other right to acquire or dispose of land as it applies to land.

18.—(1) There shall be exempt from tax chargeable under Case VII a gain accruing from the acquisition and disposal of an asset which is tangible movable property if the amount or value of the consideration for the disposal does not exceed one thousand pounds, and the amount of income tax (including surtax) chargeable under Case VII in respect of a gain accruing from the acquisition and disposal of an asset which is tangible movable property for a consideration exceeding one thousand pounds shall not exceed half the difference between that consideration and one thousand pounds.

Amendments  
of Case VII of  
Schedule D:  
chattels sold  
for £1,000  
or less.

For the purposes of this subsection the amount of the gain on which income tax is so chargeable shall be deemed to be the highest part of the income of the person charged for the year of assessment in question.

(2) Subsection (1) above shall not affect section 10(4) of the Finance Act 1962 (losses) but for the purposes of the said section 10(4) the consideration for the disposal of any asset which is tangible movable property shall, if less than one thousand pounds, be deemed to be one thousand pounds and losses allowable under that subsection shall be restricted accordingly.

## PART II

(3) If two or more assets which have formed part of a set of articles of any description all owned at one time by one person are disposed of by that person, and—

(a) to the same person, or

(b) to persons who are acting in concert or who are, in the terms of paragraph 21 of Schedule 7 to this Act, connected persons,

whether on the same or different occasions, those assets shall be treated for the purposes of subsections (1) and (2) of this section as a single asset but with any necessary apportionments of the reductions in tax, and in allowable losses, under subsections (1) and (2) of this section.

(4) In applying subsections (1) and (2) of this section in a case where the disposal is of a right or interest in or over tangible movable property—

(a) in the first instance those subsections shall be applied in relation to the asset as a whole, taking the consideration as including the market value of what remains undisposed of, in addition to the actual consideration,

(b) where the sum of the actual consideration and that market value exceeds one thousand pounds, the limitation on the amount of income tax (including surtax) in subsection (1) shall be to half the difference between that sum and one thousand pounds multiplied by the fraction equal to the actual consideration divided by the said sum, and

(c) where that sum is less than one thousand pounds any loss shall be restricted under subsection (2) of this section by deeming the actual consideration to be the actual consideration plus the said fraction of the difference between the said sum and one thousand pounds.

(5) Subsections (1) and (2) of this section shall not apply—

(a) in relation to a disposal of commodities of any description by a person dealing on a terminal market or dealing with or through a person ordinarily engaged in dealing on a terminal market, or

(b) in relation to a disposal of currency of any description.

(6) This section does not have effect in relation to a gain or loss accruing on the acquisition and disposal of an asset if either the acquisition or the disposal occurred before 7th April 1965.

## PART III

## CAPITAL GAINS

*General*

19.—(1) Tax shall be charged in accordance with this Act in respect of capital gains, that is to say chargeable gains computed in accordance with this Act and accruing to a person on the disposal of assets. Taxation of capital gains.

(2) In the circumstances prescribed by the provisions of Part IV of this Act (chargeable gains accruing to companies and certain other bodies and associations) the tax shall be chargeable in accordance with those provisions, and all the provisions of this Part of this Act have effect subject to those provisions.

(3) Subject to the said provisions, a tax, to be called capital gains tax, shall be assessed and charged for the year 1965-66 and for subsequent years of assessment in respect of chargeable gains accruing in those years, and shall be so charged in accordance with the following provisions of this Part of this Act.

*Capital gains tax*

20.—(1) Subject to any exceptions provided by this Act, a person shall be chargeable to capital gains tax in respect of chargeable gains accruing to him in a year of assessment during any part of which he is resident in the United Kingdom, or during which he is ordinarily resident in the United Kingdom. Capital gains tax.

(2) Subject to any such exceptions a person shall also be chargeable to capital gains tax in respect of chargeable gains accruing to him in a year of assessment in which he is not resident and not ordinarily resident in the United Kingdom but is carrying on a trade in the United Kingdom through a branch or agency, and shall be so chargeable on chargeable gains accruing on the disposal—

- (a) of assets situated in the United Kingdom and used in or for the purposes of the trade at or before the time when the capital gain accrued, or
- (b) of assets situated in the United Kingdom and used or held for the purposes of the branch or agency at or before that time, or assets acquired for use by or for the purposes of the branch or agency ;

Provided that this subsection shall not apply to a person who, by virtue of the provisions of Part XIII of the Income Tax Act 1952 (double taxation agreements), is exempt from income tax chargeable for the year of assessment in respect of the profits or gains of the branch or agency. 1952 c. 10.



## PART III

(3) Subject, in the case of an individual, to the next following section, and subject to section 82 of this Act, the rate of capital gains tax shall be thirty per cent.

(4) Capital gains tax shall be charged at the said rate on the total amount of chargeable gains accruing to the person chargeable in the year of assessment, after deducting any allowable losses accruing to that person in that year of assessment and, so far as they have not been allowed as a deduction from chargeable gains accruing in any previous year of assessment, any allowable losses accruing to that person in any previous year of assessment (not earlier than the year 1965-66).

(5) In the case of a woman who in a year of assessment is a married woman living with her husband any allowable loss accruing in that year of assessment which, under the last foregoing subsection, would be deductible from the chargeable gains accruing in that year of assessment to the one but for an insufficiency of chargeable gains shall, for the purposes of that subsection, be deductible from chargeable gains accruing in that year of assessment to the other:

Provided that this subsection shall not apply in relation to losses accruing in a year of assessment to either if, before 6th July in the year next following that year of assessment, an application is made by the man or the wife to the inspector in such form and manner as the Board may prescribe.

(6) Capital gains tax assessed on any person in respect of gains accruing in any year shall be payable by that person at or before the expiration of the three months following that year, or at the expiration of a period of thirty days beginning with the date of making the assessment, whichever is the later.

(7) In the case of individuals resident or ordinarily resident but not domiciled in the United Kingdom, capital gains tax shall not be charged in respect of gains accruing to them from the disposal of assets situated outside the United Kingdom (that is chargeable gains accruing in the year 1965-66 or a later year of assessment) except that the tax shall be charged on the amounts (if any) received in the United Kingdom in respect of those chargeable gains, any such amounts being treated as gains accruing when they are received in the United Kingdom; and accordingly losses accruing on the disposal of assets situated outside the United Kingdom to any such individual shall not be allowable under this Part of this Act.

**21.**—(1) If this section would result in an individual being chargeable to a reduced amount of capital gains tax for any year of assessment in any part of which he was resident in the United Kingdom, or in which he was ordinarily resident in the United Kingdom, the amount of capital gains tax to

Capital gains accruing to an individual: alternative charge to tax.

which he is chargeable for that year of assessment shall, instead of being the amount arrived at under the last foregoing section, be calculated as an amount equal to the amount of income tax (including surtax) to which he would be chargeable if, in addition to any other liability to income tax, he was chargeable to income tax for that year under Case VI of Schedule D—

(a) where the amount on which he would have been chargeable to capital gains tax for that year under the last foregoing section does not exceed five thousand pounds, on a sum equal to one-half of that amount, and

(b) where that amount exceeds five thousand pounds, on a sum equal to two thousand five hundred pounds plus the excess of that amount over five thousand pounds.

(2) That amount of income tax (including surtax) shall be arrived at on the assumption that the income to which the individual would be so chargeable to income tax—

(a) is not available for set off under any of the provisions of the Income Tax Acts against any loss, or against any payments which may be made out of profits or gains brought into charge for tax, and is not available for the purpose of any other relief under the Income Tax Acts, other than the personal reliefs, and accordingly it shall be assumed that all such provisions of the Income Tax Acts are applied without regard to the income so chargeable under Case VI of Schedule D,

(b) does not constitute earned income, as being income within section 525(1)(b) of the Income Tax Act 1952 1952 c. 10. (income from property attached to or forming part of the emoluments of an office or employment) or within any other provision of the Income Tax Acts,

(c) is to be treated, for the purpose of comparing in accordance with subsection (1) of this section the amount of income tax which would be chargeable under this section with the alternative charge to capital gains tax, as the highest part of the individual's income for the year,

and paragraph (c) of this subsection shall have effect notwithstanding any provision of the Income Tax Acts directing other income to be treated as the highest part of the individual's total income.

In this subsection "the personal reliefs" means the reliefs under Part VIII of the Income Tax Act 1952, as applied for the purposes of income tax at the standard rate or surtax but excluding relief under sections 219 and 225 (premiums on life assurance policies).

## PART III

(3) The provisions of this section shall not affect the provisions of the last foregoing section as to the circumstances in which an allowable loss accruing in one year may be deducted from chargeable gains accruing in any other year.

(4) If capital gains tax is chargeable under the last foregoing section in respect of chargeable gains accruing to a married woman who in the year of assessment is a married woman living with her husband, then, whether or not the husband is or would be chargeable to capital gains tax for that year of assessment under the last foregoing section, and whether or not the married woman is separately assessed to income tax at the standard rate or to surtax—

- (a) in making the comparison under subsection (1) of this section account shall be taken of income tax chargeable on the husband, as well as of income tax chargeable on the woman, and
- (b) the reference to the individual's income in subsection (2)(c) of this section shall be a reference to the husband's income (including income of his wife which under the Income Tax Acts is deemed to be his income), and
- (c) if both the married woman and her husband are chargeable to capital gains tax for that year of assessment the comparison under subsection (1) of this section shall be between the sum of the capital gains tax so chargeable on them under the last foregoing section and the amount to which the husband would be chargeable to income tax (including surtax) if, in addition to any other liability to income tax, he was chargeable to income tax for that year of assessment under Case VI of Schedule D—
  - (i) where the aggregate amount to which he and his wife would have been chargeable to capital gains tax for that year under the last foregoing section does not exceed five thousand pounds, on a sum equal to one-half of that amount, and
  - (ii) where that aggregate amount exceeds five thousand pounds, on a sum equal to two thousand five hundred pounds plus the excess of that aggregate amount over five thousand pounds,
 and
- (d) account shall be taken of the provisions of subsection (5) of the last foregoing section with any necessary adjustment where an application is made under the proviso to that subsection,

and any reduction in capital gains tax effected by paragraph (c) above shall be apportioned to the husband and wife in proportion to the respective amounts on which they would, under

the last foregoing section, be chargeable to capital gains tax for the year of assessment.

PART III

(5) Any chargeable gain which accrued to an individual in a year of assessment on the disposal of an asset which the individual acquired (otherwise than as legatee) not more than two years before the disposal from a person who, in the terms of paragraph 21 of Schedule 7 to this Act, was a person connected with the individual shall be left out of account for the purposes of this section, and—

- (a) capital gains tax shall be charged on the amount of that chargeable gain in accordance with the last foregoing section,
- (b) no loss shall be deductible under subsection (4) of the last foregoing section from that amount if relief is given under this section in respect of any other chargeable gain which accrued to the individual or, in accordance with subsection (4) of this section, to the husband or wife of the individual, in the said year of assessment.

#### *Chargeable gains*

22.—(1) All forms of property shall be assets for the purposes of this Part of this Act, whether situated in the United Kingdom or not, including—

Disposal of assets and computation of gains.

- (a) options, debts and incorporeal property generally, and
- (b) any currency other than sterling, and
- (c) any form of property created by the person disposing of it, or otherwise coming to be owned without being acquired.

(2) For the purposes of this Part of this Act—

- (a) references to a disposal of an asset include, except where the context otherwise requires, references to a part disposal of an asset, and
- (b) there is a part disposal of an asset where an interest or right in or over the asset is created by the disposal, as well as where it subsists before the disposal, and generally, there is a part disposal of an asset where, on a person making a disposal, any description of property derived from the asset remains undisposed of.

(3) Subject to subsection (6) of this section, and to the exceptions in this Part of this Act, there is for the purposes of this Part of this Act a disposal of assets by their owner where any capital sum is derived from assets notwithstanding that no asset

PART III is acquired by the person paying the capital sum, and this subsection applies in particular to—

- (a) capital sums received by way of compensation for any kind of damage or injury to assets or for the loss, destruction or dissipation of assets or for any depreciation or risk of depreciation of an asset,
- (b) capital sums received under a policy of insurance of the risk of any kind of damage or injury to, or the loss or depreciation of, assets,
- (c) capital sums received in return for forfeiture or surrender of rights, or for refraining from exercising rights, and
- (d) capital sums received as consideration for use or exploitation of assets.

(4) Subject to the provisions of this Part of this Act, a person's acquisition of an asset and the disposal of it to him shall for the purposes of this Part of this Act be deemed to be for a consideration equal to the market value of the asset—

- (a) where he acquires the asset otherwise than by way of a bargain made at arm's length and in particular where he acquires it by way of gift or by way of distribution from a company in respect of shares in the company, or
- (b) where he acquires the asset wholly or partly for a consideration that cannot be valued, or in connection with his own or another's loss of office or employment or diminution of emoluments, or otherwise in consideration for or recognition of his or another's services or past services in any office or employment or of any other service rendered or to be rendered by him or another, or
- (c) where he acquires the asset as trustee for creditors of the person making the disposal.

(5) In relation to assets held by a person as nominee for another person, or as trustee for another person absolutely entitled as against the trustee, or for any person who would be so entitled but for being an infant or other person under disability (or for two or more persons who are or would be jointly so entitled), this Part of this Act shall apply as if the property were vested in, and the acts of the nominee or trustee in relation to the assets were the acts of, the person or persons for whom he is the nominee or trustee (acquisitions from or disposals to him by that person or persons being disregarded accordingly).

(6) The conveyance or transfer by way of security of an asset or of an interest or right in or over it, or transfer of a subsisting interest or right by way of security in or over an asset (including

a retransfer on redemption of the security), shall not be treated for the purposes of this Part of this Act as involving any acquisition or disposal of the asset.

(7) Where a person entitled to an asset by way of security or to the benefit of a charge or incumbrance on an asset deals with the asset for the purpose of enforcing or giving effect to the security, charge or incumbrance his dealings with it shall be treated for the purposes of this Part of this Act as if they were done through him as nominee by the person entitled to it subject to the security, charge or incumbrance; and this subsection shall apply to the dealings of any person appointed to enforce or give effect to the security, charge or incumbrance as receiver and manager or judicial factor as it applies to the dealings of the person entitled as aforesaid.

(8) An asset shall be treated as having been acquired free of any interest or right by way of security subsisting at the time of any acquisition of it, and as being disposed of free of any such interest or right subsisting at the time of the disposal; and where an asset is acquired subject to any such interest or right the full amount of the liability thereby assumed by the person acquiring the asset shall form part of the consideration for the acquisition and disposal in addition to any other consideration.

(9) The amount of the gains accruing on the disposal of assets shall be computed in accordance with Part I of Schedule 6 to this Act, and subject to the further provisions in Schedules 7 and 8 to this Act, and in this section "capital sum" means any money or money's worth which is not excluded from the consideration taken into account in the computation under the said Part I of Schedule 6 to this Act.

(10) Every gain accruing after 6th April 1965 shall, except so far as otherwise expressly provided by this Part of this Act, be a chargeable gain, but subject to the provisions of Part II of Schedule 6 to this Act (which restricts the amount of chargeable gains accruing on the disposal of assets owned on 6th April 1965).

23.—(1) Except as otherwise expressly provided, the amount of a loss accruing on a disposal of an asset shall be computed in the same way as the amount of a gain accruing on a disposal is computed. Losses.

(2) Except as otherwise expressly provided, all the provisions of this Part of this Act which distinguish gains which are chargeable gains from those which are not, or which make part of a gain a chargeable gain, and part not, shall apply also to distinguish losses which are allowable losses from those which are not, and to make part of a loss an allowable loss, and

## PART III

part not ; and references in this Part of this Act to an allowable loss shall be construed accordingly.

(3) Subject to the provisions of this Part of this Act and, in particular, to paragraph 14 of Schedule 7, the occasion of the entire loss, destruction, dissipation or extinction of an asset shall, for the purposes of this Part of this Act, constitute a disposal of the asset whether or not any capital sum by way of compensation or otherwise is received in respect of the destruction, dissipation or extinction of the asset.

(4) If, on a claim by the owner of an asset, the inspector is satisfied that the value of an asset has become negligible, he may allow the claim and thereupon this Part of this Act shall have effect as if the claimant had sold, and immediately re-acquired, the asset for a consideration of an amount equal to the value specified in the claim.

(5) For the purposes of the two last foregoing subsections a building and any permanent or semi-permanent structure in the nature of a building, may be regarded as an asset separate from the land on which it is situated, but where either of those subsections applies in accordance with this subsection, the person deemed to make the disposal of the building shall be treated as if he had also sold, and immediately re-acquired, the site of the building or structure (including in the site any land occupied for purposes ancillary to the use of the building or structure) for a consideration equal to its market value at that time.

(6) A loss accruing to a person in a year of assessment during no part of which he is resident or ordinarily resident in the United Kingdom shall not be an allowable loss for the purposes of this Part of this Act unless, under section 20(2) of this Act, he would be chargeable to capital gains tax in respect of a chargeable gain if there had been a gain instead of a loss on that occasion.

(7) Except as provided by the next following section, an allowable loss accruing in a year of assessment shall not be allowable as a deduction from chargeable gains accruing in any earlier year of assessment, and relief shall not be given under this Part of this Act more than once in respect of any loss or part of a loss, and shall not be given under this Part of this Act if and so far as relief has been or may be given in respect of it under the Income Tax Acts.

## Death.

**24.—**(1) On the death of an individual all the assets of which he was competent to dispose shall for the purposes of this Part of this Act be deemed to be disposed of by him at the date of death, and acquired by the personal representatives or other

person on whom they devolve, for a consideration equal to their market value at that date.

(2) Subject to section 34 of this Act, the gains which accrue in consequence of subsection (1) of this section, together with any gains accruing to the deceased by reason of the disposal by him of any asset by way of *donatio mortis causa*, shall be aggregated and only so much of that aggregate as exceeds five thousand pounds shall constitute chargeable gains.

In arriving at the aggregate—

- (a) the respective amounts of the gains shall be computed in accordance with the provisions of this Act (other than this section) fixing the amount of chargeable gains, and
- (b) any allowable loss accruing in consequence of subsection (1) of this section, or in consequence of any *donatio mortis causa*, shall be deducted,

and the provisions of this subsection shall not affect the computation of the amount of any allowable loss.

(3) For the purposes of section 20(4) of this Act chargeable gains under subsection (2) of this section shall be included in the gains accruing to the deceased in the year of assessment in which the death occurs.

(4) For the purposes of the said section 20(4) and of the next following subsection allowable losses sustained in consequence of subsection (1) of this section shall be included in the losses sustained by the deceased in the year of assessment in which the death occurs so far as those losses have not been taken into account under subsection (2) of this section.

(5) Allowable losses sustained by an individual in the year of assessment in which he dies may, so far as they cannot be deducted from chargeable gains accruing in that year, be deducted from chargeable gains accruing to the deceased in the three years of assessment preceding the year of assessment in which the death occurs, taking chargeable gains accruing in a later year before those accruing in an earlier year.

(6) In relation to property forming part of the estate of a deceased person the personal representatives shall for the purposes of this Part of this Act be treated as being a single and continuing body of persons (distinct from the persons who may from time to time be the personal representatives), and that body shall be treated as having the deceased's residence, ordinary residence, and domicile at the date of death.

(7) On a person acquiring any asset as legatee—

- (a) no chargeable gain shall accrue to the personal representatives, and



## PART III

(b) the legatee shall be treated as if the personal representatives' acquisition of the asset had been his acquisition of it.

(8) Allowable losses which accrue to the personal representatives of a deceased person in the period of three years from the death, may, so far as they cannot otherwise be deducted from chargeable gains, be deducted from chargeable gains accruing to the deceased in the year of assessment in which the death occurs, or in the preceding three years of assessment, taking chargeable gains accruing in a later year before those accruing in an earlier year.

(9) In this section references to assets of which a deceased person was competent to dispose are references to assets of the deceased which (otherwise than in right of a power of appointment or of the testamentary power conferred by statute to dispose of entailed interests) he could, if of full age and capacity, have disposed of by his will, assuming that all the assets were situated in England and, if he was not domiciled in the United Kingdom, that he was domiciled in England.

(10) For the purposes of this section in its application to Scotland, where the deceased person was an heir of entail in possession of an entailed estate, whether *sui iuris* or not, or a proper liferenter of an estate, he shall be deemed to have been a person competent to dispose of such estate.

(11) If not more than two years after a death any of the dispositions of the property of which the deceased was competent to dispose, whether effected by will, or under the law relating to intestacies, or otherwise, are varied by a deed of family arrangement or similar instrument, this section shall apply as if the variations made by the deed or other instrument were effected by the deceased, and no disposition made by the deed or other instrument shall constitute a disposal for the purposes of this Part of this Act.

Settled  
property.

**25.**—(1) In relation to settled property, the trustees of the settlement shall for the purposes of this Part of this Act be treated as being a single and continuing body of persons (distinct from the persons who may from time to time be the trustees), and that body shall be treated as being resident and ordinarily resident in the United Kingdom unless the general administration of the trusts is ordinarily carried on outside the United Kingdom and the trustees or a majority of them for the time being are not resident or not ordinarily resident in the United Kingdom:

Provided that a person carrying on a business which consists of or includes the management of trusts, and acting as trustees of a trust in the course of that business, shall be treated

in relation to that trust as not resident in the United Kingdom if the whole of the settled property consists of or derives from property provided by a person not at the time (or, in the case of a trust arising under a testamentary disposition or on an intestacy or partial intestacy, at his death) domiciled, resident or ordinarily resident in the United Kingdom.

(2) A gift in settlement, whether revocable or irrevocable, is a disposal of the entire property thereby becoming settled property notwithstanding that the donor has some interest as a beneficiary under the settlement and notwithstanding that he is a trustee, or the sole trustee, of the settlement.

(3) On the occasion when a person becomes absolutely entitled to any settled property as against the trustee all the assets forming part of the settled property to which he becomes so entitled shall be deemed to have been disposed of by the trustee, and immediately reacquired by him in his capacity as a trustee within section 22(5) of this Act, for a consideration equal to their market value.

(4) On the termination at any time after 6th April 1965 of a life interest in possession in all or any part of settled property, all the assets forming part of the settled property, except any which at that time cease to be settled property, shall be deemed for the purposes of this Part of this Act at that time to be disposed of and immediately reacquired by the trustee for a consideration equal to their market value.

(5) If, in the case of the death of any individual, no relief is given under subsection (2) of the last foregoing section, or relief is so given in respect of an aggregate sum which is less than the amount available for relief under the said subsection (2), then that amount or, as the case may be, the difference between that amount and the aggregate sum in respect of which relief is so given shall be available for giving relief under this subsection, and—

- (a) any gains which accrue to the trustees of a settlement on the disposal of settled property deemed to be effected at the date of the death in accordance with subsection (3) or subsection (4) of this section on the termination of a life interest by the death, or otherwise in consequence of the death, shall be aggregated and only so much of that aggregate as exceeds the amount so available for giving relief under this subsection shall constitute chargeable gains,
- (b) if subsection (6) below has operated to prevent subsection (4) applying on the date of the death paragraph (a) above shall apply to gains accruing on the disposal of the settled property deemed to be effected

## PART III

on the next occasion (if any) when subsection (4) applies,

(c) in arriving at the aggregate—

(i) the respective amounts of the gains shall be computed in accordance with the provisions of this Act (other than this subsection) fixing the amount of chargeable gains, and

(ii) any allowable loss which accrues on the disposal shall be deducted,

and the provisions of this subsection shall not affect the computation of the amount of any allowable loss,

(d) if this subsection applies in relation to chargeable gains accruing to more than one body of trustees on the same death, the amount available for relief under this subsection shall be apportioned between those bodies of trustees according to the respective values of the settled property which those trustees are deemed respectively to have disposed of,

and the references in this subsection to the amount available for relief under subsection (2) of the last foregoing section are references to five thousand pounds, or as the case may be to that amount as reduced (or extinguished) under section 34 of this Act.

(6) If on any occasion subsection (4) of this section is applied in relation to a settlement the interval between that occasion and the next occasion on which it applies shall not be less than fifteen years, but where this subsection has operated to prevent the application of the said subsection (4), the said subsection (4) shall apply in relation to the settlement at the end of fifteen years from the occasion on which it last applied as if a life interest in possession in the settled property had terminated at the end of those fifteen years.

(7) If during the subsistence of a settlement there is a period of more than fifteen years throughout which there is no life interest in possession in the settled property, then at the end of the first fifteen years of that period, and of each succeeding fifteen years of that period, subsections (4) and (6) of this section shall apply as if a life interest in possession in the settled property had then terminated:

Provided that this subsection shall not apply to settled property if it and the income from it is wholly or primarily applicable for educational, cultural or recreational purposes, and the persons benefiting from the application for those purposes are confined to members of an association of persons for whose benefit the property was settled, not being persons all or most of whom are, in the terms of paragraph 21 of Schedule 7 to this Act, connected persons.

(8) On the occasion when a person becomes absolutely entitled to any settled property as against the trustee, any allowable loss which has accrued to the trustee in respect of property which is, or is represented by, the property to which that person so becomes entitled (including any allowable loss carried forward to the year of assessment in which that occasion falls), being a loss which cannot be deducted from chargeable gains accruing to the trustee in that year, but before that occasion, shall be treated as if it were an allowable loss accruing at that time to the person becoming so entitled, instead of to the trustee.

(9) If tax assessed on the trustees, or any one trustee, of a settlement in respect of a chargeable gain accruing to the trustees is not paid within six months from the date when it becomes payable by the trustees or trustee, and before or after the expiration of that period of six months the asset in respect of which the chargeable gain accrued, or any part of the proceeds of sale of that asset, is transferred by the trustees to a person who as against the trustees is absolutely entitled to it, that person may at any time within two years from the time when the tax became payable be assessed and charged (in the name of the trustees) to an amount of capital gains tax not exceeding tax chargeable on an amount equal to the amount of the chargeable gain and, where part only of the asset or of the proceeds was transferred, not exceeding a proportionate part of that amount.

(10) In this section "life interest" in relation to a settlement—

- (a) includes a right under the settlement to the income of, or the use or occupation of, settled property for the life of another or for any other period which will or may terminate before all the settled property becomes property to which some person is absolutely entitled as against the trustee,
- (b) does not include any right which is contingent on the exercise of the discretion of the trustee or the discretion of some other person, and
- (c) does not include an annuity, notwithstanding that the annuity is payable out of or charged on settled property or the income of settled property.

(11) For the purposes of this section, where part of the property comprised in a settlement is vested in one trustee or set of trustees and part in another (and in particular where settled land within the meaning of the Settled Land Act 1925 is vested in the tenant for life and investments representing capital money are vested in the trustees of the settlement), they shall be treated as together constituting and, in so far as they act separately, as acting on behalf of a single body of trustees. 1925 c. 18.

(12) If there is a life interest in a part of the settled property and, where that is a life interest in income, there is no right of

PART III recourse to, or to the income of, the remainder of the settled property, the part of the settled property in which the life interest subsists shall while it subsists be treated for the purposes of subsections (4), (5), (6) and (7) of this section as being settled property under a separate settlement.

(13) Subsection (7) of this section shall apply in relation to a settlement subsisting on 6th April 1965 as follows—

- (a) in the case of a settlement created on or after 6th April 1950, any period before 6th April 1965 shall be taken into account as it would if falling after that date, and
- (b) in the case of a settlement created before 6th April 1950 the time taken into account for the purposes of the said subsection (7) shall begin with the fifteenth anniversary of the date of creation of the settlement (whether it is the first or any subsequent fifteenth anniversary) falling in the period of fifteen years from 6th April 1950 to 5th April 1965,

but subsection (4) of this section shall not be applied by virtue of this subsection (taken together with subsection (7)) on a date falling before 7th April 1967.

Estate  
duty.

**26.—**(1) In determining the value of an estate for the purposes of estate duty allowance shall be made for capital gains tax chargeable on chargeable gains accruing on the death in consequence of the provisions of section 24(1) (as well as of any amount of capital gains tax owed by the deceased).

(2) In estimating the principal value of any settled property passing on a death, whether it continues to be settled property or not, an allowance shall be made for any capital gains tax chargeable in consequence of the death in respect of the settled property, so far as that tax falls to be paid out of the property so passing or to be borne by any person to whom the property so passes for any beneficial interest in possession.

(3) Where the principal value of an asset passing on a death falls, for the purposes of estate duty leviable on the death, to be ascertained under section 7(5) of the Finance Act 1894 (under which the asset's principal value is to be what it would have fetched if sold in the open market) and for the purposes of—

- (a) a conclusive assessment to capital gains tax chargeable in consequence of the death, or
- (b) a conclusive decision on a claim for an allowable loss accruing in consequence of the death,

the market value of the asset on the date of death has been fixed, the market value so fixed shall be taken to be the principal value of the asset for the purposes of the said section 7(5).

(4) Subsection (3) of this section shall not apply where the way in which the principal value of an asset is to be ascertained under the said section 7(5) of the Finance Act 1894 is modified by any provision in the enactments relating to estate duty which has no corresponding provision in this Part of this Act. PART III  
1894 c. 30.

(5) If in an appeal against an assessment to capital gains tax chargeable in consequence of a death, or in an appeal against a decision on a claim for an allowable loss accruing in consequence of a death, the value fixed for the purposes of the assessment, or of the decision on the claim, as the market value of an asset on the date of the death is being or can be questioned, any person who would be entitled to be a party to proceedings questioning that market value in connection with estate duty on the death shall be entitled to be a party to the appeal so far as the proceedings relate to that question.

(6) For the purposes of this section an assessment to capital gains tax, and a decision on a claim for an allowable loss, is conclusive when it can no longer be varied either on appeal or by the decision of a court, but if, after it has become conclusive, an assessment to capital gains tax chargeable in consequence of the death is made which is based on a revision of the market value fixed by the assessment or decision which has become conclusive, subsection (3) of this section shall apply by reference to that revised market value, instead of the market value fixed by the assessment or decision which has become conclusive, unless, before the making of the second-mentioned assessment, a certificate has been issued under section 11 of the Finance Act 1894 discharging from any further claim for estate duty leviable on the death the asset in question, or the Board are precluded for any other reason from re-opening the question of the value for estate duty purposes of that asset.

(7) In this section references to an appeal against an assessment or against a decision on a claim include references to proceedings on a case stated by the Commissioners or other person hearing the appeal.

(8) In this section references to capital gains tax chargeable in consequence of a death are references to capital gains tax chargeable on gains—

- (a) accruing on the disposal of assets deemed under this Part of this Act to be disposed of by the deceased on his death, or
- (b) accruing to a trustee on the disposal of settled property deemed to be effected in accordance with section 25(3) of this Act,

and a corresponding construction shall be given to references to allowable losses accruing in consequence of a death.

## PART III

(9) In this section references to capital gains tax chargeable in consequence of a death also include references—

- (a) to capital gains tax chargeable on gains accruing to a trustee on a disposal of settled property deemed to be effected in accordance with section 25(4) of this Act on the termination of a life interest on a death, or
- (b) to capital gains tax on gains which would have so accrued but for the provisions of subsection (6) of the said section 25 by virtue of which the said subsection (4), instead of applying on the termination of the life interest, is to apply at the end of fifteen years from the occasion on which it last applied:

Provided that the allowance to be made under subsection (2) of this section in a case under paragraph (b) above shall be the amount of the capital gains tax which would have been so chargeable discounted at a yearly rate of interest of five per cent. for the period from the date of termination of the life interest to the end of the said fifteen year period.

1894 c. 30.

(10) This section shall be construed as one with Part I of the Finance Act 1894.

*Exemptions and reliefs*

Miscellaneous  
exemptions  
for certain  
kinds of  
property.

**27.**—(1) A mechanically propelled road vehicle constructed or adapted for the carriage of passengers shall not be a chargeable asset, except for a vehicle of a type not commonly used as a private vehicle and unsuitable to be so used.

(2) A gain accruing to an individual on a disposal by way of gift of an asset the market value of which does not exceed one hundred pounds shall not be a chargeable gain, but this subsection and section 17(6) of this Act shall not together apply to gifts made by the same individual in the same year of assessment the total value of which exceeds one hundred pounds.

(3) If the adjusted sale price and adjusted purchase price to be taken into account under Schedule 6 to this Act in computing the amount of a gain accruing on a disposal of securities of one of the descriptions in Schedule 9 to this Act are both within the exempt price range specified in that Schedule for those securities a gain accruing on that disposal shall not be a chargeable gain (and a loss so accruing shall not be an allowable loss) and if the range between those prices overlaps that exempt price range a proportion of a gain so accruing shall not be a chargeable gain, which shall be the proportion which the part of the range between those prices which overlaps that exempt price range bears to the whole of the range between those prices (and correspondingly a part of a loss so accruing shall not be an allowable loss).

In this subsection "adjusted sale price" means the amount of the consideration for the disposal and "adjusted purchase price" means the amount of the consideration for the acquisition (that is the acquisition by the person making the disposal), both adjusted, where the nominal amount of the securities being disposed of is not one hundred pounds, to represent a price for a nominal amount of one hundred pounds.

(4) Savings certificates and non-marketable securities issued under the National Loans Act 1939 or any corresponding enactment forming part of the law of Northern Ireland shall not be chargeable assets. 1939 c. 117.

(5) A gain shall not be a chargeable gain if accruing on the disposal by an individual of currency of any description acquired by him for the personal expenditure outside the United Kingdom of himself or his family or dependants (including expenditure on the provision or maintenance of any residence outside the United Kingdom).

(6) A gain shall not be a chargeable gain if accruing on the disposal by any person of a decoration awarded for valour or gallant conduct which he acquired otherwise than for consideration in money or money's worth.

(7) It is hereby declared that winnings from betting, including pool betting, or lotteries or games with prizes, are not chargeable gains, and rights to winnings obtained by participating in any pool betting or lottery or game with prizes shall not constitute chargeable assets.

(8) It is hereby declared that sums obtained by way of compensation or damages for any wrong or injury suffered by an individual in his person or in his profession or vocation are not chargeable gains.

(9) In subsection (4) of this section—

(a) "savings certificates" means savings certificates issued under section 7 of the National Debt Act 1958 or section 59 of the Finance Act 1920, and any war savings certificates as defined in section 11(2) of the National Debt Act 1958, together with any savings certificates issued under any enactment forming part of the law of Northern Ireland and corresponding to the said enactments, and 1958 c. 6. (7 & 8 Eliz. 2.). 1920 c. 18.

(b) "non-marketable securities" means securities which are not transferable, or which are transferable only with the consent of some Minister of the Crown, or the consent of a department of the Government of Northern Ireland, or only with the consent of the National Debt Commissioners.



## PART III

(10) If under this section an asset is not a chargeable asset, then no chargeable gain or allowable loss shall accrue on its disposal.

Life assurance  
and deferred  
annuities.

**28.**—(1) This section has effect as respects any policy of assurance or contract for a deferred annuity on the life of any person.

(2) No chargeable gain shall accrue on the disposal of, or of an interest in, the rights under any such policy of assurance or contract except where the person making the disposal is not the original beneficial owner and acquired the rights or interests for a consideration in money or money's worth.

(3) Subject to subsection (2) above, the occasion of the payment of the sum or sums assured by a policy of assurance or of the first instalment of a deferred annuity, and the occasion of the surrender of a policy of assurance or of the rights under a contract for a deferred annuity, shall be the occasion of a disposal of the rights under the policy of assurance or contract for a deferred annuity, and the amount of the consideration for the disposal of a contract for a deferred annuity shall be the market value at that time of the right to that and further instalments of the annuity.

Private  
residences.

**29.**—(1) This section applies to a gain accruing to an individual so far as attributable to the disposal of, or of an interest in,—

- (a) a dwelling-house or part of a dwelling-house which is, or has at any time in his period of ownership been, his only or main residence, or
- (b) land which he has for his own occupation and enjoyment with that residence as its garden or grounds up to an area (inclusive of the site of the dwelling-house) of one acre or such larger area as the Commissioners concerned may in any particular case determine, on being satisfied that, regard being had to the size and character of the dwelling-house, the larger area is required for the reasonable enjoyment of it (or of the part in question) as a residence.

In the case where part of the land occupied with a residence is and part is not within this subsection, then (up to the permitted area) that part shall be taken to be within this subsection which, if the remainder were separately occupied, would be the most suitable for occupation and enjoyment with the residence.

(2) The gain shall not be a chargeable gain if the dwelling-house or part of a dwelling-house has been the individual's

only or main residence throughout the period of ownership, or throughout the period of ownership except for all or any part of the last twelve months of that period.

(3) Where subsection (2) of this section does not apply a fraction of the gain shall not be a chargeable gain, and that fraction shall be—

- (a) the length of the part or parts of the period of ownership during which the dwelling-house or the part of the dwelling-house was the individual's only or main residence, but inclusive of the last twelve months of the period of ownership in any event, divided by
- (b) the length of the period of ownership.

(4) For the purposes of subsections (2) and (3) of this section—

- (a) a period of absence not exceeding three years (or periods of absence which together did not exceed three years), and in addition
- (b) any period of absence throughout which the individual worked in an employment or office all the duties of which were performed outside the United Kingdom, and in addition
- (c) any period of absence not exceeding four years (or periods of absence which together did not exceed four years) throughout which the individual was prevented from residing in the dwelling-house or part of the dwelling-house in consequence of the situation of his place of work or in consequence of any condition imposed by his employer requiring him to reside elsewhere, being a condition reasonably imposed to secure the effective performance by the employee of his duties,

shall be treated as if in that period of absence the dwelling-house or the part of the dwelling-house was the individual's only or main residence if both before and after the period there was a time when the dwelling-house was the individual's only or main residence.

In this subsection "period of absence" means a period during which the dwelling-house or the part of the dwelling-house was not the individual's only or main residence and throughout which he had no residence or main residence eligible for relief under this section.

(5) If the gain accrues from the disposal of a dwelling-house or part of a dwelling-house part of which is used exclusively for the purposes of a trade or business or of a profession or vocation, the gain shall be apportioned and the foregoing subsections shall apply in relation to the part of the gain apportioned to the part which is not exclusively used for those purposes.

## PART III

(6) If at any time in the period of ownership there is a change in what is occupied as the individual's residence, whether on account of a reconstruction or conversion of a building or for any other reason, or there have been changes as regards the use of part of the dwelling-house for the purpose of a trade or business, or of a profession or vocation, or for any other purpose, the relief given by this section may be adjusted in such manner as the Commissioners concerned may consider to be just and reasonable.

(7) So far as it is necessary for the purposes of this section to determine which of two or more residences is an individual's main residence for any period,—

- (a) the individual may conclude that question by notice in writing to the inspector given within two years from the beginning of that period, or given by the end of the year 1966-67, if that is later, but subject to a right to vary that notice by a further notice in writing to the inspector as respects any period beginning not earlier than two years before the giving of the further notice,
- (b) subject to paragraph (a) above, the question shall be concluded by the determination of the inspector, which may be as respects either the whole or specified parts of the period of ownership in question,

and notice of any determination of the inspector under paragraph (b) above shall be given to the individual who may appeal to the General Commissioners or the Special Commissioners against that determination within thirty days of service of the notice.

(8) In the case of a man and his wife living with him—

- (a) there can only be one residence or main residence for both, so long as living together, and, where a notice under subsection (7)(a) of this section affects both the husband and the wife, it must be made by both, and
- (b) if the one disposes of, or of his or her interest in, the dwelling-house or part of a dwelling-house which is their only or main residence to the other, and in particular if it passes on death to the other as legatee, the other's period of ownership shall begin with the beginning of the period of ownership of the one making the disposal, and
- (c) any notice under subsection (7)(b) above which affects a residence owned by the husband and a residence owned by the wife shall be given to each and either may appeal under that subsection.

(9) This section shall also apply in relation to a gain accruing to a trustee on a disposal of settled property being an asset

within subsection (1) of this section where during the period of ownership of the trustee the dwelling-house or part of the dwelling-house mentioned in that subsection has been the only or main residence of a person entitled to occupy it under the terms of the settlement and in this section as so applied—

- (a) references to the individual shall be taken as references to the trustee except in relation to the occupation of the dwelling-house or part of the dwelling-house, and
- (b) the notice which may be given to the inspector under subsection (7)(a) above shall be a joint notice by the trustee and the person entitled to occupy the dwelling-house or part of the dwelling-house.

(10) If as respects a gain accruing to an individual so far as attributable to the disposal of, or of an interest in, a dwelling-house or part of a dwelling-house which is, or has at any time in his period of ownership been, the sole residence of a dependent relative of the individual, provided rent-free and without any other consideration, the individual so claims, such relief shall be given in respect of it and its garden or grounds as would be given under this section, if the dwelling-house (or part of the dwelling-house) had been the individual's only or main residence in the period of residence by the dependent relative, and shall be so given in addition to any relief available under this section apart from this subsection:

Provided that—

- (a) not more than one dwelling-house (or part of a dwelling-house) may qualify for relief as being the residence of a dependent relative of the claimant at any one time nor, in the case of a man and his wife living with him, as being the residence of a dependent relative of the claimant or of the claimant's husband or wife at any one time, and
- (b) the inspector, before allowing a claim may require the claimant to show that the giving of the relief claimed will not under proviso (a) above preclude the giving of relief to the claimant's wife or husband or that a claim to any such relief has been relinquished.

In this subsection "dependent relative" means, in relation to an individual, a relative of the individual, or of his or her wife or husband, who is incapacitated by old age or infirmity from maintaining himself, or the mother of the individual or of his or her wife or husband, if the mother is widowed, or living apart from her husband, or, in consequence of dissolution or annulment of marriage, a single woman.

(11) This section shall not apply in relation to a gain unless the acquisition of, or of the interest in, the dwelling-house or

## PART III

the part of a dwelling-house was made for the purpose of residing in it and not wholly or partly for the purpose of realising a gain from the disposal of it, and shall not apply in relation to a gain so far as attributable to any expenditure which was incurred after the beginning of the period of ownership and was incurred wholly or partly for the purpose of realising a gain from the disposal.

(12) Apportionments of consideration shall be made wherever required by this section and, in particular, where a person disposes of a dwelling-house only part of which is his only or main residence.

(13) In this section "the period of ownership"—

- (a) where the individual has had different interests at different times shall be taken to begin from the first acquisition taken into account in arriving at the expenditure which under Schedule 6 to this Act is allowable as a deduction in computing under that Schedule the amount of the gain to which this section applies, and
- (b) for the purposes of subsections (2), (3) and (4) of this section, shall not include any period before 6th April 1965.

Chattels sold  
for £1,000  
or less.

**30.**—(1) Subject to this section a gain accruing on a disposal of an asset which is tangible movable property shall not be a chargeable gain if the amount or value of the consideration for the disposal does not exceed one thousand pounds.

(2) The amount of tax (whether capital gains tax or corporation tax) chargeable in respect of a gain accruing on a disposal of an asset which is tangible movable property for a consideration the amount or value of which exceeds one thousand pounds shall not exceed half the difference between the amount of that consideration and one thousand pounds.

For the purposes of this subsection the capital gains tax or corporation tax chargeable in respect of the gain shall be the amount of tax which would not have been chargeable but for that gain.

(3) Subsections (1) and (2) above shall not affect the amount of an allowable loss accruing on the disposal of an asset, but for the purposes of computing under this Part of this Act the amount of a loss accruing on the disposal of tangible movable property the consideration for the disposal shall, if less than one thousand pounds, be deemed to be one thousand pounds and the losses which are allowable losses shall be restricted accordingly.

(4) If two or more assets which have formed part of a set of articles of any description all owned at one time by one person are disposed of by that person, and—

- (a) to the same person, or
- (b) to persons who are acting in concert or who are, in the terms of paragraph 21 of Schedule 7 to this Act, connected persons,

whether on the same or different occasions, the two or more transactions shall be treated as a single transaction disposing of a single asset, but with any necessary apportionments of the reductions in tax, and in allowable losses, under subsections (2) and (3) of this section; and this subsection shall also apply where the assets, or some of the assets, are disposed of on different occasions, and one of them falls after 11th November 1964 but before 7th April 1965 but not so as to make any gain accruing on a disposal before 7th April 1965 a chargeable gain.

(5) If the disposal is of a right or interest in or over tangible movable property—

- (a) in the first instance subsections (1), (2) and (3) of this section shall be applied in relation to the asset as a whole, taking the consideration as including the market value of what remains undisposed of, in addition to the actual consideration,
- (b) where the sum of the actual consideration and that market value exceeds one thousand pounds, the limitation on the amount of tax in subsection (2) of this section shall be to half the difference between that sum and one thousand pounds multiplied by the fraction equal to the actual consideration divided by the said sum, and
- (c) where that sum is less than one thousand pounds any loss shall be restricted under subsection (3) of this section by deeming the consideration to be the actual consideration plus the said fraction of the difference between the said sum and one thousand pounds.

(6) This section shall not apply—

- (a) in relation to a disposal of commodities of any description by a person dealing on a terminal market or dealing with or through a person ordinarily engaged in dealing on a terminal market, or
- (b) in relation to a disposal of currency of any description.

**31.**—(1) A gain accruing on the disposal of an asset by way of gift, or accruing on a disposal on death of an asset bequeathed by the deceased, shall not be a chargeable gain if under section Works of art, etc.

PART III  
1894 c. 30.

15(2) of the Finance Act 1894 (gifts and bequests for national purposes, etc.) the Treasury remit estate duty by reference to the gift or bequest or, where (as in the case of a gift or in the case of an asset exempt from estate duty) remission under that section would have no effect for the purposes of estate duty, if the Treasury determine that the gift or bequest qualifies for relief under the said section 15(2).

1930 c. 28.  
1950 c. 15.

(2) A concession shall be given under this section in respect of the disposal of an asset on death if by virtue of section 40 of the Finance Act 1930 (which as amended by section 48 of the Finance Act 1950 exempts from estate duty objects of national, scientific, historic or artistic interest) the asset is exempt from estate duty chargeable by reference to that death, and a claim for exemption under that section may be made notwithstanding that, because the asset is exempt from estate duty or for any other reason, the allowance of the claim has no effect for the purposes of estate duty.

(3) A concession shall be given under this section in respect of the disposal of an asset which is an object to which the said section 40 applies, being—

- (a) a disposal by way of gift, including a gift in settlement, or
- (b) a disposal of settled property by the trustee on an occasion when, under section 25(3) or section 25(4) of this Act, the trustee is deemed to dispose and immediately re-acquire, settled property,

if an undertaking in the terms of section 48(1) of the Finance Act 1950 (under which the exempted objects must remain in the United Kingdom and reasonable steps taken for their preservation) is given by such person as the Treasury think appropriate in the circumstances of the case.

(4) The concession under subsection (2) or subsection (3) of this section shall be that both the person making the disposal and the person acquiring the asset on that disposal shall be treated for all the purposes of this Part of this Act as if the asset was acquired from the one making the disposal for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to the one making the disposal.

(5) If there is a sale of the asset in relation to which section 40(2) of the Finance Act 1930 (under which the exemption is withdrawn if the exempted asset is sold otherwise than to certain national institutions or for certain other specified purposes) applies, or in relation to which it would have applied assuming that an undertaking given in respect of the asset under the said

section 48(1) or subsection (3) of this section had been given for the purposes of relief from estate duty, as well as for the purposes of relief from tax on chargeable gains, or if the Treasury are satisfied that at any time during the period for which an undertaking under either enactment was given it has not been observed in a material respect, the person selling the asset or, as the case may be, the owner of the asset, shall be treated for the purposes of this Part of this Act as having sold the asset for a consideration equal to its market value, and in the case of a failure to comply with the undertaking, having immediately reacquired it for a consideration equal to its market value.

(6) A gain shall not be a chargeable gain if accruing on the disposal of an asset by way of a sale to which the said section 40(2) would have applied (or would have applied on the assumptions in the last foregoing subsection), but for the proviso to that subsection, or but for express exception in any enactment amending the said section 40(2), including section 30(3) of the Finance Act 1953 and section 34(1) of the Finance Act 1956 (acceptance of objects in satisfaction of death duties). 1953 c. 34.  
1956 c. 54.

(7) The period for which an undertaking under subsection (3) of this section is given shall be until the asset again passes on a death or is disposed of, whether by way of sale or gift or otherwise (but without regard to any occasion on which, under this Part of this Act, assets are deemed to be disposed of), and any undertaking given after the passing of this Act under section 48(1) of the Finance Act 1950 shall be for the like period, and the reference in that subsection to the object's being sold shall be construed accordingly; and if assets subject to any such undertaking under the said section 48(1) or subsection (3) of this section are disposed of (construing references to disposal as above) otherwise than on sale, and without any such undertaking being given in replacement, section 40(2) of the Finance Act 1930 and subsection (5) of this section shall apply as if the assets had been then sold to an individual. 1950 c. 15.  
1930 c. 28.

(8) If in pursuance of subsection (5) of this section a person is treated as having on any occasion sold an asset and estate duty becomes payable on the same occasion then in determining the value of the asset for the purposes of the estate duty allowance shall be made for the capital gains tax chargeable on any chargeable gain accruing on that occasion.

(9) This section, without subsection (8), shall apply in relation to estate duty leviable under the law of Northern Ireland as it applies in relation to estate duty leviable under the law of Great Britain with the substitution for the estate duty enactments mentioned in this section of the corresponding enactments forming part of the law of Northern Ireland, and subject to any other necessary modifications.



## PART III.

Assets given, devised or bequeathed in connection with preservation of land for public benefit.

1931 c. 28.  
1936 c. 34.  
1937 c. 54.  
1949 c. 47.  
1951 c. 43.  
1963 c. 25.

**32.**—(1) A gain accruing on the disposal of an asset by way of gift, or accruing on a disposal on death of an asset devised or bequeathed by the deceased, shall not be a chargeable gain if under section 40 of the Finance Act 1931 (which, as amended by section 27 of the Finance Act 1936, section 31 of the Finance Act 1937, section 31 of the Finance Act 1949, section 33 of the Finance Act 1951 and section 54 of the Finance Act 1963, affords relief from estate duty in the case of land given to the National Trust or for certain other public purposes)—

- (a) the asset is exempt from estate duty which is or might have been leviable by reference to the gift, devise or bequest, or
- (b) the Treasury remit estate duty so leviable or where (as in the case of a gift or in the case of an asset exempt from estate duty) remission under that section would have no effect for the purposes of estate duty, if the Treasury determine that the gift, devise or bequest qualifies for relief under that section.

(2) A gain accruing—

- (a) on a disposal of assets forming part of property deemed under this Part of this Act to be effected by a deceased person on his death, or
- (b) on a disposal of assets forming part of settled property deemed to be effected in accordance with section 25(3) of this Act in consequence of the termination of a life interest by death,

shall not be a chargeable gain if and to the extent that under section 31(3) of the Finance Act 1937 (which, as amended by section 31 of the Finance Act 1949, section 33 of the Finance Act 1951 and section 54 of the Finance Act 1963, affords relief from estate duty in respect of settled property to which the National Trust or some other public body is entitled subject to one or more life interests) exemption is to be granted as to the estate duty (if any) leviable on that death in respect of those assets.

(3) This section shall apply in relation to estate duty leviable under the law of Northern Ireland as it applies to estate duty leviable under the law of Great Britain with the substitution for the estate duty enactments mentioned in this section of the corresponding enactments forming part of the law of Northern Ireland and subject to any other necessary modifications.

Replacement of business assets.

**33.**—(1) If the consideration which a person carrying on a trade obtains for the disposal of, or of his interest in, assets (in this section referred to as “the old assets”) used, and used only, for the purposes of the trade throughout the period of

ownership is applied by him in acquiring other assets, or an interest in other assets (in this section referred to as "the new assets") which on the acquisition are taken into use, and used only, for the purposes of the trade, and the old assets and new assets are within one, and the same one, of the classes of assets listed in this section, then the person carrying on the trade shall, on making a claim as respects the consideration which has been so applied, be treated for the purposes of this Part of this Act—

- (a) as if the consideration for the disposal of, or of the interest in, the old assets were (if otherwise of a greater amount or value) of such amount as would secure that on the disposal neither a loss nor a gain accrues to him, and
- (b) as if the amount or value of the consideration for the acquisition of, or of the interest in, the new assets were reduced by the excess of the amount or value of the actual consideration for the disposal of, or of the interest in, the old assets over the amount of the consideration which he is treated as receiving under paragraph (a) above,

but neither paragraph (a) nor paragraph (b) above shall affect the treatment for the purposes of this Part of this Act of the other party to the transaction involving the old assets or of the other party to the transaction involving the new assets.

(2) Subsection (1) of this section shall not apply if part only of the amount or value of the consideration for the disposal of, or of the interest in, the old assets is applied as described in that subsection but if all of the amount or value of the consideration except for a part which is less than the amount of the gain (whether all chargeable gain or not) accruing on the disposal of, or of the interest in, the old assets is so applied, then the person carrying on the trade, on making a claim as respects the consideration which has been so applied, shall be treated for the purposes of this Part of this Act—

- (a) as if the amount of the gain so accruing were reduced to the amount of the said part (and, if not all chargeable gain, with a proportionate reduction in the amount of the chargeable gain), and
- (b) as if the amount or value of the consideration for the acquisition of, or of the interest in, the new assets were reduced by the amount by which the gain is reduced under paragraph (a) of this subsection,

but neither paragraph (a) nor paragraph (b) above shall affect the treatment for the purposes of this Part of this Act of the other party to the transaction involving the old assets or of the other party to the transaction involving the new assets.

## PART III

(3) This section shall only apply if the acquisition of, or of the interest in, the new assets takes place, or an unconditional contract for the acquisition is entered into, in the period beginning twelve months before and ending twelve months after the disposal of, or of the interest in, the old assets, or at such earlier or later time as the Board may by notice in writing allow :

Provided that, where an unconditional contract for the acquisition is so entered into, this section may be applied on a provisional basis without waiting to ascertain whether the new assets, or the interest in the new assets, is acquired in pursuance of the contract, and, when that fact is ascertained, all necessary adjustments shall be made by making assessments or by repayment or discharge of tax, and shall be so made notwithstanding any limitation in this Act on the time within which assessments may be made.

(4) If two or more persons are carrying on a trade in partnership, this section shall not apply in relation to any one of them unless he is, under this Part of this Act, to be treated both as making a disposal of a share in, or in the interest in, the old assets, and as acquiring a share in, or in the interest in, the new assets ; and if those shares are different, that partner's share shall be taken for the purpose of this section to be the smaller share.

(5) This section shall not apply unless the acquisition of, or of the interest in, the new assets was made for the purpose of their use in the trade, and not wholly or partly for the purpose of realising a gain from the disposal of, or of the interest in, the new assets.

(6) The classes of assets for the purposes of this section are as follows.

Class 1. Assets within the heads A and B below

- A. Except where the trade is a trade of dealing in or developing land, or of providing services for the occupier of land in which the person carrying on the trade has an estate or interest—
- (a) any building or part of a building and any permanent or semi-permanent structure in the nature of a building, occupied (as well as used) only for the purposes of the trade, and
  - (b) any land occupied (as well as used) only for the purposes of the trade.
- B. Fixed plant or machinery which does not form part of a building or of a permanent or semi-permanent structure in the nature of a building.

	Class 2
Ships.	
	Class 3
Aircraft.	
	Class 4
Goodwill.	

PART III

(7) If, over the period of ownership or any substantial part of the period of ownership, part of a building or structure is, and part is not, used for the purposes of a trade, this section shall apply as if the part so used, with any land occupied for purposes ancillary to the occupation and use of that part of the building or structure, were a separate asset, and subject to any necessary apportionments of consideration for an acquisition or disposal of, or of an interest in, the building or structure and other land.

(8) If the old assets were not used for the purposes of the trade throughout the period of ownership this section shall apply as if a part of the asset representing its use for the purposes of the trade having regard to the time and extent to which it was, and was not, used for those purposes, were a separate asset which had been wholly used for the purposes of the trade, and this subsection shall apply in relation to that part subject to any necessary apportionment of consideration for an acquisition or disposal of, or of the interest in, the asset.

(9) This section shall apply in relation to a person who, either successively or at the same time, carries on two trades which are in different localities, but which are concerned with goods or services of the same kind, as if, in relation to old assets used for the purposes of the one trade and new assets used for the purposes of the other trade, the two trades were the same trade.

(10) This section shall apply with the necessary modifications—

- (a) in relation to the discharge of the functions of a public authority,
- (b) in relation to the occupation of woodlands where the woodlands are managed by the occupier on a commercial basis and with a view to the realisation of profits, and
- (c) in relation to a profession, vocation, office or employment,

as it applies in relation to a trade, and in this section the expressions “trade”, “profession”, “vocation”, “office” and “employment” have the same meanings as in the Income Tax Acts, but not so as to apply the provisions of the Income Tax

## PART III

Acts as to the circumstances in which, on a change in the persons carrying on a trade, a trade is to be regarded as discontinued, or as set up and commenced.

(11) The provisions of this Part of this Act fixing the amount of the consideration deemed to be given for the acquisition or disposal of assets shall be applied before this section is applied.

(12) Without prejudice to the provisions of this Part of this Act providing generally for apportionments, where consideration is given for the acquisition or disposal of assets some or part of which are assets in relation to which a claim under subsection (1) or subsection (2) of this section applies, and some or part of which are not, the consideration shall be apportioned in such manner as is just and reasonable.

Transfer of  
business on  
retirement.

**34.**—(1) If an individual who has attained the age of sixty years—

(a) disposes by way of sale or gift of the whole or part of a business which he has owned throughout the period of ten years ending with the disposal, or

(b) disposes by way of sale or gift of shares or securities of a company which has been a trading company and his family company during the period of ten years ending with the disposal, and of which he has been a full time working director throughout that period,

then relief shall be given under this section in respect of gains accruing to him on the disposal and the amount available for that relief shall be—

(i) if he has attained the age of sixty-five years, ten thousand pounds,

(ii) if he has not attained the age of sixty-five years, two thousand pounds for every year by which his age exceeds sixty, plus, for any odd part of a year, a corresponding part of two thousand pounds.

(2) Where subsection (1)(a) above applies the gains accruing to the individual on the disposal of chargeable business assets comprised in the disposal by way of sale or gift shall be aggregated, and only so much of that aggregate as exceeds the amount available for relief under this section shall be chargeable gains (but not so as to affect liability in respect of gains accruing on the disposal of assets other than chargeable business assets).

(3) Where subsection (1)(b) above applies—

(a) the gains which accrue to the individual on the disposal of the shares or securities shall be aggregated, and

(b) of a proportion of that aggregate sum which is equal to the proportion which the part of the value of the company's assets (including cash) at the time of the disposal which is attributable to the value of the company's chargeable business assets bears to the whole of that value, only so much as exceeds the amount available for relief under this section shall constitute chargeable gains (but not so as to affect liability in respect of gains representing the balance of the said aggregate sum).

(4) So far as the amount available for relief under subsection (1) above is applied in giving relief to an individual as respects a disposal within that subsection it shall not be applied in giving relief to that individual as respects any other disposal (and the relief shall be applied in the order in which any disposals take place), and—

(a) if the total amount of relief given to an individual under this section exceeds five thousand pounds section 24(2) of this Act shall apply on the death of the individual as if the five thousand pounds there mentioned were reduced by the amount of the excess, and

(b) if the total amount of relief given to an individual under this section is ten thousand pounds, no relief shall be given under the said section 24(2) on the death of that individual.

(5) In arriving at the aggregate under subsection (2) or subsection (3) above—

(a) the respective amounts of the gains shall be computed in accordance with the provisions of this Act (other than this section) fixing the amount of chargeable gains, and

(b) any allowable loss which accrues on the disposal shall be deducted,

and the provisions of this section shall not affect the computation of the amount of any allowable loss.

(6) In this section—

“chargeable business asset” means an asset (including goodwill but not including shares or securities or other assets held as investments, which is, or is an interest in, an asset used for the purposes of a trade, profession, vocation, office or employment carried on by the individual, or as the case may be by the individual's family company, other than an asset on the disposal of which no chargeable gain accrues or (where the disposal is of shares or securities in the family

## PART III

company) on the disposal of which no chargeable gain would accrue if the family company disposed of the asset at the time of the disposal of the shares or securities ;

“ family company ” means, in relation to an individual, a company the voting rights in which are—

(a) as to not less than twenty-five per cent., exercisable by the individual, or

(b) as to not less than seventy-five per cent., exercisable by the individual or a member of his family, and, as to not less than ten per cent., exercisable by the individual himself, and

“ family ” means, in relation to an individual, the husband or wife of the individual, and a relative of the individual or the individual’s husband or wife, and “ relative ” means brother, sister, ancestor or lineal descendant ;

“ full time working director ” means a director who is required to devote substantially the whole of his time to the service of the company in a managerial or technical capacity ;

“ trade ”, “ profession ”, “ vocation ”, “ office ” and “ employment ” have the same meanings as in the Income Tax Acts ;

“ trading company ” has the meaning given by paragraph 8 of Schedule 18 to this Act,

and in this section references to the disposal of the whole or part of a business include references to the disposal of the whole or part of the assets provided or held for the purposes of an office or employment by the person exercising that office or employment.

Exemption  
for charities  
and other  
miscellaneous  
exemptions.

**35.**—(1) Subject to subsection (2) of this section a gain shall not be a chargeable gain if it accrues to a charity and is applicable and applied for charitable purposes.

(2) If property held on charitable trusts ceases to be subject to charitable trusts—

(a) the trustees shall be treated as if they had disposed of, and immediately re-acquired, the property for a consideration equal to its market value, any gain on the disposal being treated as not accruing to a charity, and

(b) if and so far as any of that property represents, directly or indirectly, the consideration for the disposal of assets

by the trustees, any gain accruing on that disposal shall be treated as not having accrued to a charity, and, notwithstanding the provisions of this Act limiting the time for making assessments, an assessment to capital gains tax chargeable by virtue of paragraph (b) above may be made at any time not more than three years after the end of the year of assessment in which the property ceases to be subject to charitable trusts.

(3) In section 461 of the Income Tax Act 1952 and section 10. 73(3) of the Finance Act 1960 (diplomatic privileges) references to income tax shall include references to capital gains tax, and a gain shall not be a chargeable gain if accruing to a consular officer or employee of any foreign state to which section 24 of the Finance Act 1954 for the time being applies on the disposal of assets which at the time of the disposal were situated outside the United Kingdom. 1954 c. 44.

(4) Gains shall not be chargeable gains if accruing on the disposal of stock to which subsection (1) or subsection (2) of section 119 of the Income Tax Act 1952 (stock in the books of the Bank of England held on behalf of the Crown or by the National Debt Commissioners) applies.

(5) A gain shall not be a chargeable gain if accruing on the disposal by the trustees of any settled property held on trusts to which section 459 of the Income Tax Act 1952 (funds for reducing the national debt) applies.

**36.**—(1) A gain shall not be a chargeable gain if accruing to a person from his disposal of investments held by him as part of a fund approved under section 379 of the Income Tax Act 1952 (approved superannuation funds) but so that where part only of a fund is approved under that section the gain shall be exempt from being a chargeable gain to the same extent only as income derived from the assets would be exempt under that section. Superannuation funds.

(2) A gain shall not be a chargeable gain if accruing to a person from his acquisition and disposal of assets held by him as part of a fund of which income is exempt from tax under any of the following enactments (which relate to superannuation and similar funds), that is to say,—

- (a) in the Income Tax Act 1952 sections 381, 382 and 385 ;
- (b) in the Finance Act 1956 section 22(5) and section 40(3) ; 1956 c. 54.
- (c) in the Finance Act 1961 section 21 ; 1961 c. 36.
- (d) section 4(5) of the Ministerial Salaries and Pensions Act 1965 c. 11. 1965.

**37.**—(1) If in accordance with section 67 of this Act the total net gains of a unit trust or investment trust for an accounting period are apportioned to shares in the unit trust or investment Unit trusts and investment trusts.



## PART III

trust the amount so apportioned to any shares shall be treated for the purposes of this Part of this Act as if it were expenditure allowable under paragraph 4 of Schedule 6 to this Act and incurred by the person holding the shares at the time when the amount was apportioned to those shares.

(2) For the purposes of this section and the said section 67 “investment trust” means, as respects any accounting period, a company which is not a close company as defined in Schedule 18 to this Act and which is approved for the purposes of this section for that accounting period by the Board, and the Board shall not approve any company unless it is shown to their satisfaction—

- (a) that the company’s income is derived wholly or mainly from shares or securities; and
- (b) subject to subsection (3) of this section that no holding in a company, other than an investment trust or a company which would qualify as an investment trust but for paragraph (c) of this subsection, represents more than fifteen per cent. by value of the investing company’s investments, and
- (c) that the shares or securities of the company, or a class of them, are quoted on a recognised stock exchange in the United Kingdom, and
- (d) that the distribution as dividend of surpluses arising from the realisation of investments is prohibited by the company’s memorandum or articles of association, and
- (e) that the company does not retain in respect of any accounting period more than fifteen per cent. of the income it derives from shares and securities.

(3) Subsection (2)(b) above shall not apply—

- (a) to a holding in a company acquired before 6th April 1965 which on that date represented not more than twenty-five per cent. by value of the investing company’s investments, or
- (b) to a holding in a company acquired on or after that date which, when it was acquired, represented not more than fifteen per cent. by value of the investing company’s investments,

so long as no addition is made to the holding.

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

- (a) “holding” means the shares or securities (whether of one class or more than one class) held in any one company, and

- (b) an addition is made to a holding whenever the investing company acquires shares or securities of that one company, otherwise than by being allotted shares or securities without becoming liable to give any consideration, and if an addition is made to a holding that holding is acquired when the addition, or the latest addition, is made to the holding, and
- (c) where in connection with a scheme of reconstruction or amalgamation, a company issues shares or securities to persons holding shares or securities in the second company in respect of and in proportion to (or as nearly as may be in proportion to) their holdings in the second company, without those persons becoming liable to give any consideration, a holding of the shares or securities in the second company and a corresponding holding of the shares or securities so issued shall be regarded as the same holding,

and in subsection (2)(c) above "recognised stock exchange in the United Kingdom" has the same meaning as in the Prevention of Fraud (Investments) Act 1958 except that it includes the Belfast Stock Exchange. 1958 c. 45.

**38.**—(1) If throughout a year of assessment all the issued units in a unit trust scheme as defined in section 26(1) of the Prevention of Fraud (Investments) Act 1958 or section 22 of the Prevention of Fraud (Investments) Act (Northern Ireland) 1940 are assets such that any gain accruing if they were disposed of by the unit holder would be wholly exempt from capital gains tax or corporation tax (otherwise than by reason of residence) gains accruing to the unit trust scheme in that year of assessment shall not be chargeable gains. Unit trusts for exempt unit holders. 1940 c. 9 (N.I.)

(2) If throughout a year of assessment all the issued units in a unit trust scheme as so defined constitute investments to which section 36(1) of this Act applies, each being an investment such that any gain accruing if it were disposed of by the unit holder would either be wholly exempt from capital gains tax or corporation tax, or be so exempt as to not less than eighty-five per cent., then of all the gains accruing to the unit trust scheme in that year of assessment one-tenth (that is one-tenth of what would apart from this subsection be chargeable gains) shall be chargeable gains; and section 37 of this Act, with the provisions of section 67 applying for the purposes of the said section 37, shall apply in relation to chargeable gains accruing to the unit trust scheme in that year of assessment (as reduced under this subsection) where the unit trust scheme is not within section 67(1) of this Act, as well as where it is.

## PART III

Double  
taxation  
relief.

1952 c. 10.

**39.**—(1) For the purpose of giving relief from double taxation in relation to capital gains tax and tax on chargeable gains charged under the law of any country outside the United Kingdom in sections 347 and 348 of the Income Tax Act 1952 (double taxation relief and unilateral relief), with Schedules 16 and 17 to that Act, for references to income there shall be substituted references to capital gains and for references to income tax there shall be substituted references to capital gains tax meaning, as the context may require, tax charged under the law of the United Kingdom or tax charged under the law of a country outside the United Kingdom.

(2) Any arrangements set out in an order made under the said section 347 either before the passing of this Act, or, in the case of an order of which a draft was laid before the House of Commons before the passing of this Act, made after the passing of this Act, shall so far as they provide (in whatever terms) for relief from tax chargeable in the United Kingdom on capital gains have effect in relation to capital gains tax.

(3) So far as by virtue of this section capital gains tax charged under the law of a country outside the United Kingdom may be brought into account under the said provisions of the Income Tax Act 1952 as applied by this section, that tax, whether relief is given by virtue of this section in respect of it or not, shall not be taken into account for the purposes of those provisions of the Income Tax Act 1952 as they apply apart from this section.

(4) Section 353 of the Income Tax Act 1952 (disclosure of information for purposes of double taxation) shall apply in relation to capital gains tax as it applies in relation to income tax.

Relief in  
respect of  
delayed  
remittances  
of gains.

**40.**—(1) A person charged or chargeable for any year of assessment in respect of chargeable gains accruing to him from the disposal of assets situated outside the United Kingdom may claim that the following provisions of this section shall apply, on showing that the following conditions are satisfied, that is—

- (a) that he was unable to transfer those gains to the United Kingdom, and
- (b) that that inability was due to the laws of the territory where the income arose, or to the executive action of its government, or to the impossibility of obtaining foreign currency in that territory, and
- (c) that the inability was not due to any want of reasonable endeavours on his part.

(2) If he so claims then for the purposes of capital gains tax—

- (a) there shall be deducted from the amounts on which he is assessed to capital gains tax for the year in which the

chargeable gain accrued to the claimant the amount as respects which the conditions in paragraphs (a), (b) and (c) above are satisfied, so far as applicable, but

(b) the amount so deducted shall be assessed to capital gains tax on the claimant (or his personal representatives) as if it were an amount of chargeable gains accruing in the year of assessment in which the said conditions cease to be satisfied.

(3) No claim under this section shall be made in respect of any chargeable gain more than six years after the end of the year of assessment in which that gain accrues.

(4) The personal representatives of a deceased person may make any claim which he might have made under this section if he had not died.

*Chargeable gains accruing to non-resident companies and trusts*

**41.**—(1) This section applies as respects chargeable gains accruing to a company— Non-resident company.

(a) which is not resident in the United Kingdom, and

(b) which would be a close company as defined by Schedule 18 to this Act if it were resident in the United Kingdom.

(2) Subject to this section, every person who at the time when the chargeable gain accrues to the company is resident or ordinarily resident in the United Kingdom, who, if an individual, is domiciled in the United Kingdom and who holds shares in the company shall be treated for the purposes of this Part of this Act as if a part of the chargeable gain had accrued to him.

(3) That part shall be equal to the proportion of the assets of the company to which that person would be entitled on a liquidation of the company at the time when the chargeable gain accrues to the company.

(4) If the part of a chargeable gain attributable to a person under subsection (2) of this section is less than one-twentieth, the said subsection (2) shall not apply to that person.

(5) This section shall not apply in relation to—

(a) any amount in respect of the chargeable gain which is distributed, whether by way of dividend or distribution of capital or on the dissolution of the company, to persons holding shares in the company, or creditors of the company, within two years from the time when the chargeable gain accrued to the company, or

(b) a chargeable gain accruing on the disposal of assets, being tangible property, whether movable or immovable, or a lease of such property, where the property

## PART III

was used, and used only, for the purposes of a trade carried on by the company wholly outside the United Kingdom, or

(c) to a chargeable gain in respect of which the company is chargeable to tax by virtue of section 50(2)(b) of this Act.

(6) Subsection (5)(a) above shall not prevent the making of an assessment in pursuance of this section but if, by virtue of that paragraph, this section is excluded all such adjustments, whether by way of repayment or discharge of tax or otherwise, shall be made as will give effect to the provisions of that paragraph.

(7) The amount of capital gains tax paid by a person in pursuance of subsection (2) of this section (so far as not reimbursed by the company) shall be allowable as a deduction in the computation under this Part of this Act of a gain accruing on the disposal by him of the shares by reference to which the tax was paid.

(8) So far as it would go to reduce or extinguish chargeable gains accruing by virtue of this section to a person in a year of assessment this section shall apply in relation to a loss accruing to the company on the disposal of an asset in that year of assessment as it would apply if a gain instead of a loss had accrued to the company on the disposal, but shall only so apply in relation to that person; and subject to the foregoing provisions of this subsection this section shall not apply in relation to a loss accruing to the company.

(9) If the person owning any of the shares in the company at the time when the chargeable gain accrues to the company is itself a company which is not resident in the United Kingdom but which would be a close company as defined in Schedule 18 to this Act if it were resident in the United Kingdom, an amount equal to the amount apportioned under subsection (3) of this section out of the chargeable gain to the shares so owned shall be apportioned among the issued shares of the second-mentioned company, and the holders of those shares shall be treated in accordance with subsection (2) of this section, and so on through any number of companies.

Non-resident  
trust.

**42.—**(1) This section applies as respects chargeable gains accruing to the trustees of a settlement if the trustees are not resident and not ordinarily resident in the United Kingdom, and if the settlor, or one of the settlors, is domiciled and either resident or ordinarily resident in the United Kingdom, or was domiciled and either resident or ordinarily resident in the United Kingdom when he made his settlement.

(2) Any beneficiary under the settlement who is domiciled and either resident or ordinarily resident in the United Kingdom during any year of assessment shall be treated for the purposes of this Part of this Act as if an apportioned part of the amount, if any, on which the trustees would have been chargeable to capital gains tax under section 20(4) of this Act, if domiciled and either resident or ordinarily resident in the United Kingdom in that year of assessment, had been chargeable gains accruing to the beneficiary in that year of assessment; and for the purposes of this section any such amount shall be apportioned in such manner as is just and reasonable between persons having interests in the settled property, whether the interest be a life interest or an interest in reversion, and so that the chargeable gain is apportioned, as near as may be, according to the respective values of those interests, disregarding in the case of a defeasible interest the possibility of defeasance.

(3) For the purposes of this section—

- (a) if in any of the three years ending with that in which the chargeable gain accrues a person has received a payment or payments out of the income of the settled property made in exercise of a discretion he shall be regarded, in relation to that chargeable gain, as having an interest in the settled property of a value equal to that of an annuity of a yearly amount equal to one-third of the total of the payments so received by him in the said three years, and
  - (b) if a person receives at any time after the chargeable gain accrues a capital payment made out of the settled property in exercise of a discretion, being a payment which represents the chargeable gain in whole or part then, except so far as any part of the gain has been attributed under this section to some other person who is domiciled and resident or ordinarily resident in the United Kingdom, that person shall, if domiciled and resident or ordinarily resident in the United Kingdom, be treated as if the chargeable gain, or as the case may be the part of the chargeable gain represented by the capital payment, had accrued to him at the time when he received the capital payment.
- (4) In the case of a settlement made before 6th April 1965—
- (a) subsection (2) of this section shall not apply to a beneficiary whose interest is solely in the income of the settled property, and who cannot, by means of the exercise of any power of appointment or power of revocation or otherwise, obtain for himself, whether with or without the consent of any other person, any part of the capital represented by the settled property, and

## PART III

- (b) payment of capital gains tax chargeable on a gain apportioned to a beneficiary in respect of an interest in reversion in any part of the capital represented by the settled property may be postponed until that person becomes absolutely entitled to that part of the settled property, or disposes of the whole or any part of his interest, unless he can, by any means described in paragraph (a) above, obtain for himself any of it at any earlier time,

and for the purposes of this subsection, property added to a settlement after the settlement is made shall be regarded as property under a separate settlement made at the time when the property is so added.

(5) In any case in which the amount of any capital gains tax payable by a beneficiary under a settlement in accordance with the provisions of this section is paid by the trustees of the settlement such amount shall not for the purposes of taxation be regarded as a payment to such beneficiary.

(6) This section shall not apply in relation to a loss accruing to the trustees of the settlement.

(7) In this section “settlement” and “settlor” have the same meanings as in Chapter III of Part XVIII of the Income Tax Act 1952 and “settled property” shall be construed accordingly.

1952 c. 10.

Residence  
and location  
of assets.*Supplemental*

**43.**—(1) In this Part of this Act “resident” and “ordinarily resident” have the same meanings as in the Income Tax Acts.

(2) Subject to section 20(2) of this Act an individual who is in the United Kingdom for some temporary purpose only and not with any view or intent to establish his residence in the United Kingdom shall be charged to capital gains tax on chargeable gains accruing in any year of assessment if and only if the period (or the sum of the periods) for which he is resident in the United Kingdom in that year of assessment exceeds six months.

(3) For the purposes of this Part of this Act—

- (a) the situation of rights or interests (otherwise than by way of security) in or over immovable property is that of the immovable property,
- (b) subject to the following provisions of this subsection, the situation of rights or interests (otherwise than by way of security) in or over tangible movable property is that of the tangible movable property,
- (c) subject to the following provisions of this subsection, a debt, secured or unsecured, is situated in the United

- Kingdom if and only if the creditor is resident in the United Kingdom,
- (d) shares or securities issued by any municipal or governmental authority, or by any body created by such an authority, are situated in the country of that authority,
  - (e) subject to paragraph (d) above, registered shares or securities are situated where they are registered and, if registered in more than one register, where the principal register is situated,
  - (f) a ship or aircraft is situated in the United Kingdom if and only if the owner is then resident in the United Kingdom, and an interest or right in or over a ship or aircraft is situated in the United Kingdom if and only if the person entitled to the interest or right is resident in the United Kingdom,
  - (g) the situation of good-will as a trade, business or professional asset is at the place where the trade, business or profession is carried on,
  - (h) patents, trade-marks and designs are situated where they are registered, and if registered in more than one register, where each register is situated, and copyright, franchises, rights and licences to use any copyright material, patent, trade-mark or design are situated in the United Kingdom if they, or any rights derived from them, are exercisable in the United Kingdom,
  - (i) a judgment debt is situated where the judgment is recorded.

44.—(1) Subject to the following subsections, in this Part Valuation, of this Act “market value” in relation to any assets means the price which those assets might reasonably be expected to fetch on a sale in the open market.

(2) In estimating the market value of any assets no reduction shall be made in the estimate on account of the estimate being made on the assumption that the whole of the assets is to be placed on the market at one and the same time :

Provided that where capital gains tax is chargeable, or an allowable loss accrues, in consequence of death and the market value of any property on the date of death taken into account for the purposes of that tax or loss has been depreciated by reason of the death the estimate of the market value shall take that depreciation into account.

(3) Subject to paragraph 22(3) of Schedule 6 to this Act the market value of shares or securities quoted on the London Stock Exchange shall, except where in consequence of special



**PART III** circumstances prices so quoted are by themselves not a proper measure of market value, be as follows—

- (a) the lower of the two prices shown in the quotations for the shares or securities in the Stock Exchange Official Daily List on the relevant date plus one-quarter of the difference between those two figures, or
- (b) halfway between the highest and lowest prices at which bargains, other than bargains done at special prices, were recorded in the shares or securities for the relevant date,

choosing the amount under paragraph (a) if less than that under paragraph (b), or if no such bargains were recorded for the relevant date, and choosing the amount under paragraph (b) if less than that under paragraph (a):

Provided that—

- (i) this subsection shall not apply to shares or securities for which some other stock exchange in the United Kingdom affords a more active market; and
- (ii) if the London Stock Exchange is closed on the relevant date the market value shall be ascertained by reference to the latest previous date or earliest subsequent date on which it is open, whichever affords the lower market value.

1958 c. 45.  
1940 c. 9 (N.I.).

(4) Subject to paragraph 22(3) of Schedule 6 to this Act in this Part of this Act “market value” in relation to any rights of unit holders in any unit trust scheme (as defined in section 26(1) of the Prevention of Fraud (Investments) Act 1958 or section 22 of the Prevention of Fraud (Investments) Act (Northern Ireland) 1940) the buying and selling prices of which are published daily by the managers of the scheme shall mean an amount equal to the buying price (that is the lower price) so published on the relevant date, or if none were published on that date, on the latest date before.

1947 c. 14.

(5) In relation to an asset of a kind the sale of which is subject to restrictions imposed under the Exchange Control Act 1947 such that part of what is paid by the purchaser is not retainable by the seller the market value, as arrived at under subsection (1), subsection (3) or subsection (4) of this section, shall be subject to such adjustment as is appropriate having regard to the difference between the amount payable by a purchaser and the amount receivable by a seller.

(6) If and so far as the question in dispute on any appeal against an assessment to tax (whether capital gains tax or corporation tax) on chargeable gains, or against a decision on a

claim under this Part of this Act is a question of the value of any land, or of a lease of land then— PART III

- (a) if the land is in England or Wales the question shall be determined on a reference to the Lands Tribunal, and
- (b) if the land is in Northern Ireland the question shall be determined on a reference to the Lands Tribunal for Northern Ireland.

(7) In relation to land and leases of land in Scotland for any reference to the Lands Tribunal there shall be substituted a reference to the Lands Tribunal for Scotland :

Provided that until sections 1 to 3 of the Lands Tribunal Act 1949 c. 42. 1949 come into force as regards Scotland, this subsection shall have effect as if for the reference to the Lands Tribunal for Scotland there were substituted a reference to a person selected from the panel of referees appointed under Part I of the Finance 1910 c. 8. (1909-1910) Act 1910.

(8) If and so far as any such appeal involves the question of the value of any shares or securities in a company resident in the United Kingdom, other than shares or securities dealt in on a stock exchange in the United Kingdom, that question shall be determined by the General Commissioners having jurisdiction in an appeal from an assessment to income tax or corporation tax made on the company, but subject to section 11(4) of the Income Tax Management Act 1964 (under which the assumption of jurisdiction by Commissioners cannot be questioned after the proceedings are finished). 1964 c. 37.

**45.—**(1) In this Part of this Act, unless the context otherwise requires,— Interpretation and other supplemental provisions.

- “ the Board ” means the Commissioners of Inland Revenue ;
- “ branch or agency ” means any factorship, agency, receivership, branch or management, but does not include any person within the exemptions in section 373 of the Income Tax Act 1952 (general agents and brokers), and 1952 c. 10.
- “ principal ” means, in relation to the branch or agency, the person, by whatever name called, managing or in charge of the branch or agency ;
- “ allowable loss ” has the meaning given by section 23 of this Act ;
- “ chargeable gain ” has the meaning given by section 22(10) of this Act ;
- “ class ”, in relation to shares or securities, means a class of shares or securities of any one company ;
- “ company ” includes any body corporate or unincorporated association but does not include a partnership ;
- “ control ” shall be construed in accordance with paragraph 3 of Schedule 18 to this Act ;

## PART III

“ lease ”—

(a) in relation to land, includes an underlease, sublease or any tenancy or licence, and any agreement for a lease, underlease, sublease or tenancy or licence and, in the case of land outside the United Kingdom, any interest corresponding to a lease as so defined,

(b) in relation to any description of property other than land, means any kind of agreement or arrangement under which payments are made for the use of, or otherwise in respect of, property,

and “ lessor ”, “ lessee ” and “ rent ” shall be construed accordingly.

“ legatee ” includes any person taking under a testamentary disposition or on an intestacy or partial intestacy, whether he takes beneficially or as trustee, and a donatio mortis causa shall be treated as a testamentary disposition and shall not be treated as a gift ;

“ part disposal ” has the meaning given by section 22(2) of this Act ;

“ personal representatives ” has the meaning assigned to it by section 423(4) of the Income Tax Act 1952 ;

“ settled property ” means, subject to subsection (8) below, any property held in trust other than property to which section 22(5) of this Act applies ;

“ shares ” includes stock, and shares or debentures comprised in any letter of allotment or similar instrument shall be treated as issued unless the right to the shares or debentures thereby conferred remains provisional until accepted and there has been no acceptance ;

“ trade ” has the same meaning as in the Income Tax Acts ;

“ trading stock ” has the meaning given by section 143(4) of the Income Tax Act 1952 as extended by section 35(5) of the Finance Act 1960 ;

“wasting asset” has the meaning given by paragraph 9 of Schedule 6 to this Act and paragraph 1 of Schedule 8 to this Act;

“year of assessment” means, in relation to capital gains tax, a year beginning on 6th April and ending on 5th April in the following calendar year, and “1965-66” and so on indicate years of assessment as in the Income Tax Acts.

(2) References in this Part of this Act to Part X of the Income Tax Act 1952 shall be construed as if they were references contained in the Income Tax Acts.

1952 c. 10.

1960 c. 44.

(3) References in this Part of this Act to a married woman living with her husband should be construed in accordance with section 361(1)(2) of the Income Tax Act 1952. PART III  
1952 c. 10.

(4) A hire-purchase or other transaction under which the use and enjoyment of an asset is obtained by a person for a period at the end of which the property in the asset will or may pass to that person shall be treated for the purposes of this Part of this Act, both in relation to that person and in relation to the person from whom he obtains the use and enjoyment of the asset, as if it amounted to an entire disposal of the asset to that person at the beginning of the period for which he obtains the use and enjoyment of the asset, but subject to such adjustments of tax, whether by way of repayment or discharge of tax or otherwise, as may be required where the period for which that person has the use and enjoyment of the asset terminates without the property in the asset passing to him.

(5) In the case of a disposal within paragraph (a), (b) (c) or (d) of section 22(3) of this Act the time of the disposal shall be the time when the capital sum is received as described in that subsection.

(6) For the purposes of section 20(7) of this Act, there shall be treated as received in the United Kingdom in respect of any gain all amounts paid, used or enjoyed in or in any manner or form transmitted or brought to the United Kingdom and section 24 of the Finance Act 1953 (under which income applied outside the United Kingdom in payment of debts is, in certain cases, treated as received in the United Kingdom) shall apply as it would apply for purposes of section 132(3) of the Income Tax Act 1952 if the gain were income arising from possessions out of the United Kingdom. 1953 c. 34.

(7) Where two or more persons carry on a trade or business in partnership—

(a) tax in respect of chargeable gains accruing to them on the disposal of any partnership assets shall, in Scotland as well as elsewhere in the United Kingdom, be assessed and charged on them separately, and

(b) any partnership dealings shall be treated as dealings by the partners and not by the firm as such, and

(c) section 147 of the Income Tax Act 1952 (residence of partnerships) shall apply in relation to tax chargeable in pursuance of this Part of this Act as it applies in relation to income tax.

(8) This Part of this Act shall apply in relation to any unit trust scheme (as defined in section 26(1) of the Prevention of Fraud (Investments) Act 1958 or section 22 of the Prevention 1958 c. 45.

PART III of Fraud (Investments) Act (Northern Ireland) 1940) as if the  
 1940 c. 9 (N.I.). scheme were a company, as if the rights of the unit holders  
 were shares in the company, and in the case of an authorised  
 unit trust scheme within the meaning of section 71 of the  
 1960 c. 44. Finance Act 1960 as if the company were resident and ordinarily  
 resident in the United Kingdom.

(9) Any provision in this Part of this Act introducing the assumption that assets are sold and immediately re-acquired shall not imply that any expenditure is incurred as incidental to the sale or re-acquisition.

(10) Any reference in any Act passed before this Act and, unless the contrary is expressly provided, in any Act passed with or after this Act, to duties leviable on death shall not include a reference to capital gains tax and references to profits or gains in the Income Tax Acts shall not include references to chargeable gains.

1952 c. 10. (11) Section 512 of the Income Tax Act 1952 (which overrides exemptions under local Acts and other special exemptions) shall apply in relation to tax chargeable in pursuance of this Part of this Act as it applies in relation to income tax.

(12) Schedule 10 to this Act (administration) shall have effect for the purposes of this Act.

## PART IV

### TAXATION OF COMPANIES AND OF COMPANY DISTRIBUTIONS

#### *General system of taxation*

Introduction  
 for companies  
 etc. of  
 corporation  
 tax, in place  
 of income  
 tax and  
 profits tax.

**46.**—(1) For the financial years 1964 and 1965 there shall be charged on profits of companies a tax, to be called corporation tax, at such rate as Parliament may hereafter determine; and corporation tax shall be charged also, and this Part of this Act shall apply, for any later financial year for which Parliament so determines.

(2) For years of assessment after the year 1965-66 the provisions of the Income Tax Acts relating to the charge of income tax other than surtax shall not apply to income of a company (not arising to it in a fiduciary or representative capacity) if—

- (a) the company is resident in the United Kingdom; or
- (b) the income is, in the case of a company not so resident, within the chargeable profits of the company as defined for purposes of corporation tax.

(3) The profits tax shall not be chargeable for accounting periods or parts of accounting periods falling after the end of the year 1965-66, and references to the years of charge to the national defence contribution shall be construed accordingly as references to a period ending with that year.

(4) A company shall not be chargeable to capital gains tax in respect of gains accruing to it so that it is chargeable in respect of them to corporation tax or would be so chargeable but for an exemption from corporation tax.

(5) In this Part of this Act, unless the context otherwise requires—

- (a) “company” means, subject to sections 66 and 67 of this Act, any body corporate or unincorporated association, but does not include a partnership;
- (b) “profits” means income and chargeable gains, and “chargeable gains” has the same meaning as in Part III of this Act.

**47.**—(1) Except as otherwise provided by this Part of this Act, corporation tax shall not be chargeable on dividends and other distributions of a company resident in the United Kingdom, nor shall any such dividends or distributions be taken into account in computing income for corporation tax; but income tax for a year of assessment after the year 1965-66 shall be chargeable under a new Schedule F in respect of all dividends and other distributions in that year of a company resident in the United Kingdom which are not charged under Schedule D or Schedule E and are not specially exempted from income tax, and for purposes of income tax all such distributions shall be regarded as income, however they fall to be dealt with in the hands of the recipient.

Taxation of  
company  
distributions.

(2) Income tax under Schedule F for any year of assessment shall be charged in respect of any distribution made in the year on such sum as, after deduction of income tax thereon at the standard rate, equals the amount or value of the distribution after any deduction of income tax actually made; and, subject to any enactment to the contrary, the distribution shall be deemed for purposes of income tax to represent income, of an amount equal to that sum, on which income tax has been borne by deduction:

Provided that in the case of preference dividends the tax chargeable and the amount of income represented by the dividends shall be determined by reference to the fixed gross rate of dividend.

## PART IV

1952 c. 10.

(3) Where, in the year 1966-67 or any later year of assessment, a company resident in the United Kingdom makes any distribution, not being a payment of interest other than yearly interest nor a payment in respect of which deductions or repayments of income tax may fall to be made under section 157 (pay as you earn) of the Income Tax Act 1952, the company shall under this subsection account for and pay income tax in respect of the distribution at the standard rate for that year.

(4) Where a company is liable under subsection (3) above to account for income tax in respect of any payment made by it, and the company is not otherwise entitled to deduct income tax from the payment, the company on making the payment shall be entitled under this subsection to deduct out of it an amount equal to the income tax for which it is liable to account in respect of the payment; and as against any person entitled to the payment the company shall be acquitted and discharged of so much money as is represented by the deduction, as if that sum had been actually paid.

1963 c. 25.

Section 50 of the Finance Act 1963 (certificates of deduction) shall apply in relation to this subsection as it applies in relation to section 169 or 170 of the Income Tax Act 1952.

(5) Schedule 11 to this Act shall have effect with respect to the meaning in this Part of this Act of "distribution", and for determining the persons to whom certain distributions are to be treated as made; but references in this Part of this Act to distributions of a company, except references in any provision specially relating to a winding-up, shall not apply to distributions made in respect of share capital in a winding-up, nor shall any dividend or bonus deductible in computing income as mentioned in section 444(2) of the Income Tax Act 1952 (which relates to industrial and provident societies and bodies engaged in mutual trading) be regarded as a distribution.

Tax on  
distributions  
etc. received  
by U.K.  
company.

**48.—**(1) Subject to the provisions of this Part of this Act a company resident in the United Kingdom shall not, in respect of distributions received in the year 1966-67 or a later year of assessment from another such company (in this Part of this Act referred to as the recipient's "franked investment income"), be entitled to repayment of income tax on any surplus in amount or value of that franked investment income over the aggregate amount or value of the distributions made by it in that year.

(2) Where in any such year of assessment a company has such a surplus of franked investment income, the surplus shall be carried forward to the following year and treated for purposes

of this section (including any further application of this subsection) as an amount of franked investment income received in that year; but where by virtue of this subsection income tax in respect of franked investment income received in any year of assessment becomes repayable in a later year, it shall be repaid at the rate for the year in which the income was received, and tax for an earlier year of assessment shall be repaid before tax for a later year.

(3) Where a company receives dividends from another company (both being resident in the United Kingdom), and either—

- (a) the company paying the dividends is a subsidiary of the other or of a company so resident of which the other is a subsidiary; or
- (b) the business of the company paying the dividends consists wholly or mainly of the carrying on of a trade or trades, and three-quarters or more of the ordinary share capital of that company is owned between them by five or fewer companies so resident, of which the company receiving the dividends is one and of which none owns less than one-twentieth of that capital;

then, subject to Schedule 12 to this Act, the company receiving the dividends and the company paying them may jointly elect that this subsection shall apply to the dividends received from the latter by the former, and so long as the election is in force any such dividends shall be excluded from section 47(3) of this Act and from this section, and are accordingly not included, unless otherwise stated, in references to the franked investment income of the company receiving them (but are in this Part of this Act referred to as “group income” of that company):

Provided that an election under this subsection shall not prevent the payment of any amount of dividends under deduction of income tax, and where notwithstanding the election any amount is so paid, this Part of this Act shall have effect in relation to it as if there had been no such election.

(4) Subsection (1) above shall not apply to a company which is wholly exempt from corporation tax or is only not exempt in respect of trading income, nor to any distributions received by a company which fall, or would if they consisted of dividends on shares fall, within any exemption from income tax conferred by any provision of the Income Tax Acts having effect at the passing of this Act.

(5) No payment made in or after the year 1966-67 by a company resident in the United Kingdom shall by virtue of this section or otherwise be treated for any purpose of the Income Tax Acts as paid out of profits or gains brought into charge to



PART IV income tax ; nor shall any right or obligation under the Income Tax Acts to deduct income tax from any payment be affected by the fact that the recipient is a company not chargeable to income tax in respect of the payment.

(6) Subject to the provisions of this Part of this Act, where in the year 1966-67 or any later year of assessment a company resident in the United Kingdom receives any payment on which it bears income tax by deduction (not being franked investment income), the income tax thereon shall be set off against any corporation tax assessable on the company by an assessment made for the accounting period in which that payment falls to be taken into account for corporation tax (or would fall to be taken into account but for any exemption from corporation tax) ; and accordingly in respect of that payment the company, unless wholly exempt from corporation tax, shall not be entitled to a repayment of income tax before the assessment for that accounting period is finally determined and it appears that a repayment is due.

(7) Where in the year 1966-67 or any later year of assessment a company receives from another company (both being resident in the United Kingdom) any such payments as are referred to below in this subsection, and the conditions of subsection (3)(a) or (b) above would be satisfied in relation to the companies if the payments were dividends, then, subject to Schedule 12 to this Act, the company receiving the payments and the company paying them may jointly elect that this subsection shall apply to any such payments received from the latter by the former, and so long as the election is in force those payments may be made without deduction of income tax and section 170 of the Income Tax Act 1952 shall not apply thereto.

1952 c. 10.

The payments for which an election may be made under this subsection are any payments which are for corporation tax charges on income of the company making them.

(8) Schedule 12 to this Act shall have effect for the purpose of implementing the foregoing subsections, and for regulating the time and manner in which companies resident in the United Kingdom are to account for and pay income tax in respect of distributions made by them, and in respect of payments from which tax is deductible other than distributions, or are to be repaid income tax in respect of distributions and payments received by them.

(9) References in this section to distributions or payments received by a company apply to any received by another person on behalf of or in trust for the company, but not to any received by the company on behalf of or in trust for another person.

and nothing in this section shall apply to distributions in respect of which the company making them is not liable (apart from any election under subsection (3) above) to account for income tax under section 47(3) of this Act ; and references to “franked investment income” and “group income” shall be construed accordingly.

PART IV

### *Corporation tax*

**49.**—(1) Subject to any exceptions provided for by this Part of this Act, a company shall be chargeable to corporation tax on all its profits wherever arising.

General  
scheme of  
corporation  
tax.

(2) A company shall be chargeable to corporation tax on profits accruing for its benefit under any trust, or arising under any partnership, in any case in which it would be so chargeable if the profits accrued to it directly ; and a company shall be chargeable to corporation tax on profits arising in the winding up of the company, but shall not otherwise be chargeable to corporation tax on profits accruing to it in a fiduciary or representative capacity except as respects its own beneficial interest (if any) in those profits.

(3) Corporation tax for any financial year shall be charged on profits arising in that year ; but assessments to corporation tax shall be made on a company by reference to accounting periods, and the amount chargeable (after making all proper deductions) of the profits arising in an accounting period shall, where necessary, be apportioned between the financial years in which the accounting period falls.

(4) Except as provided by this Part of this Act, corporation tax assessed for an accounting period shall be paid within nine months from the end of that period or, if it is later, within one month from the making of the assessment.

(5) No assessment to corporation tax for the financial year 1964 or 1965 shall be made before the passing of an Act fixing the rate of tax for the year ; but in the financial year 1966 or any later year assessments for accounting periods falling wholly or partly in that year or (subject to subsection (6) below) in the preceding year may, notwithstanding that corporation tax has not at the time been charged for the year in question, charge tax for so much of the period as falls within that year according to the rate of tax last fixed, but any such charge shall be subject to later adjustment, if need be, by discharge or repayment of tax or by a further assessment if for that year corporation tax is not charged by an Act passed not later than 5th August next after the end of the year or is charged otherwise than as it has been assessed.

## PART IV

(6) Where the Committee of Ways and Means of the House of Commons (being a Committee of the whole House) passes a Resolution for fixing the rate of corporation tax for the financial year 1966 or any later year, or for altering the tax for any such year, and the Resolution is agreed to by the House, then any assessment to tax afterwards made by virtue of subsection (5) above may be made in accordance with the Resolution; but no assessment made by virtue of that subsection more than one month after the end of any financial year shall charge tax for that year, unless a Resolution for charging corporation tax for that year has been so passed and agreed to, nor shall any assessment be made by virtue of any such Resolution more than four months after the date on which the Resolution is passed by the Committee of Ways and Means.

(7) Corporation tax shall be under the care and management of the Commissioners of Inland Revenue (in this Part of this Act referred to as "the Board"), and the Board may do all such acts as may be deemed necessary and expedient for raising, collecting, receiving and accounting for the tax in the like manner as they are authorised to do with relation to any other duties under their care and management; and all enactments relating to the assessing, collecting, receiving and accounting for income tax (including enactments conferring or regulating a right of appeal), so far as they are consistent with the provisions of this Part of this Act, shall apply in like manner as nearly as may be in relation to corporation tax.

Companies  
not resident  
in the United  
Kingdom.

**50.**—(1) A company not resident in the United Kingdom shall not be within the charge to corporation tax unless it carries on a trade in the United Kingdom through a branch or agency but, if it does so, it shall, subject to any exceptions provided for by this Part of this Act, be chargeable to corporation tax on all its chargeable profits wherever arising.

(2) For purposes of corporation tax the chargeable profits of a company not resident in the United Kingdom but carrying on a trade there through a branch or agency shall be—

- (a) any trading income arising directly or indirectly through or from the branch or agency, and any income from property or rights used by, or held by or for, the branch or agency (but so that this paragraph shall not include distributions received from companies resident in the United Kingdom); and
- (b) such chargeable gains accruing on the disposal of assets situated in the United Kingdom as are by Part III of this Act made chargeable to capital gains tax in the case of an individual not resident or ordinarily resident in the United Kingdom.

## PART IV

(3) Where, in the year 1966-67 or any later year of assessment, a company not resident in the United Kingdom receives any payment on which it bears income tax by deduction, and the payment forms part of, or is to be taken into account in computing, the company's income chargeable to corporation tax, the income tax thereon shall be set off against any corporation tax assessable on that income by an assessment made for the accounting period in which the payment falls to be taken into account for corporation tax ; and accordingly in respect of that payment the company shall not be entitled to a repayment of income tax before the assessment for that accounting period is finally determined and it appears that a repayment is due.

(4) Without prejudice to the general application of income tax procedure to corporation tax, the provisions of Part XVI of the Income Tax Act 1952 relating to the assessment and charge of income tax on persons not resident in the United Kingdom, so far as they are applicable to tax chargeable on a company, shall apply with any necessary adaptations in relation to corporation tax chargeable on companies not resident in the United Kingdom. 1952 c. 10.

**51.**—(1) Except as otherwise provided by this Part of this Act, corporation tax shall be assessed and charged for any accounting period of a company on the full amount of the profits arising in the period (whether or not received in or transmitted to the United Kingdom) without any other deduction than is authorised by this Act. Basis of, and periods for, assessment.

(2) An accounting period of a company shall begin for purposes of corporation tax whenever—

- (a) the company, not then being within the charge to tax, comes within it, whether by the coming into force of any provision of this Part of this Act, or by the company becoming resident in the United Kingdom or acquiring a source of income, or otherwise ; or
- (b) an accounting period of the company ends without the company then ceasing to be within the charge to tax.

(3) An accounting period of a company shall end for purposes of corporation tax on the first occurrence of any of the following:—

- (a) the expiration of twelve months from the beginning of the accounting period ;
- (b) an accounting date of the company or, if there is a period for which the company does not make up accounts, the end of that period ;

## PART IV

- (c) the company beginning or ceasing to carry on any trade, or to be, in respect of a trade, within the charge to tax ;
- (d) the company beginning or ceasing to be resident in the United Kingdom ;
- (e) the company ceasing to be within the charge to tax.

(4) For the purposes of this section a company resident in the United Kingdom, if not otherwise within the charge to corporation tax, shall be treated as coming within the charge to tax at the beginning of the year 1966-67 or at the time when it commences to carry on business, whichever is the later.

(5) If a company carrying on more than one trade makes up accounts of any of them to different dates, and does not make up general accounts for the whole of the company's activities, subsection (3)(b) above shall apply with reference to the accounting date of such one of the trades as the Board may determine.

(6) Notwithstanding anything in the foregoing subsections, where a company is wound up, an accounting period shall end and a new one begin with the commencement of the winding up, and thereafter an accounting period shall not end otherwise than by the expiration of twelve months from its beginning or by the completion of the winding up.

For this purpose a winding up is to be taken to commence on the passing by the company of a resolution for the winding up of the company, or on the presentation of a winding up petition if no such resolution has previously been passed and a winding up order is made on the petition, or on the doing of any other act for a like purpose in the case of a winding up otherwise than under the Companies Act 1948.

1948 c. 38.

(7) Where it appears to the inspector that the beginning or end of any accounting period of a company is uncertain, he may make an assessment on the company for such period, not exceeding twelve months, as appears to him appropriate, and that period shall be treated for all purposes as an accounting period of the company unless either the inspector on further facts coming to his knowledge sees fit to revise it or on an appeal against the assessment in respect of some other matter the company shows the true accounting periods ; and if on an appeal against an assessment made by virtue of this subsection the company shows the true accounting periods, the assessment appealed against shall, as regards the period to which it relates, have effect as an assessment or assessments for the true accounting periods, and there may be made such other assessments for any such periods or any of them as might have been made at the time when the assessment appealed against was made.

**52.**—(1) In computing the corporation tax chargeable for any accounting period of a company any charges on income paid by the company in the accounting period (but not before the year 1966-67), so far as paid out of the company's profits brought into charge to corporation tax, shall be allowed as deductions against the total profits for the period as reduced by any other relief from tax. PART IV  
Allowance  
of charges  
on income.

(2) Subject to the following subsections, "charges on income" means for the purposes of corporation tax payments of any description mentioned in subsection (3) below, not being dividends or other distributions of the company; but no payment which is deductible in computing profits or any description of profits for purposes of corporation tax shall be treated as a charge on income.

(3) The payments referred to in subsection (2) above are—

(a) any yearly interest, annuity or other annual payment and any such other payments as are mentioned in section 169(3) of the Income Tax Act 1952, but not including sums falling within section 169(4) (rents, etc.); and 1952 c. 10.

(b) any other interest payable in the United Kingdom on an advance from a bank carrying on a bona fide banking business in the United Kingdom, or from a person who in the opinion of the Board is bona fide carrying on business as a member of a stock exchange in the United Kingdom or bona fide carrying on the business of a discount house in the United Kingdom;

and for the purposes of this section any interest payable by a company as mentioned in paragraph (b) above shall be treated as paid on its being debited to the company's account in the books of the person to whom it is payable.

(4) No such payment made by a company as is mentioned in subsection (3) above shall be treated as a charge on income if—

(a) the payment is charged to capital, or the payment is not ultimately borne by the company; or

(b) the payment is not made under a liability incurred for a valuable and sufficient consideration (and, in the case of a company not resident in the United Kingdom, incurred wholly and exclusively for the purposes of a trade carried on by it in the United Kingdom through a branch or agency), and is not a covenanted donation to charity.

In this subsection "covenanted donation to charity" means a payment under a disposition or covenant made by the company in favour of a body of persons or trust established for

## PART IV

charitable purposes only, whereby the like annual payments (of which the donation is one) become payable for a period which may exceed six years and is not capable of earlier termination under any power exercisable without the consent of the persons for the time being entitled to the payments.

(5) No such payment as is mentioned in subsection (3)(a) above made by a company to a person not resident in the United Kingdom shall be treated as a charge on income unless the company is so resident and either—

1952 c. 10.

- (a) the company deducts income tax from the payment in accordance with section 170 of the Income Tax Act 1952, and accounts under this Part of this Act for the tax so deducted ; or
- (b) the company is carrying on a trade and the payment is a payment of interest satisfying the conditions of section 138(1)(c) to (e) of the Income Tax Act 1952 (under which section certain interest payable overseas is deductible in computing trading profits for purposes of income tax) and the liability to pay the interest was incurred wholly or mainly for the purposes of activities of that trade carried on outside the United Kingdom ; or
- (c) the payment is one payable out of income brought into charge to tax under Case IV or V of Schedule D :

Provided that for purposes of paragraph (b) above the company shall be treated as carrying on any trade carried on by a subsidiary of it (both being bodies corporate), if the subsidiary also is resident in the United Kingdom ; and for this purpose “ subsidiary ”, subject to subsection (6) below, has the meaning assigned to it for certain purposes of the profits tax by section 42 of the Finance Act 1938.

1938 c. 46.

(6) In determining for the purpose of subsection (5)(b) above whether one company is a subsidiary of another that other company shall be treated as not being the owner—

- (a) of any share capital which it owns directly in a body corporate if a profit on a sale of the shares would be treated as a trading receipt of its trade ; or
- (b) of any share capital which it owns indirectly, and which is owned directly by a body corporate for which a profit on the sale of the shares would be a trading receipt ; or
- (c) of any share capital which it owns directly or indirectly in a body corporate not resident in the United Kingdom.

(7) The deductions authorised by subsection (3)(a) above shall include five-sixths and no more of any payment made

as an instalment, or part of an instalment, of an annuity within the meaning of the Tithe Acts 1936 and 1951 ; and subsection (4)(b) shall not apply to any such payment.

PART IV  
1936 c. 43.  
1951 c. 62.

53.—(1) Except as otherwise provided by this Part of this Act, the amount of any income shall for purposes of corporation tax be computed in accordance with income tax principles, all questions as to the amounts which are or are not to be taken into account as income, or in computing income, or charged to tax as a person's income, or as to the time when any such amount is to be treated as arising, being determined in accordance with income tax law and practice as if accounting periods were years of assessment.

General  
rules for  
computation  
of income.

(2) For the purposes of this section "income tax law" means, in relation to any accounting period, the law applying, for the year of assessment in which the period ends, to the charge on individuals of income tax other than surtax, except that—

- (a) it includes also all such enactments of the Income Tax Acts applying for the year 1965-66 as make special provision for companies in relation to matters referred to in subsection (1) above ; and
- (b) it does not include such of the enactments of the Income Tax Acts so applying as make special provision for individuals in relation to those matters.

(3) Accordingly for purposes of corporation tax income shall be computed, and the assessment shall be made, under the like Schedules and Cases as apply for purposes of income tax, and in accordance with the rules applicable to those Schedules and Cases, but (subject to the provisions of this Part of this Act) the amounts so computed for the several sources of income, if more than one, together with any amount to be included in respect of chargeable gains shall be aggregated to arrive at the total profits.

(4) Nothing in this section shall be taken to mean that income arising in any period is to be computed by reference to any other period (except in so far as this results from apportioning to different parts of a period income of the whole period).

(5) Subject to the next following section and to any enactment applied by this section which expressly authorises such a deduction, no deduction shall be made in computing income from any source—

- (a) in respect of dividends or other distributions ; nor
- (b) in respect of any yearly interest, annuity or other annual payment or in respect of any such other payments as are mentioned in section 169(3) of the Income Tax Act 1952, but not including sums falling within section 169(4) (rents, etc.).

1952 c. 10.



## PART IV

(6) Without prejudice to the generality of subsection (1) above, any provision of the Income Tax Acts which confers an exemption from income tax, or which provides for a person to be charged to income tax on any amount (whether expressed to be income or not, and whether an actual amount or not), shall have the like effect for purposes of corporation tax, so far as is consistent with this Part of this Act.

Miscellaneous special rules for computation of income.

**54.**—(1) For purposes of corporation tax, income tax law as applied by section 53 above shall have effect subject to the following subsections.

(2) Where a company begins or ceases to carry on a trade, or to be within the charge to corporation tax in respect of a trade, the company's income shall be computed as if that were the commencement or, as the case may be, discontinuance of the trade, whether or not the trade is in fact commenced or discontinued :

Provided that where any provision of the Income Tax Acts is applied for corporation tax by this Part of this Act, this subsection shall not have effect for any purpose of that provision if under any enactment other than section 19 of the Finance Act 1953 a trade is not to be treated by virtue of that section as permanently discontinued for the corresponding income tax purpose.

1953 c. 34.

(3) In computing income from a trade neither section 53(5)(b) above nor section 137(l) of the Income Tax Act 1952 shall prevent the deduction of yearly interest payable in the United Kingdom on an advance from a bank carrying on a bona fide banking business in the United Kingdom ; but section 138 of the Income Tax Act 1952 (under which certain interest payable overseas is deductible in computing trading profits) shall not apply for corporation tax.

1952 c. 10.

(4) In computing a company's income 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 :

Provided that any enactments restricting the relief from income tax that might be given under section 181 of the Income Tax Act 1952 shall apply to restrict in like manner the deductions that may be made under this subsection.

(5) In so far as a company's income for any accounting period is to be computed by reference to the annual value of woodlands, the income arising in a period of less than twelve months shall be computed by reference to a proportionate part of the

annual value and, if the annual value is different in different parts of an accounting period, shall be separately computed for each of those parts.

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

(7) The amount of any income assessed under Case IV or V of Schedule D shall be treated as reduced (where such a deduction cannot be made under, and is not forbidden by, any provision of the Income Tax Acts applied by this Act) by any sum which has been paid in respect of income tax in the place where the income has arisen.

(8) Cases IV and V of Schedule D shall for 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 Income Tax Acts specially exempting non-residents from income tax on any particular description of income).

**55.**—(1) Subject to the provisions of this section, the amount to be included in respect of chargeable gains in a company's total profits for any accounting period shall be the total amount of chargeable gains accruing to the company in the accounting period after deducting any allowable losses accruing to the company in the period and, so far as they have not been allowed as a deduction from chargeable gains accruing in any previous accounting period, any allowable losses previously accruing to the company while it has been within the charge to corporation tax: Computation of chargeable gains.

Provided that nothing in this subsection shall apply to gains or losses accruing before the year 1965-66.

(2) Except as otherwise provided by this Part of this Act, the total amount of the chargeable gains to be so included shall for purposes of corporation tax be computed in accordance with the principles applying for capital gains tax, all questions as to the amounts which are or are not to be taken into account as chargeable gains or as allowable losses, or in computing gains or losses, or charged to tax as a person's gain, or as to the time when any such amount is to be treated as accruing, being determined in accordance with the provisions relating to capital gains tax as if accounting periods were years of assessment.

## PART IV

(3) Subject to subsection (7) below, where the provisions of this Act relating to capital gains tax contain any reference to income tax or to the Income Tax Acts the reference shall, in relation to a company, be construed as a reference to corporation tax or to the Corporation Tax Acts, except where the reference is to income tax in respect of a hypothetical trade ; but—

- (a) nothing in this section shall be taken as applying for corporation tax the alternative method of charging capital gains tax by reference to a notional charge to income tax under Case VI of Schedule D ; and
- (b) in so far as the said provisions operate by reference to matters of any specified description, account shall for corporation tax be taken of matters of that description which are confined to companies, but not of any which are confined to individuals.

(4) The provisions of this Act relating to capital gains tax in connection with the replacement of trade assets shall, in their application for corporation tax, have effect, with any necessary modifications, in relation to the discharge of the functions of a public authority as they have effect in relation to a trade.

(5) For purposes of corporation tax the provisions of this Act relating to capital gains tax shall have effect subject to the provisions made in relation to groups of companies by Part I of Schedule 13 to this Act ; and Part II of that Schedule shall have effect with reference to the collection from persons connected with a company of corporation tax chargeable on the company in respect of chargeable gains.

(6) Part I of Schedule 13 to this Act, except in so far as it relates to recovery of tax, shall also have effect in relation to bodies from time to time established by or under any enactment for the carrying on of any industry or part of an industry, or of any undertaking, under national ownership or control as if they were companies within the meaning of the said Part I, and as if any such bodies charged with related functions (and in particular the Boards and Holding Company established under the Transport Act 1962) and subsidiaries of any of them formed a group, and as if also any two or more such bodies charged at different times with the same or related functions were members of a group :

Provided that this subsection shall have effect subject to any enactment by virtue of which property, rights, liabilities or activities of one such body fall to be treated for corporation tax as those of another.

(7) Part III of this Act as extended by this section shall not be affected in its operation by the fact that capital gains tax and corporation tax are distinct taxes but, so far as is consistent with this Part of this Act, shall apply in relation to capital gains tax and corporation tax on chargeable gains as if they were one tax, so that, in particular, a matter which in a case involving two individuals is relevant for both of them in relation to capital gains tax shall in a like case involving an individual and a company be relevant for him in relation to that tax and for it in relation to corporation tax.

(8) In this Part of this Act "allowable loss" does not include for purposes of corporation tax in respect of chargeable gains a loss accruing to a company in such circumstances that if a gain accrued the company would be exempt from corporation tax in respect of it.

**56.—**(1) In computing for purposes of corporation tax a company's profits for any accounting period there shall be made in accordance with this section all such deductions and additions as are required to give effect to the provisions of the Income Tax Acts which relate to allowances (including investment allowances) and charges in respect of capital expenditure, as those provisions are applied by this Part of this Act. Deductions and additions in computation of profits for capital allowances and related charges.

(2) Allowances and charges which fall to be made for any accounting period in taxing a trade shall be given effect by treating the amount of any allowance as a trading expense of the trade in that period, and by treating the amount on which any such charge is to be made as a trading receipt of the trade in that period.

(3) Allowances which are to be made for any accounting period by way of discharge or repayment of tax shall, as far as may be, be given effect by deducting the amount of the allowance from any income of the period, being income of the class against which the allowance is available or primarily available.

(4) Balancing charges for any accounting period not falling to be made in taxing a trade shall, notwithstanding any provision for them to be made under Case VI of Schedule D, be given effect by treating the amount on which the charge is to be made as income of the same class as that against which the corresponding allowances are available or primarily available.

(5) Where an allowance which is to be made for any accounting period by way of discharge or repayment of tax cannot be given full effect under subsection (3) above in that period by reason of a want or deficiency of income of the relevant class,

## PART IV

then (so long as the company remains within the charge to tax) the amount unallowed shall be carried forward to the succeeding accounting period, except in so far as effect is given to it under subsection (6) below; and the amount so carried forward shall be treated for purposes of this section, including any further application of this subsection, as the amount of a corresponding allowance for that period.

(6) Where an allowance which is to be made for any accounting period by way of discharge or repayment of tax, and which is available primarily against income of a specified class cannot be given full effect under subsection (3) above in that period by reason of a want or deficiency of income of that class, the company may claim that effect shall be given to the allowance against the profits (of whatever description) of that accounting period and, if the company was then within the charge to tax, of preceding accounting periods ending within the time specified in subsection (7) below; and, subject to that subsection and to any relief for earlier allowances or for losses, the profits of any of those accounting periods shall then be treated as reduced by the amount unallowed under subsection (3) above, or by so much of that amount as cannot be given effect under this subsection against profits of a later accounting period.

(7) The time referred to in subsection (6) above is a time equal in length to the accounting period for which the allowance falls to be made; but the amount or aggregate amount of the reduction which may be made under that subsection in the profits of an accounting period falling partly before that time shall not, with the amount of any reduction falling to be made therein under any corresponding provision of this Part of this Act relating to losses, exceed a part of those profits proportionate to the part of the period falling within that time.

(8) This section shall not affect the manner of making allowances or charges falling to be made by virtue of section 72(2)(b) of the Finance Act 1960 (estate management expenditure), except in so far as it affects the operation of section 313 of the Income Tax Act, 1952; but in relation to allowances and charges falling to be made by virtue of section 72(2)(a) (business management expenditure), subsections (1) to (4) of this section shall apply as if any such allowances were to be made by way of discharge or repayment of tax and to be available against income of the business referred to in section 72(2)(a).

1960 c. 44.  
1952 c. 10.

**57.—**(1) In computing for 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 income for the purpose of Case VIII of Schedule D:

Deduction of management expenses of investment companies (including savings banks.)

Provided that—

PART IV

- (a) 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 and group income; and
- (b) any enactment restricting the relief from income tax that might be given under section 425 of the Income Tax Act 1952 shall apply to restrict in like manner the deductions that may be made under this subsection.

1952 c. 10.

(2) 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, the excess shall be carried forward to the succeeding accounting period; and the amount so carried forward shall be treated for 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.

(3) For purposes of subsections (1) and (2) above, 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 72 of the Finance Act 1960, in so far as effect cannot be given to them under section 56(3) of this Act.

(4) For purposes of this section and of other provisions of this Act relating to expenses of management "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.

(5) Section 425 of the Income Tax Act 1952 (relief for expenses of management) shall not have effect for corporation tax, nor for income tax for any year of assessment after the year 1965-66, except in so far as section 425(6) is applied under this Part of this Act to the computation of any income.

Accordingly in section 72(2) of the Finance Act 1960 for sub-paragraphs (i) and (ii) of paragraph (a) there shall be substituted the words "the business of an investment company (as defined in section 57 of the Finance Act 1965) or of a company carrying on the business of life assurance".

**58.**—(1) Where in any accounting period a company carrying on a trade incurs a loss in the trade, the company may claim to set the loss off for purposes of corporation tax against any

Relief for trading losses, other than terminal losses.

## PART IV

trading income from the trade in succeeding accounting periods ; and (so long as the company continues to carry on the trade) its trading income from the trade in any succeeding accounting period shall then be treated as reduced by the amount of the loss, or by so much of that amount as cannot, on that claim or on a claim (if made) under subsection (2) below, be relieved against income or profits of an earlier accounting period.

(2) Where in any accounting period a company carrying on a trade incurs a loss in the trade, then (subject to subsection (4) below) the company may claim to set the loss off for purposes of corporation tax against profits (of whatever description) of that accounting period and, if the company was then carrying on the trade and the claim so requires, of preceding accounting periods ending within the time specified in subsection (3) below ; and, subject to that subsection and to any relief for an earlier loss, the profits of any of those periods shall then be treated as reduced by the amount of the loss, or by so much of that amount as cannot be relieved under this subsection against profits of a later accounting period.

(3) The time referred to in subsection (2) above is a time equal in length to the accounting period in which the loss is incurred ; but the amount of the reduction which may be made under that subsection in the profits of an accounting period falling partly before that time shall not exceed a part of those profits proportionate to the part of the period falling within that time.

(4) Subsection (2) above shall not apply to trades falling within Case V of Schedule D ; and, except in so far as it represents an excess in respect of expenditure incurred before the year 1960-61 of capital allowances over balancing charges, a loss incurred in a trade in any accounting period shall not be relieved under that subsection, unless the trade is one carried on in the exercise of functions conferred by or under any enactment (including an enactment contained in a local or private Act), or it is shown that for that accounting period the trade was being carried on on a commercial basis and with a view to the realisation of gain in the trade or in any larger undertaking of which the trade formed part.

(5) For purposes of subsection (4) above, the fact that a trade was being carried on at any time so as to afford a reasonable expectation of gain shall be conclusive evidence that it was then being carried on with a view to the realisation of gain ; and where in an accounting period there is a change in the manner in which a trade is being carried on, it shall for those purposes be treated as having throughout the accounting

period been carried on in the way in which it was being carried on by the end of that period.

PART IV

(6) The amount of a loss incurred in a trade in an accounting period shall be computed for purposes of this section in like manner as trading income from the trade in that period would have been computed.

(7) For purposes of this section "trading income" means, in relation to any trade, the income which falls or would fall to be included in respect of the trade in the total profits of the company; but where in an accounting period a company incurs a loss in a trade in respect of which it is within the charge to corporation tax under Case I or V of Schedule D, and in any later accounting period to which the loss or any part of it is carried forward under subsection (1) above relief in respect thereof cannot be given, or cannot wholly be given, because the amount of the trading income of the trade is insufficient, any interest or dividends on investments which would fall to be taken into account as trading receipts in computing that trading income but for the fact that they have been subjected to tax under other provisions shall be treated for purposes of subsection (1) above as if they were trading income of the trade.

(8) Where in an accounting period the charges on income paid by a company—

- (a) exceed the amount of the profits against which they are deductible; and
- (b) include payments made wholly and exclusively for the purposes of a trade carried on by the company;

then, up to the amount of that excess or of those payments, whichever is the less, the charges on income so paid shall in computing a loss for purposes of subsection (1) above be deductible as if they were trading expenses of the trade.

(9) In this section references to a company carrying on a trade refer to the company carrying it on so as to be within the charge to corporation tax in respect of it.

**59.**—(1) Where a company ceasing to carry on a trade has in an accounting period falling wholly or partly within the previous twelve months incurred a loss in the trade, the company may claim to set the loss off for purposes of corporation tax against trading income from the trade in accounting periods falling wholly or partly within the three years preceding those twelve months (or within any less period throughout which the company has carried on the trade); and, subject to the following subsections and to any relief for earlier losses, the trading income of any of those periods shall be then treated as reduced

Relief for terminal loss in a trade.



**PART IV** by the amount of the loss, or by so much of that amount as cannot be relieved under this subsection against income of a later accounting period:

Provided that relief shall not be given under this subsection in respect of any loss in so far as the loss has been or can be otherwise taken into account so as to reduce or relieve any charge to tax.

(2) Where a loss is incurred in an accounting period falling partly outside the twelve months mentioned in subsection (1) above, relief shall be given under that subsection in respect of a part only of that loss proportionate to the part of the period falling within those twelve months; and the amount of the reduction which may be made under that subsection in the trading income of an accounting period falling partly outside the three years there mentioned shall not exceed a part of that income proportionate to the part of the period falling within those three years.

(3) A claim for relief under this section may require that capital allowances in respect of the trade, being allowances which fall to be made to the company by way of discharge or repayment of tax and to be so made for an accounting period falling wholly or partly within the twelve months ending when the company ceases to carry on the trade, shall (so far as they cannot be otherwise taken into account so as to reduce or relieve any charge to corporation tax) be added to the loss incurred by the company in that accounting period or, if the company has not incurred a loss in the period, shall be treated as a loss so incurred:

Provided that the allowances for any period shall not be treated as including amounts carried forward from an earlier period.

(4) Section 58(6) to (9) above shall apply for purposes of this section as they apply for purposes of section 58(1); and relief shall not be given under this section in respect of a loss incurred in a trade so as to interfere with any relief under section 52 above in respect of payments made wholly and exclusively for purposes of that trade.

Losses in transactions from which income would be chargeable under Schedule D Case VI.

**60.**—(1) Subject to subsection (2) below, where in any accounting period a company incurs a loss in a transaction in respect of which the company is within the charge to corporation tax under Case VI of Schedule D, the company may claim to set the loss off against the amount of any income arising from transactions in respect of which the company is assessed to corporation tax under that Case for the same or any subsequent accounting period; and the company's income in any

accounting period from such transactions shall then be treated as reduced by the amount of the loss, or by so much of that amount as cannot be relieved under this section against income of an earlier accounting period.

(2) This section shall not apply to a loss incurred in a transaction falling within section 22, 23 or 24 of the Finance Act 1963 (treatment of premiums as rent, etc.).

**61.**—(1) Where, on a company (“the predecessor”) ceasing to carry on a trade, another company (“the successor”) begins to carry it on, and—

Company reconstructions without change of ownership.

- (a) on or at any time within two years after that event the trade or an interest amounting to not less than a three-fourths share in it belongs to the same persons as the trade or such an interest belonged to at some time within a year before that event; and
- (b) the trade is not, within the period taken for the comparison under paragraph (a) above, carried on otherwise than by a company which is within the charge to tax in respect of it;

then this Part of this Act shall have effect subject to subsections (2) to (6) below.

In paragraphs (a) and (b) above references to the trade shall apply also to any other trade of which the activities comprise the activities of the first mentioned trade.

(2) The trade shall not be treated as permanently discontinued nor a new trade as set up and commenced for the purpose of the allowances and charges provided for by section 56 of this Act; but there shall be made to or on the successor in accordance with that section all such allowances and charges as would, if the predecessor had continued to carry on the trade, have fallen to be made to or on it, and the amount of any such allowance or charge shall be computed as if the successor had been carrying on the trade since the predecessor began to do so and as if everything done to or by the predecessor had been done to or by the successor (but so that no sale or transfer which on the transfer of the trade is made to the successor by the predecessor of any assets in use for the purpose of the trade shall be treated as giving rise to any such allowance or charge).

(3) The predecessor shall not be entitled to relief under section 59 of this Act, except as provided by subsection (6) below; and, subject to any claim made by the predecessor under section 58(2) of this Act, the successor shall be entitled to relief under section 58(1), as for a loss sustained by the

## PART IV

successor in carrying on the trade, for any amount for which the predecessor would have been entitled to claim relief if it had continued to carry on the trade.

1959 c. 58.

(4) Any securities (within the meaning of section 23 of the Finance Act 1959) which at the time when the predecessor ceases to carry on the trade form part of the trading stock belonging to the trade shall be treated for purposes of that section as having been sold at that time in the open market by the predecessor and as having been purchased at that time in the open market by the successor.

1963 c. 25.

(5) For purposes of Schedule 8 to the Finance Act 1963 (transitional allowances for annual value of trade premises) any occupation of land for the purposes of the trade by the predecessor shall be treated as having been the occupation of the successor.

(6) On the successor ceasing to carry on the trade—

- (a) if the successor does so within four years of succeeding to it, any relief which might be given to the successor under section 59 of this Act on its ceasing to carry on the trade may, so far as it cannot be given to the successor, be given to the predecessor as if the predecessor had incurred the loss (including any amount treated as a loss under section 59(3)); and
- (b) if the successor ceases to carry on the trade within one year of succeeding to it, relief may be given to the predecessor under section 59 of this Act in respect of any loss incurred by it (or amount treated as such a loss under section 59(3));

but for the purposes of section 59 of this Act, as it applies by virtue of this subsection to the giving of relief to the predecessor, the predecessor shall be treated as ceasing to carry on the trade when the successor does so.

(7) Where the successor ceases to carry on the trade within the period taken for the comparison under subsection (1)(a) above and, on its doing so a third company begins to carry on the trade, then no relief shall be given to the predecessor by virtue of subsection (6) above by reference to that event, but subject to that subsections (2) to (6) above shall apply both in relation to that event (together with the new predecessor and successor) and to the earlier event (together with the original predecessor and successor), but so that—

- (a) in relation to the earlier event “successor” shall include the successor at either event; and
- (b) in relation to the later event “predecessor” shall include the predecessor at either event;

and if the conditions of this subsection are thereafter again satisfied, it shall apply again in like manner.

(8) Where, on a company ceasing to carry on a trade, another company begins to carry on the activities of the trade as part of its trade, then that part of the trade carried on by the successor shall be treated for the purposes of this section as a separate trade, if the effect of so treating it is that subsection (1) or (7) has effect on that event in relation to that separate trade; and where, on a company ceasing to carry on part of a trade, another company begins to carry on the activities of that part as its trade or part of its trade, the predecessor shall for purposes of this section be treated as having carried on that part of its trade as a separate trade if the effect of so treating it is that subsection (1) or (7) above has effect on that event in relation to that separate trade.

Where under this subsection any activities of a company's trade fall, on the company ceasing or beginning to carry them on, to be treated as a separate trade, the accounting periods of the company shall be adjusted accordingly, and any necessary apportionment shall be made of receipts, expenses, allowances or charges.

(9) Section 17(4) to (7) of the Finance Act 1954 (which state 1954 c. 44. the persons a trade is to be treated as belonging to) shall apply for the purposes of this section, with the substitution for the reference in subsection (4)(c) to the conditions there mentioned being satisfied of a reference to subsection (1) or (7) of this section having effect in relation to an event; but that section (together with section 15 of the Finance Act 1964) shall cease 1964 c. 49. to have effect for any other purpose, except as respects any relevant change occurring before the year 1966-67.

*General provisions affecting both income tax and corporation tax*

62.—(1) Where a company has a surplus of franked investment income for any year of assessment, the company may claim that the amount of the surplus shall for all or any of the purposes mentioned in subsection (2) below be treated as if it were a like amount of profits chargeable to corporation tax, and subject to subsection (4) below those provisions shall apply in accordance with this section to reduce the amount of the surplus for purposes of section 48 of this Act so that income tax shall be repayable accordingly.

Set off of losses etc. against franked investment income.

(2) The purposes for which a claim may be made under subsection (1) above are those of—

- (a) the deduction of charges on income under section 52 of this Act;
- (b) the deduction of expenses of management under section 57 of this Act;

## PART IV

(c) the setting of certain capital allowances against total profits under section 56(6) of this Act ;

(d) the setting of trading losses against total profits under section 58(2) of this Act.

(3) Where a company makes a claim under this section for any year of assessment, then—

(a) the amount to which the claim relates shall for purposes of the claim be treated as profits of the accounting period or periods comprising or together comprising that year, and shall be apportioned between them (if more than one) in proportion to the parts of the year respectively comprised in them ;

(b) the reduction falling to be made in profits of an accounting period shall be made as far as may be in profits chargeable to corporation tax rather than in the amount treated as profits so chargeable under this section.

(4) Where a claim under this section relates to section 56(6) or 58(2) and an accounting period of the company falls partly before and partly after the time mentioned in that subsection, then—

(a) the restriction imposed by section 56(7) or 58(3) on the amount of the relief shall be applied only to any relief to be given apart from this section, and shall be applied without regard to any amount treated as income of the period under this section ; but

(b) relief under this section shall be given only against so much (if any) of the amount so treated as would under subsection (3)(a) above be apportioned to the part of the period falling after the said time if that part were a separate accounting period.

(5) Where—

(a) on a claim made under this section for any year of assessment relief is given in respect of the whole or part of any loss incurred in a trade, or of any amount which could be treated as a loss under section 58(8) of this Act ; and

(b) in a later year of assessment the distributions on which the company pays the income tax under section 47(3) of this Act exceed its franked investment income ;

then (unless the company has ceased to carry on the trade or to be within the charge to corporation tax in respect of it) the company shall, for purposes of section 58(1) of this Act, be treated as having, in the accounting period ending at or

last before the beginning of the later year of assessment, incurred a loss equal to whichever is the lesser of—

**PART IV**

- (i) the excess referred to in paragraph (b) above ; and
- (ii) the amount in respect of which relief was given as aforesaid, or so much of that amount as remains after deduction of any part of it dealt with under this subsection in relation to an earlier year of assessment.

(6) Subsection (5) above shall apply, with the necessary adaptations,—

- (a) in relation to relief given in respect of management expenses ; and
- (b) in relation to relief given in respect of capital allowances ;

as it applies in relation to relief given in respect of a loss (the reference to the company ceasing to be within the charge to corporation tax in respect of the trade being construed as a reference to its ceasing to be within that charge at all) :

Provided that any amount which may be dealt with under subsection (5) as a loss shall be so dealt with rather than under this subsection, except in so far as the company concerned otherwise elects.

(7) Where a company has a surplus of franked investment income in any year of assessment, the company, instead of or in addition to making a claim under subsection (1) above, may claim that the surplus shall be taken into account for relief under section 58(1) or under section 59 of this Act, up to the amount of franked investment income for the year which, if chargeable to corporation tax, would have been so taken into account by virtue of section 58(7) ; and where the company makes a claim under this subsection, then (subject to the restriction to the said amount of franked investment income)—

- (a) if the claim relates to section 58(1), subsections (3) and (5) of this section shall apply in relation to it, with the substitution in subsection (3) of references to trading income for the references to profits ; and
- (b) if the claim relates to section 59, subsections (3) and (4) of this section shall apply in relation to it, with the like substitution in subsection (3) and with the substitution in subsection (4) of a reference to section 59(1) for the reference to section 56(6) or 58(2) and of a reference to section 59(2) for the reference to section 56(7) or 58(3).

(8) For the purposes of a claim made under this section for any year of assessment the surplus of franked investment income

## PART IV

for any year of assessment shall be calculated without regard to the part, if any, carried forward from an earlier year of assessment.

Application and adaptation of Income Tax Acts as to capital allowances and other matters.  
1952 c. 10.  
1954 c. 44.

**63.**—(1) Except in so far as this Part of this Act otherwise provides, Parts X and XI of the Income Tax Act 1952, and any other provisions of the Income Tax Acts relating to the making of allowances or charges under or in accordance with the said Parts X and XI, including section 16 of the Finance Act 1954 (investment allowances), shall apply equally for purposes of corporation tax and for purposes of income tax, and to that intent shall be amended in accordance with Schedule 14 to this Act.

(2) For purposes of corporation tax the right to an allowance or liability to a charge for an accounting period, and the rate or amount of any such allowance or charge, shall be determined under the provisions referred to in subsection (1) above by applying the law in force for the year of assessment in which the accounting period ends, and similarly with all matters related to years of assessment and not to accounting periods.

(3) Where a company not resident in the United Kingdom is within the charge to corporation tax in respect of one source of income and to income tax in respect of another source, then in applying the provisions referred to in subsection (1) above allowances related to any source of income shall be given effect against income chargeable to the same tax as is chargeable on income from that source.

(4) Without prejudice to the general application to corporation tax of the provisions of the Income Tax Acts relating to the computation of income, Part I of Schedule 15 to this Act shall have effect for the purpose of applying to corporation tax or otherwise adapting the provisions of those Acts there mentioned; and Part II of that Schedule shall have effect for securing the continuity of income tax and corporation tax in relation to the carry forward of losses and other matters.

(5) Where by virtue of this Part of this Act any provision of the Income Tax Acts applies both to income tax and to corporation tax, it shall not be affected in its operation by the fact that they are distinct taxes but, so far as consistent with this Part of this Act, shall apply in relation to income tax and corporation tax as if they were one tax, so that, in particular, a matter which in a case involving two individuals is relevant for both of them in relation to income tax shall in a like case involving an individual and a company be relevant for him in relation to that tax and for it in relation to corporation tax; and for that purpose in any such provision of the Income

Tax Acts references to a relief from or charge to income tax or to a specified provision of those Acts shall, in the absence of or subject to any express adaptation made by this Act, be construed as being or including a reference to any corresponding relief from or charge to corporation tax or to any corresponding provision of the Corporation Tax Acts.

PART IV

64.—(1) Subject to any express amendments made by this Part of this Act, Part XIII of the Income Tax Act 1952, together with any other enactment relating or referring to double taxation relief, and (except in so far as arrangements made after the passing of this Act provide otherwise) any arrangements made under section 347 in relation to the profits tax, shall have effect in relation to corporation tax and income chargeable thereto as they are expressed to have effect in relation to the profits tax and profits chargeable thereto (with the substitution of accounting periods for chargeable accounting periods), and not as they have effect in relation to income tax: Double taxation relief, and overseas trade corporations. 1952 c. 10.

Provided that—

- (a) section 352 (shipping or air transport profits, and profits arising through agencies) shall have effect as if references in that section and in any arrangements under it to income tax included corporation tax ; and
- (b) this subsection shall not affect the operation, as they are applied to corporation tax by this Part of this Act, of the following provisions (which relate to procedural matters), that is to say, sections 347(3), 348(3) and 353 and paragraph 13 of Schedule 16 ; and
- (c) in relation to corporation tax in respect of chargeable gains such of the provisions of the said Part XIII as are applicable to capital gains tax shall have effect as they have effect in relation to that tax.

(2) There shall cease to have effect in the Income Tax Act 1952—

- (a) as from the year 1966-67, section 201 (relief, in respect of dividends paid by companies resident abroad, for United Kingdom income tax on their profits) ; and
- (b) as from such date as Parliament may hereafter determine, paragraph 4 of Part I of Schedule 17 (unilateral relief, in respect of dividends paid by companies resident in the Commonwealth territories, for overseas taxation on their profits) ;

and Part I of Schedule 16 to this Act shall have effect in relation to the taking into account in connection with dividends of non-resident companies of taxation on their profits, in relation



**PART IV** to the computation of income where double taxation relief is allowed, and in relation to the limits on double taxation relief from income tax.

The said section 201 shall not have effect for corporation tax for any financial year.

1957 c. 49. (3) Part IV of the Finance Act 1957 (overseas trade corporations) shall not apply for purposes of corporation tax, except in so far as the operation of corporation tax in relation to a company depends on the operation of income tax in the period before the year 1966-67 and the operation of income tax in that period is affected by a company being or having been an overseas trade corporation; but the provisions of Part II of Schedule 16 to this Act shall have effect for transitional purposes in connection with overseas trade corporations.

Dividend stripping, and bondwashing. **65.**—(1) Where a person has a holding in a company resident in the United Kingdom (being a body corporate), and—

- (a) the holding amounts to, or is an ingredient in a holding amounting to, ten per cent of all holdings of the same class in the company; and
- (b) that person acquired the holding at a time in or after the year 1960-61 (but whether before or after the commencement of this Act); and
- (c) a distribution not falling within subsection (7) or (8) below is made to him in respect of the holding in or after the year 1966-67 otherwise than wholly out of profits arising to the company since that time;

then for the purpose of the charge on that person (hereinafter referred to as “the recipient”) to corporation tax or income tax, and of any liability or right of his to account for and pay or to set off or be repaid either tax, subsections (2) to (5) below shall have effect in relation to that distribution or so much of it as is made otherwise than out of profits arising as aforesaid (hereinafter referred to as “the relevant distribution”); and section 4 of the Finance (No. 2) Act 1955 shall not apply to dividends paid in or after the year 1966-67.

1955 c. 17.  
(4 & 5 Eliz. 2.).

(2) If the recipient is a dealer (that is to say for the purposes of this section, a person dealing in investments or whose profits on the sale of investments are part of his trading profits), then the relevant distribution and any income tax deducted or treated under this Part of this Act as deducted from it shall be disregarded, except that the net amount of the relevant distribution shall in computing the income from his trade as a dealer be brought into account as a trading receipt, and in the case of a company shall be so brought into account notwithstanding that it is franked investment income.

(3) If the recipient is a company and is not a dealer, the relevant distribution and any income tax deducted or treated under this Part of this Act as deducted from it shall be disregarded, except that for the purpose of corporation tax in respect of any chargeable gains the net amount of the relevant distribution shall be treated as if it were a capital distribution (within the meaning of Part III of this Act) received in respect of the holding.

(4) If the recipient is neither a company nor a dealer, but is carrying on a trade, then in ascertaining whether any or what repayment of income tax is to be made to him in respect of a loss incurred in the trade, the relevant distribution and any income tax deducted or treated under this Part of this Act as deducted from it shall be disregarded.

(5) If the recipient is entitled (for himself or for any trust or fund) to claim exemption in any respect from income tax, the exemption shall not extend to tax on the relevant distribution, but the relevant distribution and any income tax deducted or treated under this Part of this Act as deducted from it shall be disregarded in determining whether any payment made by the recipient is to be treated as made out of profits or gains brought into charge to income tax.

(6) If the recipient is a company, any election made under section 48(3) of this Act shall not apply to the relevant distribution.

(7) Subsection (1)(c) above shall not apply to a distribution if in accordance with section 203(3) of the Income Tax Act 1952 1952 c. 10. (which relates to the sale and re-purchase of securities) the acquisition of the holding on which the distribution is made is to be disregarded in computing for the purposes specified therein the profits arising from, or loss sustained in, the recipient's trade.

(8) Where a distribution is made to a person in respect of a holding in a company within one year of his acquisition of that holding, subsection (1)(c) above shall not apply to the distribution if the annual rate of distribution on the holding in the said year—

- (a) is not substantially greater than the annual rate of distribution on the holding in the period of three years ending with the acquisition; and
- (b) does not substantially exceed a normal return on the cost to that person of acquiring the holding:

Provided that—

- (i) paragraph (a) of this subsection shall not apply where the holding was acquired in the ordinary course of a business of arranging public issues and placings of shares and securities; and

## PART IV

- (ii) in applying that paragraph in any other case there shall be taken and made such averages and adjustments as appear to be necessary for a fair comparison, including adjustments to take account of new issues affecting the proportion of the company's capital represented by the holding and of distribution made on holdings formerly representing the same capital or part of it.

1959 c. 58.

(9) Where the application of subsection (1)(c) above to a distribution is excluded by subsection (8) above, then section 24(1) or 26(1) of the Finance Act 1959 (which relate to certain purchases and sales of securities) shall also not apply to it; but where in a case falling within section 23 of that Act the first buyer is a company, and is not a dealer, subsection (3) above shall apply in relation to the appropriate amount in respect of the interest as determined in accordance with Schedule 6 to that Act as it is expressed to apply in relation to a relevant distribution, and shall so apply in relation to securities and interest within the meaning of the said section 23, whatever their nature.

(10) Where a person having a holding in a company is a dealer, but a profit on the sale of the holding would not form part of his trading profits, then as regards that holding he shall be treated for purposes of this section as if he were not a dealer.

1955 c. 17.  
(4 & 5 Eliz. 2.)

(11) The provisions of Schedule 17 to this Act shall have effect for the interpretation of this section and for its modification in particular cases, and for transitional purposes relating to this section or section 4 of the Finance (No. 2) Act 1955.

*Local authorities, unit trusts and special  
classes of company*

Local  
authorities.

66.—(1) A local authority in the United Kingdom shall after the year 1965-66 be exempt from all charge to income tax in respect of its income, and shall be exempt from corporation tax and capital gains tax, and is not included in the expression "company" as used in this Part of this Act; and this subsection shall apply to a local authority association as it applies to a local authority.

(2) In this section "local authority" means—

1875 c. 83.

- (a) in relation to England and Wales, any authority being, within the meaning of the Local Loans Act 1875, an authority having power to levy a rate, and includes a joint board or joint committee of such authorities;
- (b) in relation to Scotland, any county council, town council or district council, and any statutory authority, commissioners or trustees having power to levy a rate as

defined in section 379 of the Local Government (Scotland) Act 1947, or to issue a requisition for payment of money to be raised out of such a rate, and includes any joint board or joint committee of such authorities appointed under any enactment, order or scheme ;

PART IV  
1947 c. 43.

- (c) in relation to Northern Ireland, the council of any county, county or other borough, or urban or rural district, any other body of which all or substantially all the members are elected by local government electors and which is established for public local purposes and has power to raise money for those purposes by rates leviable on the basis of assessments in respect of land, and any committee or board appointed wholly or partly by a county or district council or by several such councils jointly.

(3) In subsection (2)(a) and (b) above any reference to a joint board or joint committee of such authorities as are there mentioned applies, and applies only, to a joint board or joint committee of which all the constituent members are such authorities or which, having such authorities and other bodies corporate as its constituent members, is authorised by or under any enactment to require from those authorities, but not from other constituent members, the payment of sums to meet or towards meeting the amount or estimated amount by which its revenue for any period falls short or may fall short of its expenditure for that period ; and for this purpose, if a member of a joint board or joint committee is a representative of or appointed by any authority or body, that authority or body (and not he) is to be treated as a constituent member of the board or committee.

(4) In this section “local authority association” means any incorporated or unincorporated association of which all the constituent members are local authorities, groups of local authorities or local authority associations and which has for its object or primary object the protection and furtherance of the interests in general of local authorities or any description of local authorities ; and for this purpose, if a member of an association is a representative of or appointed by any authority, group of authorities or association, that authority, group or association (and not he) is to be treated as a constituent member of the association.

(5) In section 166 of the Income Tax Act 1952 (which restricts the operation of Chapter II of Part VI of that Act in relation to persons in employment with a local authority) for the reference to a local authority as defined for the purposes of section 171 of that Act there shall be substituted a reference to a local authority as defined in this section. 1952 c. 10.

PART IV  
Unit trusts  
and investment  
trusts.  
1960 c. 44.

**67.—**(1) Section 69 of the Finance Act 1960 (which provides for unit trusts to be dealt with for income tax purposes as investment companies) shall apply in relation to corporation tax as it is expressed to apply in relation to income tax, as if in section 71(1), in the definition of “authorised unit trust scheme”, for the words “or chargeable accounting period (for profits tax purposes)” there were substituted the words “or accounting period (for corporation tax purposes)”, and references in this Part of this Act to a body corporate shall be construed accordingly; but—

(a) the first reference to income in section 69(1) shall include chargeable gains; and

(b) for the references in section 69(2) to sections 425 and 184(1) of the Income Tax Act 1952 there shall be substituted respectively references to section 57 and to section 47(4) of this Act.

1952 c. 10.

(2) Where in an accounting period of a unit trust the aggregate of the capital sums paid in respect of the cancellation of units exceeds the aggregate of the capital sums received in respect of the creation of units, then the amount (as computed apart from this provision) of any chargeable gain or allowable loss accruing to the unit trust in that period shall be taken as reduced by the appropriate fraction of it, that is to say, by the same fraction as the said excess is of the total net consideration received by the unit trust on the disposal of chargeable assets during the period after deduction of the incidental costs of making the disposal (or, if the said excess is greater than the said total net consideration, shall be taken to be nil).

(3) For purposes of section 37 of this Act the total net gains of a unit trust for an accounting period are the excess, if any, of the chargeable gains accruing to the unit trust in the period over the allowable losses deductible from those gains (as those gains and losses are computed for the charge to tax on the unit trust), after deduction from that excess of the tax which will be charged on the unit trust for the period in respect of chargeable gains, and the proportion attributable to any unit holder of the total net gains for any accounting period shall be determined by the unit trust, regard being among other things had, as between units of different classes, to the proportion of the assets of the unit trust representing gains on capital which would be attributable to the respective classes in a liquidation of the unit trust; and no apportionment which the unit trust makes under this section shall be questionable in any proceedings by the unit holders or by any other person.

(4) After carrying out an apportionment under subsection (3) of this section the unit trust shall give any unit holder to

whom part of the total net gains is attributable a notice referring to the provisions of this section and certifying—

PART IV

(a) the total net gains (employing that term) of the unit trust for the accounting period, so far as known; and

(b) the amount apportioned to him;

and the unit holders between whom the total net gains are to be apportioned shall (except on an apportionment made in accordance with subsection (5) below) be determined by reference to the same date as the right to payment of the first dividend after the end of the accounting period, and that date shall be deemed to be the date when the apportionment is made and shall be specified in the notice.

(5) The apportionment under subsection (3) of this section shall be carried out separately for each accounting period but a notice may be issued in respect of part of an accounting period apportioned in the light of the information available at the time, and an apportionment (or final apportionment) for an accounting period may be made at or after the end of the period, notwithstanding that any amounts are not finally ascertained; but if at any time it is found that too much or too little has been apportioned it shall be corrected as soon as may be by deduction from or addition to the total net gains of a later accounting period or periods.

(6) A notice under subsection (4) of this section may be combined with the statement in writing required to be given under section 199 of the Income Tax Act 1952 (statements in dividend warrants, etc.). 1952 c. 10.

(7) Before the notices under subsection (4) of this section are sent out, particulars of the apportionments shall be submitted to the inspector, and the notices shall not be sent out without his approval, but subject to a right of appeal to the General Commissioners having jurisdiction in any assessment on the unit trust, being a right of appeal against the refusal of the inspector to give his approval.

In the application of this subsection to Northern Ireland for the reference to the General Commissioners there shall be substituted a reference to the Special Commissioners.

(8) Anything required by subsections (3) to (7) above to be done by a unit trust shall be done by the managers of the unit trust with the approval of the trustee.

(9) Subsections (3) to (7) above shall apply in relation to an investment trust as they apply in relation to a unit trust with the necessary adaptations of references to units and unit holders; and for this purpose "investment trust" has the meaning assigned to it by section 37 of this Act.

PART IV  
Rate of tax  
for unit trusts  
and investment  
trusts.

**68.** The rate of tax payable by a unit trust or by an investment trust approved by the Board for the purposes of sections 37 and 67 of this Act on any chargeable gains accruing in any accounting period (as calculated in accordance with section 55 of this Act) shall not exceed that payable in that period by an individual under section 20(3) of this Act.

Insurance  
companies.  
1952 c. 10.

**69.**—(1) Subject to the provisions of this section and of section 426(1) of the Income Tax Act 1952 (under which life assurance business is to be treated as a separate business), section 57 of this Act 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 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 proviso (a) to section 57(1) in respect of income derived from sources not charged to tax, but proviso (b) shall include enactments applying to companies carrying on life assurance business though not to investment companies.

(2) The relief in respect of management expenses given under subsection (1) above for any accounting period shall not reduce the corporation tax paid by the company to less than would have been paid if it had been charged to tax in respect of its life assurance business under Case I of Schedule D, and where in any accounting period this subsection applies to prevent or restrict the deduction of expenses of management in computing profits chargeable to corporation tax, then—

- (a) if the amount on which the company would be so charged under Case I of Schedule D exceeds those profits (before any such deduction) an amount equal to that excess shall be deducted from the amount of franked investment income that may be treated as profits of the period chargeable to corporation tax for purposes of a claim under section 62 of this Act ; and
- (b) subject to any claim under section 62 for that accounting period, the excess to be carried forward by virtue of section 57(2) of this Act shall be increased accordingly.

The reference in paragraph 2(1) of Schedule 6 to this Act to computing income or profits or gains or losses shall not be taken as applying to a computation of a company's income for purposes of this subsection.

(3) The foregoing sections of this Part of this Act shall, in relation to companies carrying on life assurance business, have effect subject to the following modifications:—

- (a) the exclusion from the charge to corporation tax of the distributions of companies resident in the United Kingdom shall not prevent franked investment income of a company so resident from being taken into account as part of the profits in computing trading income in accordance with the rules applicable to Case I of Schedule D, and in ascertaining for purposes of section 58 or 59 of this Act whether and to what extent a company has incurred a loss on its life assurance business any profits derived from the investments of its life assurance fund (including franked investment income of a company so resident) shall be treated as part of the profits of that business ;
- (b) in the case of a company carrying on general annuity business, the annuities paid by the company, so far as referable to that business and so far as they do not exceed the income charged to corporation tax and franked investment income of the part of the annuity fund so referable, shall be treated as charges on income, but section 60 of this Act shall not be taken to apply to a loss incurred by a company on its pension annuity business or its general annuity business ;
- (c) the extent to which, and the manner in which, income from investments of the life assurance fund is to be charged to corporation tax shall—
  - (i) in cases falling within section 429 of the Income Tax Act 1952, be determined in accordance with that section (and, where they apply, paragraph 3 of Part III of Schedule 18 to that Act and section 28(1) of the Finance Act 1959) ; and 1952 c. 10.
  - (ii) in cases falling within section 430 of the Income Tax Act 1952, be determined in accordance with that section (and, where it applies, section 436(3)), distributions received from companies resident in the United Kingdom being brought into account notwithstanding their exclusion from the charge to corporation tax ; 1959 c. 58.
- (d) where section 429 of the Income Tax Act 1952 has effect in relation to income arising from investments of any part of a company's life assurance fund, it shall



## PART IV

have the like effect in relation to chargeable gains accruing from the disposal of any such investments, and losses so accruing shall not be allowable losses.

1952 c. 10.

(4) Where by virtue of section 429 of the Income Tax Act 1952 corporation tax is payable by reference to the amount of income received in the United Kingdom, and under section 347 or 348 credit for any tax falls to be allowed in respect of that income, the amount received shall be treated as increased by an amount equal to the tax which falls to be taken into account in determining whether any, and if so what, credit is to be allowed against corporation tax (including in the case of a dividend any such tax not charged directly or by deduction in respect of the dividend, but excluding tax not payable but falling to be taken into account by virtue of section 17 of the Finance Act 1961 (foreign tax reliefs to promote development)).

1961 c. 36.

(5) Without prejudice to the general application of income tax law for purposes of corporation tax, sections 426(1) and (2) and 427 of the Income Tax Act 1952 and section 24 of the Finance Act 1956 shall, subject to the provisions of this section, apply for purposes of corporation tax, including corporation tax in respect of chargeable gains, as they applied for purposes of income tax, and references to profits or income shall accordingly include chargeable gains; and the exclusion from the charge to corporation tax of the distributions of companies resident in the United Kingdom shall not prevent them from being taken into account as part of the profits in computing under section 24 of the Finance Act 1956 the profits arising to an assurance company from pension annuity business or from general annuity business.

1956 c. 54.

(6) Section 427(2) of the Income Tax Act 1952 (which provides for repayment of income tax on income reserved for policy holders where the standard rate exceeds seven shillings and sixpence in the pound) shall apply to chargeable gains as it applies to income, applying—

- (a) to franked investment income as if income tax deducted or treated under this Part of this Act as deducted from it were income tax borne by the company; and
- (b) to income chargeable to corporation tax and to chargeable gains as if references to the standard rate of income tax were references to the rate of corporation tax.

(7) Except under section 427(2) of the Income Tax Act 1952 a company resident in the United Kingdom shall not be entitled to repayment of income tax deducted or treated under this Part of this Act as deducted from such part of the franked investment income from investments held in connection with its life assurance business as belongs or is allocated to, or is reserved for,

or expended on behalf of, policy holders ; but notwithstanding anything in section 48 of this Act, any such company carrying on life assurance business shall be entitled to repayment of income tax in respect of franked investment income of the company's annuity fund in so far as—

- (a) it is referable in accordance with section 24 of the 1956 c. 54. Finance Act 1956 to pension annuity business ; or
- (b) being referable to general annuity business, it does not have to be taken into account to enable annuities referable to that business to be treated as charges on income.

Any franked investment income on which income tax is repayable as mentioned in this subsection, or which is taken into account as mentioned in paragraph (b), shall be left out of account under section 48 of this Act.

(8) Where—

- (a) a company carrying on life assurance business has before the date of the passing of this Act issued policies of life assurance—
  - (i) providing for benefits which consist to any extent of investments of a specified description or of a sum of money to be determined by reference to the value of such investments ; but
  - (ii) not providing for the deduction from those benefits of any amount by reference to tax chargeable in respect of chargeable gains ; and
- (b) the investments of the company's life assurance fund, so far as referable to those policies, consist wholly or mainly of investments of the description so specified ; and
- (c) on the company becoming liable under any of those policies for any such benefits (including benefits to be provided on the surrender of a policy), a chargeable gain accrues to the company from the disposal in meeting or for the purpose of meeting that liability of investments of that description forming part of its life assurance fund, or would so accrue if the liability were met by or from the proceeds of such a disposal ;

then the company shall be entitled as against the person receiving the benefits to retain out of them a part of them not exceeding in amount or value corporation tax in respect of the gain referred to at (c) above, computed without regard to any amount retained under this provision, and computed at the rate of corporation tax for the time being in force or, if no

**PART IV** rate has yet been fixed for the financial year, at the rate last in force or, if no rate has yet been fixed for any financial year, at a rate of thirty-five per cent. :

Provided that in so far as the chargeable gain represents or would represent a gain belonging or allocated to, or reserved for, policy holders the amount that is to be retained shall be computed by reference to a rate of tax not exceeding thirty-seven and a half per cent.

1952 c. 10.

(9) Without prejudice to the general application of income tax law for purposes of corporation tax, section 431 of the Income Tax Act 1952 (capital redemption business) shall apply for purposes of corporation tax, including corporation tax in respect of chargeable gains, as it applies for purposes of income tax, but as if section 431(2) provided that in ascertaining for purposes of section 58 or 59 of this Act whether and to what extent a company has incurred a loss on its capital redemption business any profits derived from investments held in connection with the capital redemption business (including franked investment income of a company resident in the United Kingdom) shall be treated as part of the profits of that business.

Industrial and provident societies.

**70.**—(1) Notwithstanding anything in this Act, share interest or loan interest paid by a registered industrial and provident society shall not be treated as a distribution, and subject to subsection (3) below any share interest or loan interest paid in an accounting period of the society—

- (a) shall be deductible in computing for purposes of corporation tax the income of the society for that period from the trade carried on by the society ; or
- (b) if the society is not carrying on a trade, shall be treated as a charge on the income of the society.

(2) As regards share interest and loan interest paid in or after the year 1966-67 section 443(4) of the Income Tax Act 1952 shall not have effect, but at the end of section 442 there shall be added as a new subsection (4):—

“ (4) Every registered industrial and provident society shall, within three months after the end of any accounting period for corporation tax of the society, deliver to the surveyor a return in such form as the Commissioners of Inland Revenue may prescribe showing—

- (a) the name and place of residence of every person to whom the society has by virtue of this section paid without deduction of income tax sums amounting to more than fifteen pounds in that period ; and
- (b) the amount so paid in that period to each of those persons.”

(3) If for any accounting period of a registered industrial and provident society a return under section 442(4) of the Income Tax Act 1952 is not duly made, share interest and loan interest paid by the society in that period shall not be deductible in computing income for purposes of corporation tax or be treated as a charge on income. PART IV  
1952 c. 10.

(4) As regards share interest and loan interest paid before the year 1966-67 subsection (3) above shall apply to the returns required by section 443(4) of the Income Tax Act 1952; but subsection (1)(b) above shall not apply to share interest or loan interest so paid, except in so far as relief cannot be given in respect of it under section 443(1)(a) of that Act.

(5) Any claim made by a housing association under section 43 of the Finance Act 1963 after the year 1965-66 shall be made as theretofore for a year of assessment or part of a year of assessment. 1963 c. 25.

(6) A housing association within the meaning of the said section 43 shall be exempt from corporation tax in respect of chargeable gains accruing to it on the disposal by way of sale of any property which has been or is being occupied by a tenant of the housing association:

Provided that this subsection shall not apply to an association except on a claim made on that behalf for an accounting period or part thereof during which it was approved for the purposes of the said section 43, and Schedule 10 to the Finance Act 1963 shall have effect in relation to any such claim, with any necessary adaptations, as it has effect in relation to a claim under that section.

(7) If in the course of, or as part of, a union or amalgamation of two or more industrial and provident societies, or a transfer of engagements from one industrial and provident society to another, there is a disposal of an asset by one society to another, both shall be treated for purposes of corporation tax in respect of chargeable gains as if the asset were acquired from the one making the disposal for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to the one making the disposal.

(8) Where in accordance with a scheme approved under section 5 of the Housing Act 1964 the Housing Corporation acquires from a housing society the society's interest in all the land held by the society for carrying out its objects, or where after the Housing Corporation has so acquired from a housing society all the land so held by it the Corporation disposes to a single housing society of the whole of that land (except any part previously disposed of or agreed to be disposed of otherwise than to a housing society), together with all related assets, then both parties 1964 c. 56.

## PART IV

to the disposal of the land to the Housing Corporation or, as the case may be, by the Housing Corporation shall be treated for purposes of corporation tax in respect of chargeable gains as if the land and any related assets disposed of therewith (and each part of that land and those assets) were acquired from the one making the disposal for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to the one making the disposal.

1964 c. 56.

In this subsection "housing society" has the same meaning as in Part I of the Housing Act 1964, and "related assets" means in relation to an acquisition of land by the Housing Corporation assets acquired by the Corporation in accordance with the same scheme as that land, and in relation to a disposal of land by the Housing Corporation assets held by the Corporation for purposes of the same scheme as that land.

(9) Subsections (1) and (7) of this section shall have effect as if references to a registered industrial and provident society included any co-operative association established and resident in the United Kingdom, and having as its object or primary object to assist its members in the carrying on of agricultural or horticultural businesses on land occupied by them in the United Kingdom or in the carrying on of businesses consisting in the catching or taking of fish or shellfish.

In this subsection "co-operative association" means a body of persons having a written constitution from which the Minister of Agriculture, Fisheries and Food (as regards England or Wales), the Secretary of State (as regards Scotland) or the Ministry of Agriculture for Northern Ireland (as regards Northern Ireland) is satisfied, having regard to the provision made as to the manner in which the income of the body is to be applied for the benefit of its members and all other relevant provisions, that the body is in substance a co-operative association.

1952 c. 10.

(10) Section 446 of the Income Tax Act 1952 shall apply for the interpretation of this section as it applies for the interpretation of Part XXI of that Act.

Building societies.

**71.**—(1) As respects the year 1966-67 and later years of assessment section 445 of the Income Tax Act 1952 (under which a building society may make and receive interest payments without deduction of income tax under arrangements for it to be specially assessed under Schedule D) shall have effect notwithstanding the provisions of this Part of this Act requiring income tax to be deducted from distributions; and—

(a) in section 445(1) there shall be substituted for paragraph (a)—

“(a) on such sums as may be determined in

accordance with the arrangements the society is liable to account for and pay an amount representing income tax calculated in part at the standard rate and in part at a reduced rate which takes into account the operation of the subsequent provisions of this section ;”

and accordingly in the proviso, immediately before the words “ the total tax ”, there shall be inserted the words “ (if the amount so payable by the society under the arrangements is regarded as income tax for the year of assessment) ” ;

- (b) section 445(3)(b) shall not apply to interest paid by a company not resident in the United Kingdom under a liability incurred wholly and exclusively for the purposes of a trade carried on by it in the United Kingdom through a branch or agency.

(2) Where for any such year of assessment a building society enters into arrangements under section 445 of the Income Tax Act 1952, dividends or interest payable in respect of shares in, or deposits with or loans to, the society shall be dealt with for the purposes of corporation tax as follows :—

- (a) in computing for any accounting period ending in the year of assessment the total profits of the society there shall be allowed as a deduction the actual amount paid or credited in the accounting period of any such dividends or interest, together with the amount accounted for and paid by the society in respect thereof as representing income tax ;
- (b) in computing the income of a company which is paid or credited in the year of assessment with any such dividends or interest, the company shall be treated as having received an amount which, after deduction of income tax at the standard rate for the year of assessment, is equal to the amount paid or credited, and shall be entitled to a set off or repayment of income tax accordingly, except that the dividends or interest shall not be brought into account under Schedule 12 to this Act ;
- (c) no part of any such dividends or interest paid or credited in the year of assessment shall be treated as a distribution of the society or as franked investment income of any company resident in the United Kingdom.

(3) Where for the year 1965-66 a building society enters into arrangements under section 445 of the Income Tax Act 1952—

## PART IV

- (a) if a society which but for the arrangements would be assessed to income tax for the year 1965-66 by reference to a period ending before that year is under the arrangements (and without any election thereunder by the society) so assessed by reference to a period ending in that year, then subsection (4) below shall apply to the society in place of the general provisions of this Part of this Act as to the time for payment of corporation tax ; and
- (b) subsection (2)(a) above shall have effect in relation to any accounting period of the society ending in that year with the substitution for the reference to the amount accounted for and paid by the society in respect of the dividends and interest as representing income tax of a reference to the amount computed by reference to the dividends or interest in accordance with the provision made by those arrangements with reference to dividends and interest for charging the society to income tax for that year.
- (4) Where this subsection applies to a building society, then—
- (a) corporation tax assessed on the society for any accounting period shall be paid within one month from the making of the assessment, except that if the society's basis period for the year 1965-66 does not extend into the year 1966, the tax shall not be payable before the like time after the last day of the accounting period as 1st January 1966 is after the last day of that basis period ; but
- (b) if corporation tax has not become payable by the society for an accounting period by the like time from the beginning of that period as there is between the beginning of the said basis period and 1st January 1966, the society shall at that time from the beginning of the accounting period make a provisional payment of tax computed on the amount on which the society is chargeable to corporation tax for the accounting period last ended (or, as the case may be, is chargeable to income tax by reference to the said basis period), with such adjustments, if any, as may be required for periods of different length or as may be agreed between the society and the inspector.

References in this subsection to a society's basis period for the year 1965-66 are references to the period by reference to which the society is assessed to income tax for that year under the arrangements referred to in subsection (3) above.

- (5) If in the course of, or as part of, a union or amalgamation of two or more building societies, or a transfer of engagements

from one building society to another, there is a disposal of an asset by one society to another, both shall be treated for purposes of corporation tax in respect of chargeable gains as if the asset were acquired from the one making the disposal for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to the one making the disposal.

**72.**—(1) Subject to subsection (2) below, where a company carries on any business of mutual trading or mutual insurance or other mutual business, the provisions of this Part of this Act relating to distributions shall apply to distributions made by the company notwithstanding that they are made to persons participating in the mutual activities of that business and derive from those activities, but shall so apply only to the extent to which the distributions are made out of profits of the company which are brought into charge to corporation tax or out of franked investment income (including group income).

Companies carrying on mutual business, or not carrying on a business.

(2) In the case of a company carrying on any mutual life assurance business, the provisions of this Act relating to distributions shall not apply to distributions made to persons participating in the mutual activities of that business and derived from those activities; but if the business includes annuity business, the annuities payable in the course of that business shall not be treated as charges on the income of the company to any greater extent than if the business were not mutual but were being carried on by the company with a view to the realisation of profits for the company.

(3) Subject to the foregoing subsections, the fact that a distribution made by a company carrying on any such business is derived from the mutual activities of that business and the recipient is a person participating in those activities shall not affect the character which the payment or other receipt has for purposes of corporation tax or income tax in the hands of the recipient.

(4) Where a company does not and never has carried on a trade or a business of holding investments, and is not established for purposes which include the carrying on of a trade or of such a business, the provisions of this Part of this Act relating to distributions shall apply to distributions made by the company only to the extent to which the distributions are made out of profits of the company which are brought into charge to corporation tax or out of franked investment income.

**73.**—(1) So long as a trade is carried on by persons in partnership, and any of those persons is a company, the profits of the trade and any loss (including a terminal loss) incurred therein

Company partnerships.



## PART IV

shall be computed for 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 engaged in carrying on the trade:

Provided that—

- (a) references to distributions shall not apply ;
- (b) 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 ;
- (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 or in any matter excluded from the computation by proviso (b) to subsection (1) 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 it alone, and the company shall be assessed and charged to tax accordingly:

Provided that for purposes of any relief from tax which may be given against total profits a company may claim that any profits in respect of which it is chargeable in accordance with this section and, so far as it cannot be relieved against those profits, any matter for which relief may be given against them in accordance with this section shall be dealt with as if they derived from a separate trade carried on by it otherwise than in partnership (any necessary apportionment being made where accounting periods of the company do not coincide with those of the partnership).

(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, be apportioned accordingly; and PART IV

(b) section 19 of the Finance Act 1953 (discontinuances) 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 section 19(3) 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 1953 c. 44.

(c) section 18 of the Finance Act 1954 (terminal loss) shall not apply except where section 59 of this Act applies to the partnership as a whole. 1954 c. 44.

(4) Section 144 of the Income Tax Act 1952 (partnership statements and assessments) shall apply to income tax chargeable in accordance with this section, matters relevant only to corporation tax being omitted from the statement required by section 144 and from the assessment, and the obligation to make and deliver the statement being that of the individual partner or partners. 1952 c. 10.

(5) 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 shall have effect as if the partnership were resident in the United Kingdom, and an assessment may be made on the company accordingly.

(6) Subject to subsection (5) above, where the partners in a partnership include a company, section 147 of the Income Tax Act 1952 shall apply whether for corporation tax or income tax, and this section shall have effect accordingly.

(7) In this section "capital allowances and charges" means any such allowances and charges as are within section 56 of this Act, other than those which for income tax are given or made by deduction or addition in the computation of profits or gains.

#### *Close companies*

**74.**—(1) In computing for corporation tax the profits of a close company for any accounting period, the deduction that may be made for the remuneration of directors other than whole-time service directors shall not, subject to subsection (2) below, exceed fifteen per cent. of the company's profits, computed before making any deduction for that remuneration or for investment allowances, and with the addition of franked investment income from companies not within its group (if it has one):

Restriction for close companies on deduction for directors' remuneration.

## PART IV.

Provided that for any accounting period for which the company so elects this subsection shall apply with the substitution for the reference to fifteen per cent. of the company's profits for that period of a reference to fifteen per cent. of the profits of a period of the same length, computed as aforesaid but according to the average of the three years preceding the accounting period, or of such part (not being less than twelve months) of those three years as falls after the company commenced to carry on business or became resident in the United Kingdom, so, however, that in arriving at the average for a period beginning before the year 1966-67 there shall be brought into the computation profits arising from the company's trade or business which are chargeable to profits tax, computed as for that tax, together with any such franked investment income (within the meaning of that tax) as would not, if received in like circumstances after the year 1965-66, be treated as coming from within the company's group.

For this purpose distributions received by the company from another are to be treated as coming from within the company's group if but only if dividends so received are group income or would be group income if the companies so elected, and, where the proviso to this subsection has effect, the amount of the profits of the three years there mentioned or the relevant part of those three years shall, if the case requires, be arrived at by division and apportionment or aggregation of profits or losses for periods of account wholly or partly comprised therein.

(2) Subsection (1) above shall not reduce the deduction for any accounting period below £4,000 nor, if there are for more than half the accounting period at least two directors to whom subsection (3) below applies, below the aggregate remuneration, within the limits permitted by subsection (3), of those directors.

(3) This subsection applies to directors who are required to devote substantially the whole of their time to the service of the company in a managerial or technical capacity but are not whole-time service directors, and the limits on the deduction permitted by reference to their remuneration are as follows:—

- (a) an overall limit of £13,000, reduced to £10,000 if for half or more of the accounting period there are less than four such directors, and to £7,000 if for half or more of it there are less than three; and
- (b) a limit of £4,000 on the remuneration of the highest paid such director and £3,000 on that of any other, except that if the remuneration of the highest paid such director is less than £4,000, an amount equal to the difference may be made up on the remuneration of the others.

“The highest paid such director”, if no one such director is the highest paid, means one such director having remuneration as high as that of any of the others.

(4) In relation to an accounting period of less than twelve months each of the sums of money numerically specified in subsections (2) and (3) shall be proportionately reduced.

(5) Where a company is a close company for part only of an accounting period and the deduction which would otherwise be allowable for that period for directors' remuneration is decreased under this section, the decrease shall be such part of that which would be made apart from this subsection as is proportionate to that part of the period.

(6) This section shall apply in relation to a company having more than one source of income so as to restrict the aggregate deductions to be made in any manner for the remuneration of directors, including deductions giving rise to or augmenting a loss.

**75.**—(1) Where after the end of the year 1965-66 a close company, otherwise than in the ordinary course of a business carried on by it which includes the lending of money, makes any loan or advances any money to an individual who is a participator in the company or an associate of a participator, there shall be assessed on and recoverable from the company, as if it were an amount of income tax chargeable on the company, an amount equal to income tax on the grossed up equivalent of the loan or advance. Assessment of close companies to income tax in respect of certain loans.

(2) Where, after a company has paid the amount assessed on it under subsection (1) above in respect of any loan or advance, the loan or advance or any part of it is repaid to the company, the amount paid by the company or a proportionate part of it shall be repaid.

(3) Where a company is assessed or liable to be assessed under this section in respect of a loan or advance, and releases or writes off the whole or part of the debt in respect of it, the person to whom it was made shall be treated for purposes of surtax as having then received an amount of income equal to the grossed up equivalent of the amount so released or written off:

Provided that if the loan or advance was made to a person who has since died, or to trustees of a trust which has come to an end, this subsection instead of applying to the person to whom it was made shall apply to the person from whom the debt is due at the time of the release or writing off (and if it is due from him as personal representative within the meaning of Part XIX of the Income Tax Act 1952, the amount treated as 1952 c. 10.

**PART IV** received by him shall accordingly be, as regards surtax, included for purposes of the said Part XIX in the aggregate income of the estate).

(4) For purposes of this section the grossed up equivalent of an amount is such sum as after deduction of income tax at the standard rate is equal to that amount, and shall be computed by reference to the standard rate for the year of assessment in which the loan or advance is made or, as the case may be, the debt is wholly or partly released or written off.

(5) Subsection (3) of this section shall not have effect in relation to a loan or advance made to a person if any sum falls in respect of the loan or advance to be included in his income by virtue of section 408 of the Income Tax 1952, except in so far as the amount released or written off exceeds the sums previously falling to be so included (without the addition for income tax provided for by section 408(4)); and where any amount is included in a person's income by virtue of subsection (3) above in respect of any loan or advance, there shall be a corresponding reduction in the amount (if any) afterwards falling to be so included in respect of it by virtue of the said section 408.

(6) Where under arrangements made by any person otherwise than in the ordinary course of a business carried on by him—

- (a) a close company makes a loan or advance to a person who is not a participator in the company or an associate of a participator; and
- (b) some person other than the close company makes a payment or transfers property to, or releases or satisfies (in whole or in part) a liability of, an individual who is a participator in the company or an associate of a participator;

then, unless in respect of the matter referred to at (b) above there falls to be included in the total income for purposes of surtax of the participator or associate an amount not less than the grossed up equivalent of the loan or advance, this section shall apply as if the loan or advance had been made to him.

(7) In subsections (1) and (6)(b) above the references to an individual shall apply also to a company receiving the loan or advance in a fiduciary or representative capacity and to a company not resident in the United Kingdom.

**76.—**(1) Where, in respect of any payment made or consideration given by a company after the year 1965-66, any sum falls by virtue of section 242 of the Income Tax Act 1952 (charge of surtax on consideration for certain restrictive covenants etc.) to be included in an individual's total income for purposes of

Assessment of close companies on consideration for certain restrictive covenants etc.

surtax, and at the time when the payment is made or the consideration is given the company is a close company and the individual is a participator in the company or an associate of a participator, there shall be assessed on and recoverable from the company, as if it were an amount of income tax chargeable on the company, an amount equal to income tax on the sum falling to be included in the individual's income as aforesaid, at the standard rate for the year of assessment in which the payment is made or consideration is given.

(2) Where subsection (1) above would apply to any payment or consideration if the condition that the company is a close company and the individual a participator in it or an associate of a participator were satisfied at the time when the payment is made or the consideration is given, the subsection shall apply if either—

- (a) at that time the individual holds or is about to hold an office or employment with the company and the condition is satisfied within two years afterwards ; or
- (b) at that time the individual holds or has held an office or employment with the company and the condition has been satisfied within two years previously.

77.—(1) If in any accounting period of a close company there is a shortfall in the company's distributions, there shall be assessed on and recoverable from the company, as if it were an amount of income tax chargeable on the company, an amount equal to the income tax for which the company would be liable to account under section 47(3) of this Act on a distribution equal in amount (before deduction of income tax) to the shortfall and made twelve months after the end of the accounting period (income tax having been deducted). Shortfall in distributions of close company (income tax at standard rate).

(2) For the purposes of this section the shortfall in a company's distributions for any accounting period is, save as otherwise provided by this section, the amount (if any) by which the distributions for the period fall short of the required standard ; and the required standard is the distributable income for the period, less so much of that income (not exceeding, in the case of a company which is neither a trading company nor a member of a trading group, the amount of the estate or trading income) as the company shows could not be distributed without prejudice to the requirements of the company's business :

Provided that the required standard shall in no case exceed the company's distributable investment income for the period plus sixty per cent. of the estate or trading income of the period, and for the purpose of this proviso in its application to a trading company not having any associated company the estate or

## PART IV

trading income for the period, if it is less than £9,000, shall be treated as reduced by one-fifth of the amount required to make it up to £9,000 or, if it is less than £1,500, shall be disregarded.

(3) In arriving at the required standard for any accounting period—

- (a) regard shall be had not only to the current requirements of the company's business but also to such other requirements as may be necessary or advisable for the maintenance and development of that business, but for this purpose sections 246(2) and (3) and 258(1) and (4) of the Income Tax Act 1952, except section 246(2) proviso, shall apply as they applied for the corresponding purpose of section 245 ;
- (b) the amount of the estate or trading income shall be taken at the amount included in respect of it in the distributable income ;
- (c) for an accounting period of less than twelve months the sums of £9,000 and £1,500 specified in the proviso to subsection (2) above shall be proportionately reduced ;
- (d) if the company is a trading company and for part of the period has, and for part of the period has not, got an associated company, the required standard shall be arrived at by aggregating the amounts for those parts separately computed as if they were distinct accounting periods.

(4) Where a company is subject to any restriction imposed by law as regards the making of distributions, any shortfall in its distributions for an accounting period shall be disregarded to the extent to which the company could not make distributions up to the required standard without contravening that restriction.

(5) Where a company is in respect of any year of assessment assessed under this section in respect of a shortfall in distributions, and there is in that year a surplus of franked investment income (including any amount carried forward from an earlier year), the company may claim that the shortfall shall be set off as far as may be against that surplus, and each of them shall then (as regards the company) be treated as reduced by the amount of the set-off.

Effect shall be given to a claim under this subsection in priority to any claim for the same year under section 62 of this Act, but the set-off shall be made as far as may be against any part of the surplus which has been carried forward from an earlier year of assessment.

(6) Where a company is assessed under this section in respect of a shortfall in distributions for any accounting period, then (so long as the company remains a close company) it may

for any later accounting period for which there is no such shortfall claim that the shortfall of the earlier period, or so much of it as has not been dealt with under this subsection, shall, in determining the income tax payable by the company in respect of distributions for the later period or, as the case may be, in arriving at any surplus of franked investment income, be deducted rateably from the distributions made by the company for the later period :

Provided that no deduction shall be made under this subsection from the distributions for any accounting period so as to reduce those distributions below the required standard or below the amount of the directors' remuneration included in the distributions in computing them for purposes of this section.

**78.**—(1) Subject to the provisions of this section, the income of a close company for any accounting period may for purposes of surtax be apportioned by the Board among the participators, and any amount apportioned to a close company (whether originally or by one or more sub-apportionments under this provision) may be further apportioned among the participators in that company; and on any such apportionment section 249 of the Income Tax Act 1952, as adapted by this section, shall apply as it applied on an apportionment of a company's income under Chapter III of Part IX of that Act. Apportionment for surtax of close company's income. 1952 c. 10.

(2) For purposes of an apportionment under this section, there shall be added to the amount of income to be apportioned any amounts which were deducted in respect of annual payments in arriving at the company's distributable income for the accounting period and which in the case of an individual would not have been deductible or would have been treated as his income in computing his total income for surtax.

(3) Except in the case of a trading company, there may be apportioned under this section, if the Board see reason for it, the whole of a company's income for an accounting period up to the amount of the required standard (notwithstanding that there has been no shortfall in distributions for that period), together with any addition to be made under subsection (2) above but with such reduction, if any, as may be just in respect of distributions made for the period to persons other than participators and associates of participators (or amounts treated as such for purposes of section 77 above):

Provided that for this purpose the required standard shall be treated as reduced by so much of any shortfall in the distributions for the period as would under section 77(4) above be disregarded in an assessment made in respect of that shortfall.

(4) Subject to subsections (2) and (3) above, an apportionment shall not be made under this section of a company's income for an accounting period unless an assessment is made



PART IV on the company under section 77 of this Act in respect of a shortfall in its distributions for that period, and the amount apportioned shall be the amount of that assessment.

(5) Any apportionment made under this section, including any sub-apportionment of an amount directly or indirectly apportioned to a company, shall be made according to the respective interests in the company in question of the participators, except that—

1952 c. 10.

(a) in the case of any company, the provisos to section 258(3) of the Income Tax Act 1952 and section 259(1) of that Act (which enable regard to be had to beneficial interests in loans, or to the interests which would arise in a winding up) shall apply as they applied in the case of an investment company to apportionments under Chapter III of Part IX of that Act (a reference to a participator being substituted for any reference to a member or to a loan creditor); and

(b) if the company is not a trading company, section 260 of that Act (which gave further powers to have regard to underlying interests) except subsection (5) shall also apply in like manner.

(6) Where an apportionment is made by virtue of subsection (3) above, an individual shall not be charged to surtax on an amount treated in consequence of the apportionment or any sub-apportionment as being his income except in so far as it exceeds the amount which, apart from the apportionment, falls in respect of distributions made by the company in the accounting period to be included in the statement of total income to be made by him for purposes of surtax; and no individual shall be charged to surtax by virtue of any apportionment under this section unless the sum or (where there is a sub-apportionment) aggregate sum on which he is so chargeable amounts either to £100 or more or to five per cent. or more of the amount apportioned.

(7) Subject to subsection (6) above, on an apportionment under this section, section 249 of the Income Tax Act 1952 shall apply subject to the following modifications:—

(a) for any reference to a member there shall be substituted a reference to a participator;

(b) subsection (2)(c) shall not apply, and any amount treated under the section as a person's income for purposes of surtax shall be deemed for those purposes to have been received by him at the end of the accounting period to which the apportionment relates; and

(c) there shall not be deducted from the amount apportioned to any person (whether on the original

apportionment or any sub-apportionment) any amount in fact distributed to him ; and

PART IV

- (d) so much of section 249(5) as provides for undistributed income not to rank for surtax when subsequently distributed shall not apply unless on the occasion of its distribution the distributions for the accounting period exceed the required standard, and shall then apply only to the same fraction of any amount to which an individual is entitled as that excess is of the whole distributions for the period.

**79.** The provisions of Schedule 18 to this Act shall have effect for the interpretation and operation of the foregoing sections of this Act relating to close companies, for their modification in certain cases and for other purposes there dealt with ; and those sections shall have effect subject to and in accordance with the provisions of that Schedule.

Supplementary provisions about close companies.

#### *Commencement and transitional*

**80.—(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.

Commencement of corporation tax for existing companies, and transition from income tax.

(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 :

## PART IV

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.

1952 c. 10.

(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.

1952 c. 33.

(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.

1954 c. 44.

(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.**—(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—

- (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.

PART IV  
1947 c. 35.

(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.

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

1962 c. 44.

**82.**—(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.

(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;

## PART IV

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.

Dividend  
increases in  
1965-66.

**83.**—(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;
- (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.



## PART IV

(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 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.

PART IV

1937 c. 54.

1963 c. 25.

(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.

1957 c. 49.

(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 com-

## PART IV

menced 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 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.

1962 c. 44.

1960 c. 44.

Transitional relief for existing companies with overseas trading income.

**84.**—(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  $56\frac{1}{4}$  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 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

## PART IV

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 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 1964 c. 37. 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

## PART IV

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.

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

**85.**—(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 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),<sup>1937 c. 54.</sup> 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 excluded from the dividends taken into account under subsection (3) (a) above a part of the dividends received from that



## PART IV

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.

1952 c. 10.

(5) In arriving at the amount ultimately borne by the company of the income tax at (3)(a) 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 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.

1952 c. 10.

(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

## PART IV

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.

1952 c. 10.

(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.

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

**86.**—(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.

(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.

1945 c. 42.

(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.

1920 c. 67.

**87.**—(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.

Transitional relief for existing companies on cessation of trade etc.

(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

## PART IV

- (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). PART IV  
1952 c. 10.

(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.

### *Supplementary*

**88.**—(1) For purposes of Part IV of the Finance Act 1940 (which provides, in relation to certain companies, for estate duty to be charged on assets of the company) the net income of a company or a loss sustained by a company shall for any accounting year ending before 6th April 1966 be determined in accordance with section 49 of that Act as if this Part of this Act had not been passed, and if the last accounting year in relation to any death ends before that date, shall also be so determined for the period between the end of that year and the death of the deceased. Consequential  
amendments  
of estate duty.  
1940 c. 29.

(2) Subject to subsection (1) above, the income of a company for any accounting year or for the period between the end of the last accounting year and the death of the deceased, shall be determined for purposes of Part IV of the Finance Act 1940 according to the rules applicable under this Part of this Act to the computation for corporation tax of the total profits of a company resident in the United Kingdom (losses of any description being deducted from income of any description), except that—

- (a) franked investment income and group income shall be included, but not profits which are neither bona fide earned in the ordinary course of business nor produce of income yielding assets;
- (b) no regard shall be had—
  - (i) to any investment allowances, initial allowances or balancing charges; nor
  - (ii) to any deduction falling to be made in respect of losses, allowances or expenses of management outside the period in which a deduction originally falls to be made in respect thereof; nor
  - (iii) to any restriction on the deduction that may be made for directors' remuneration;

and the net income of the company for any accounting year shall be determined by deducting from the income of the

**PART IV** company for that year any corporation tax borne by the company in respect of the year, and (in so far as a deduction is not made in respect of the same matter in computing the income) the liabilities of the company for that year in respect of any kind of payment from which income tax is deductible, or which is assessable to income tax, but excluding liabilities in respect of any dividend on shares in or interest on debentures of the company and liabilities incurred otherwise than for the purposes of the business of the company wholly and exclusively.

This subsection shall apply for determining a loss sustained by a company in an accounting year as it applies for determining the net income for an accounting year.

1940 c. 29.

(3) In Schedule 7 to the Finance Act 1940, in paragraph 4(1) (which provides for making adjustments for purposes of Part IV of that Act in respect of an addition's having been made to the assets of the company) the reference to receipts representing income in respect of which the company was liable to pay or bear income tax shall include any franked investment income or group income and the reference to income tax shall include corporation tax.

1954 c. 44.

(4) In the Finance Act 1954, in section 30(3) (under which in valuing a company's assets for purposes of Part IV of the Finance Act 1940 allowances may be made for the company's prospective tax liabilities, with special provision for the estimation of a liability based on past profits to tax on future profits) the words from "and in their estimation" onwards shall be omitted.

(5) Nothing in this Part of this Act or in the repeals consequential thereon shall affect the operation of section 58(1) of the Finance Act 1940 (which defines the companies falling within certain provisions of that Act by reference to income tax law).

Interpretation  
of Part IV.

**89.**—(1) In this Act and in any Act passed after this Act "the Corporation Tax Acts", except in so far as the context otherwise requires, means this Part of this Act (including provisions relating to income tax), together with the Income Tax Acts so far as those Acts apply for purposes of corporation tax and any other enactments relating to corporation tax.

(2) For the purposes of this Part of this Act, except in so far as the context otherwise requires,—

(a) "accounting date" means the date to which a company makes up its accounts, and "period of account" means the period for which it does so;

- (b) "branch or agency" means any factorship, agency, receivership, branch or management;
- (c) "charges on income", subject to section 70(3) of this Act, has the meaning assigned to it by section 52;
- (d) "distribution" has the meaning assigned to it by Schedule 11 to this Act;
- (e) "the financial year 1965" means the financial year beginning with April 1965, and similarly with references embodying other dates;
- (f) "franked investment income" and "group income" shall be construed in accordance with section 48 of this Act, and any reference to a "surplus of franked investment income" is a reference to such a surplus as is referred to in section 48(1);
- (g) "new consideration" has in other provisions the same meaning as in Part I of Schedule 11 to this Act;
- (h) "preference dividend" means a dividend payable on a preferred share or preferred stock at a fixed gross rate per cent. or, where a dividend is payable on a preferred share or preferred stock partly at a fixed gross rate per cent. and partly at a variable rate, such part of that dividend as is payable at a fixed gross rate per cent., but it does not include any dividend or part of a dividend which is paid without deduction of income tax (and for this purpose a payment shall be treated as made without deduction of income tax unless either there is made from it the full deduction authorised by this Part of this Act or the payment is, before the passing of an Act imposing income tax for the year of assessment, made subject to deduction of tax by reference to a standard rate less than that ultimately imposed);
- (i) "recognised stock exchange" has the same meaning as in the Prevention of Fraud (Investments) Act 1958, 1958 c. 45. except that it includes the Belfast Stock Exchange;
- (j) "trade" includes "vocation", and includes also an office or employment or the occupation of woodlands in any context in which the expression is applied to that in the Income Tax Acts;
- (k) a source of income is "within the charge to" corporation tax or income tax if that tax is chargeable on the income arising from it, or would be so chargeable if there were any such income, and references to a person, or to income, being within the charge to tax, shall be similarly construed.



## PART V

(3) Except as otherwise provided by this Part of this Act and except in so far as the context otherwise requires, expressions used in the Income Tax Acts have the same meaning in this Part of this Act as in those Acts; but no provision of this Part of this Act as to the interpretation of any expression, other than a provision expressed to extend to the use of that expression in the Income Tax Acts, shall be taken to affect its meaning in those Acts as they apply for the purposes of corporation tax.

1960 c. 44.

(4) For all purposes of the Corporation Tax Acts dividends shall be treated as paid on the date when they become due and payable, except in so far as section 69(1) of the Finance Act 1960 (authorised unit trust schemes) makes other provision as to amounts treated under that section as dividends.

1947 c. 35.

1948 c. 49.

(5) Section 63(2) of the Finance Act 1947 and section 71 of the Finance Act 1948 (which contain provisions for treating certain amounts as being or not being remuneration of a director) shall apply for the purposes of corporation tax as they applied for purposes of the profits tax (references to section 74 of this Act being substituted for references to paragraph 11 of Schedule 4 to the Finance Act 1937).

1937 c. 54.

(6) Except as otherwise provided by this Part of this Act, any apportionment to different periods which falls to be made thereunder shall be made on a time basis according to the respective lengths of those periods.

## PART V

## MISCELLANEOUS AND GENERAL

Stamp duty:  
conveyances  
and transfers.

1891 c. 39.

**90.**—(1) Subject to the provisions of this section, any instrument whereby property is conveyed or transferred to any person in contemplation of a sale of that property shall be treated for the purposes of the Stamp Act 1891 as a conveyance or transfer on sale of that property for a consideration equal to the value of that property.

(2) If on a claim made to the Commissioners not later than two years after the making or execution of an instrument chargeable with duty in accordance with subsection (1) of this section, it is shown to their satisfaction—

(a) that the sale in contemplation of which the instrument was made or executed has not taken place and the property has been re-conveyed or re-transferred to the person from whom it was conveyed or transferred or to a person to whom his rights have been transmitted on death or bankruptcy; or

(b) that the sale has taken place for a consideration which is less than the value in respect of which duty was paid on the instrument by virtue of this section,

the Commissioners shall repay the duty paid by virtue of this section, in a case falling under paragraph (a) of this subsection, so far as it exceeds the stamp duty which would have been payable apart from this section and, in a case falling under paragraph (b) of this subsection, so far as it exceeds the stamp duty which would have been payable if the instrument had been stamped in accordance with subsection (1) of this section in respect of a value equal to the consideration in question:

Provided that, in a case falling under the said paragraph (b), duty shall not be repayable if it appears to the Commissioners that the circumstances are such that a conveyance or transfer on the sale in question would have been chargeable with duty under section 74 of the Finance (1909-10) Act 1910 by virtue of subsection (5) of that section (conveyances and transfers on sale chargeable as voluntary dispositions if for inadequate consideration). 1910 c. 8.

(3) No instrument chargeable with duty in accordance with subsection (1) of this section shall be deemed to be duly stamped unless the Commissioners have been required to express their opinion thereon under section 12 of the said Act of 1891 and have expressed their opinion thereon in accordance with that section.

(4) The foregoing provisions of this section shall apply whether or not an instrument conveys or transfers other property in addition to the property in contemplation of the sale of which it is made or executed, but those provisions shall not affect the stamp duty chargeable on the instrument in respect of that other property.

(5) For the purposes of the said section 74 and of subsection (1) of this section, the value of property conveyed or transferred by an instrument chargeable with duty in accordance with either of those provisions shall be determined without regard to—

- (a) any power (whether or not contained in the instrument) on the exercise of which the property, or any part of or any interest in, the property, may be re-vested in the person from whom it was conveyed or transferred or in any person on his behalf;
- (b) any annuity reserved out of the property or any part of it, or any life or other interest so reserved, being an interest which is subject to forfeiture;

but if on a claim made to the Commissioners not later than two years after the making or execution of the instrument it is shown to their satisfaction that any such power as is mentioned in paragraph (a) of this subsection has been exercised in relation to the property and the property or any property representing it has been re-conveyed or re-transferred in the whole or

## PART V

in part in consequence of that exercise the Commissioners shall repay the stamp duty paid by virtue of this subsection, in a case where the whole of such property has been so re-conveyed or re-transferred, so far as it exceeds the stamp duty which would have been payable apart from this subsection and, in any other case, so far as it exceeds the stamp duty which would have been payable if the instrument had operated to convey or transfer only such property as is not so re-conveyed or re-transferred.

(6) This section shall be construed as one with the said Act of 1891.

(7) This section shall come into force on 1st August 1965.

Interest where stamp duty repaid under judgment.  
1891 c. 39.

**91.** Where under section 13(4) of the Stamp Act 1891 (appeals against assessment of stamp duty) a court orders any sum to be repaid by the Commissioners of Inland Revenue, the court may order it to be repaid with such interest as the court may determine.

Grants towards duty charged on bus fuel.

**92.**—(1) There shall be paid out of moneys provided by Parliament the expenses of making such grants as the Minister of Transport, in his discretion and on such conditions as he thinks fit to impose, may make to operators of bus services towards defraying customs or excise duty charged on fuel used in operating any bus service after the commencement of section 2 of the Finance (No. 2) Act 1964 (which increased by sixpence a gallon the duty on hydrocarbon oils, petrol substitutes and power methylated spirits).

1964 c. 92.

(2) The method of calculating the said grants shall be such as the Minister of Transport may with the approval of the Treasury from time to time determine, either generally or in particular cases or classes of case, but the amount of a grant shall not exceed sixpence for every gallon of fuel used or estimated to have been used in operating the bus service during the period to which the grant relates.

(3) If the operator of a bus service fails without reasonable excuse (the proof whereof shall be on him) to comply with a condition imposed on him as mentioned in subsection (1) of this section—

(a) requiring the compiling, preservation or production of running sheets, accounts or other records relating to the operation of the service ; or

(b) requiring facilities to be afforded for the inspection, removal or copying of such records ;

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

(4) If any person—

- (a) knowingly or recklessly makes any false statement for the purpose of obtaining the payment to himself or another of any sum under this section ; or
- (b) wilfully makes a false entry in any running sheet, account or other record which is or may be required to be produced in pursuance of any condition such as is mentioned in subsection (1) of this section or, with intent to deceive, makes use for the purposes of this section of any such record which he knows to be false ;

he shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding £100 or both, or on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.

(5) Where an offence under this section which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(6) No proceedings for an offence under this section shall be instituted in England and Wales except by or with the consent of the Minister of Transport or the Director of Public Prosecutions.

(7) Section 104 of the Magistrates' Courts Act 1952 and 1952 c. 55. section 23 of the Summary Jurisdiction (Scotland) Act 1954 1954 c. 48. (summary proceedings to be commenced within six months from commission of offence) shall apply to offences under this section with the substitution of a reference to three years for each reference to six months :

Provided that this subsection shall not enable an information to be tried in England and Wales or proceedings to be heard in Scotland where the information was laid or the proceedings were commenced more than twelve months after evidence sufficient in the opinion of the appropriate authority to justify them came to his knowledge ; and for this purpose a certificate of the appropriate authority as to the date on which such evidence came to his knowledge shall be conclusive evidence.

In this subsection "the appropriate authority" means the Minister of Transport or, in the case of proceedings which are brought by or with the consent of the Director of Public Prosecutions or, in Scotland, are not preceded by a report of the

## PART V

facts made by the Minister of Transport to the Lord Advocate, means the Director of Public Prosecutions or the Lord Advocate as the case may be.

1960 c. 16.

(8) In this section "bus service" means a service of stage carriages as defined by section 117 of the Road Traffic Act 1960, and "operator", in relation to a bus service, means the holder of the road service licence under which the service is provided or, where the service is provided by the London Transport Board, means that Board.

1920 c. 67.

(9) The foregoing provisions of this section shall not extend to Northern Ireland, but 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 those provisions.

Grants to housing associations for affording relief from tax.

**93.**—(1) If a housing association makes a claim to the Minister in respect of any period and satisfies him—

(a) that throughout that period it was a housing association to which this section applies; and

(b) that its functions throughout that period either—

(i) consisted exclusively of the function of providing or maintaining housing accommodation for letting or hostels and of activities incidental thereto; or

(ii) included that function and such activities,

the Minister may make grants to the association out of moneys provided by Parliament for affording relief, in a case falling within paragraph (b)(i) above, from any tax chargeable on the association for that period or, in a case falling within paragraph (b)(ii) above, from such part of any tax so chargeable as the Minister considers appropriate having regard to the other functions of the association.

(2) Any grant under this section shall be of such amount, shall be made at such times and in such manner and shall be subject to such conditions as the Minister thinks fit, including conditions for securing the repayment in whole or in part of any grant made to an association in the event of any tax in respect of which it was made subsequently being found not to be chargeable or in such other events (including the association subsequently beginning to trade for profit) as the Minister may determine.

(3) Any claim under this section shall be made in such manner and shall be supported by such evidence as the Minister may direct; and it shall be lawful for the Commissioners of Inland Revenue and their officers to disclose to the Minister such particulars as he may reasonably require for determining

whether a grant should be made on any claim or whether any such grant should be repaid or the amount of any such grant or repayment.

(4) In subsection (1) of this section references to tax chargeable on an association are references to income tax (other than income tax which the association is entitled to deduct on making any payment), profits tax and corporation tax, but no relief shall be afforded under this section in respect of income tax for any period before 6th April 1965 or profits tax for any period before the beginning of April 1965 (any profits tax for a chargeable accounting period beginning before and ending after that time being duly apportioned).

(5) In this section "the Minister" means, in the case of a housing association in England, the Minister of Housing and Local Government and, in the case of a housing association in Scotland or in Wales, the Secretary of State.

(6) This section applies to any housing association which—

(a) is a housing association as defined in section 189(1) of the Housing Act 1957 or section 184(1) of the Housing (Scotland) Act 1950; or 1957 c. 56.  
1950 c. 34.

(b) would be a housing association as so defined if references in those sections to houses and housing accommodation included references to hostels as defined in section 15(4) of the Housing (Financial Provisions) Act 1958 or section 89(7) of the said Act of 1950; 1958 c. 42.

being, in either case, an association which does not trade for profit and which is not for the time being approved for the purposes of section 43 of the Finance Act 1963 (co-operative housing associations). 1963 c. 25.

(7) The foregoing provisions of this section shall not extend to Northern Ireland, but 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 those provisions. 1920 c. 67.

**94.**—(1) For the purposes of section 22(5) of this Act and Funds in of section 12(5) of the Finance Act 1962 (which is the corresponding provision for income tax under Case VII of Schedule D) funds in court held by the Accountant General shall be regarded as held by him as nominee for the persons entitled to or interested in the funds, or as the case may be for their trustees. 1962 c. 44.  
court.

(2) The Public Trustee shall apportion to the shares into which a common investment fund established under section 1 of the Administration of Justice Act 1965 is divided the chargeable gains accruing in a year of assessment in respect of assets comprised in the fund, after deduction of the capital gains tax 1965 c. 2.

## PART V

which will be charged in respect of those gains, and the amount so apportioned to any shares shall be treated for the purposes of Part III of this Act as if it were expenditure allowable under paragraph 4 of Schedule 6 to this Act in computing a gain accruing on the disposal of those shares and incurred in respect of those shares at the time when the amount was so apportioned.

(3) Where funds in court standing to an account are invested or, after investment, are realised the method by which the Accountant General effects the investment or the realisation of investments shall not affect the question whether there is for the purposes of Part III of this Act or of Chapter II of Part II of the Finance Act 1962 an acquisition, or as the case may be a disposal, of an asset representing funds in court standing to the account, and in particular there shall for those purposes be an acquisition or disposal of shares in a common investment fund established under section 1 of the Administration of Justice Act 1965 notwithstanding that the investment in such shares of funds in court standing to an account, or the realisation of funds which have been so invested, is effected by setting off, in the Accountant General's accounts, investment in one account against realisation of investments in another.

(4) If any common investment fund established under section 1 of the Administration of Justice Act 1965 is for the time being designated for the purposes of this subsection by an agreement between the Commissioners of Inland Revenue and the Public Trustee—

- (a) the Public Trustee shall be entitled to exemption from income tax in respect of so much of the income derived from that fund or any investment thereof as is paid by him by way of dividend on the shares into which the fund is divided ; and
- (b) dividends on those shares shall be paid without deduction of tax and shall be chargeable under Case III of Schedule D.

(5) A claim for exemption under subsection (4)(a) above shall be made to the Commissioners of Inland Revenue and section 9 of the Income Tax Management Act 1964 (procedure on claims) shall apply to any such claim.

(6) Where at any time, by virtue of subsection (4) of this section, the income of a person from any source becomes chargeable as therein provided, not having previously been chargeable by direct assessment on that person, so much of section 131(3) of the Income Tax Act 1952 as relates to the charge of tax where a person acquires a new source of income shall apply as if the source of that income were a new source of income acquired by that person at that time.

1962 c. 44.

1965 c. 2.

1964 c. 37.

1952 c. 10.

(7) The Accountant General shall as respects each year of assessment furnish to the Commissioners of Inland Revenue, at such time and in such manner as they may direct, particulars of any sums paid without deduction of tax by virtue of subsection (4) of this section and of the persons to whom such sums were paid, except that particulars shall not be required of any case where the total of such sums paid to any person in that year did not exceed fifteen pounds.

(8) An agreement designating a fund for the purposes of subsection (4) of this section may provide for incidental and consequential matters, including arrangements for giving effect to subsection (4)(a) of this section by provisional repayments of tax deducted at source, and may be determined by the Commissioners of Inland Revenue or the Public Trustee by one year's notice in writing expiring with the end of any year of assessment.

(9) In this section "funds in court" means—

(a) money in the Supreme Court, money in county courts and statutory deposits described in section 14 of the Administration of Justice Act 1965,

1965 c. 2.

(b) money in the Mayor's and City of London Court transferred to the Accountant General in pursuance of section 11 of the said Act of 1965, and

(c) any such moneys as are mentioned in section 30 of the said Act of 1965 (which relates to Northern Ireland) and money in a county court in Northern Ireland,

and investments representing such money; and references in this section to the Accountant General are references to the Accountant General of the Supreme Court of Judicature in England and, in relation to money within paragraph (c) above and investments representing such money, include references to the Accountant General of the Supreme Court of Judicature of Northern Ireland or any other person by whom such funds are held.

95. In the proviso to section 2(1) of the Miscellaneous Financial Provisions Act 1950 (which, as amended by section 7(1) of the Public Works Loans Act 1964, restricts the total principal amount outstanding in respect of advances to the Exchequer of Northern Ireland under the said section 2 to forty million pounds) for the words "forty million pounds" there shall be substituted the words "seventy million pounds".

Loans to Government of Northern Ireland.

1950 c. 21.

1964 c. 9.

96.—(1) The Government of Ireland Act 1920 shall have effect as if the capital gains tax and the corporation tax were included among the taxes mentioned in section 22(1) of that Act (reserved taxes).

Reserved taxes for purposes of Government of Ireland Act 1920.

1920 c. 67.

(2) This section extends to Northern Ireland.



## PART V

**97.**—(1) This Act may be cited as the Finance Act 1965.

Short title,  
construction,  
extent and  
repeal.

(2) Part II of this Act shall be construed as one with the Income Tax Acts.

(3) Any reference in this Act to any other enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended or applied by or under any other enactment, including this Act.

(4) Save as otherwise expressly provided, such of the provisions of this Act as relate to matters in respect of which the Parliament of Northern Ireland has power to make laws shall not extend to Northern Ireland.

(5) The enactments mentioned in Schedule 22 to this Act are hereby repealed to the extent mentioned in the third column of that Schedule, but subject to any provision in relation thereto made at the end of any Part of that Schedule; and any such provision as to the date of operation of a repeal shall be without prejudice to any provision in this Act providing that any of the provisions repealed are to cease to have effect at an earlier date for all purposes or for certain specified purposes.

## SCHEDULES

Section 1.

## SCHEDULE 1

## SPIRITS (RATES OF CUSTOMS AND EXCISE DUTIES)

TABLE 1: SPIRITS OTHER THAN IMPORTED PERFUMED SPIRITS

Description of Spirits	Excise rate	Customs rates		
		Full	Common-wealth	Con-vention
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
1. British spirits (per proof gallon) ... ..	14 12 0	—	—	—
2. Imported spirits other than perfumed spirits— (a) not comprised below in this paragraph (per proof gallon) ...	—	14 14 6	14 12 0	14 12 0
(b) liqueurs, cordials, mixtures and other preparations in bottle, entered in such manner as to indicate that the strength is not to be tested (per gallon) ...	—	19 18 0	19 14 6	19 14 6

each of the above rates of duty being, in the case of spirits not warehoused or warehoused for less than 3 years, increased by 1s. 6d. per proof gallon or, for spirits within paragraph 2(b) of this table, by 2s. 0d. per gallon.

## SCHEDULE 2

Section 1.

## BEER (RATES OF CUSTOMS AND EXCISE DUTIES AND DRAWBACKS)

	Excise rates (per 36 gallons)	Customs rates (per 36 gallons)		
		Full	Common-wealth	Con-vention
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
1. Duty ... ..	8 11 0	9 11 2	8 11 2	8 11 2
2. Drawback ...	8 11 2	9 11 2	8 11 2	8 11 2

each of the above rates of duty and drawback being, in the case of beer of an original gravity exceeding 1030 degrees, increased by 7s. 3½d. for each additional degree.

## Section 1.

**SCHEDULE 3**  
**WINE (RATES OF CUSTOMS DUTIES)**

Description of wine	Rates of duty (per gallon)	
	Full	Commonwealth
	£ s. d.	£ s. d.
Light wine:—		
Still—		
not in bottle... ..	18 6	16 6
in bottle ... ..	1 1 0	18 0
Sparkling ... ..	1 11 0	1 9 0
Other wine:—		
Still—		
not in bottle... ..	1 16 6	1 6 6
in bottle ... ..	1 19 0	1 8 0
Sparkling ... ..	2 9 0	1 19 0
together, in the case of wine exceeding 42 degrees proof spirit, with an addition for each additional degree or fraction of a degree of...	3 1	2 3

For the purposes of this Schedule, "light wine" means wine not exceeding 25 degrees or, in the case of wine qualifying for Commonwealth preference, 27 degrees of proof spirit.

## Section 1.

**SCHEDULE 4**  
**BRITISH WINE (RATES OF EXCISE DUTIES)**

Description of British wine	Rates of duty (per gallon)	
	£ s. d.	
Light British wine:—		
Still ... ..	16 0	
Sparkling ... ..	1 2 0	
Other British wine:—		
Still ... ..	17 0	
Sparkling ... ..	1 3 0	

For the purposes of this Schedule, "light British wine" means British wine not exceeding 27 degrees of proof spirit.

SCHEDULE 5  
VEHICLES EXCISE DUTY  
PART I

Section 5.

RATES OF DUTY SUBSTITUTED FOR RATES IN  
PART II OF SCHEDULE 1 TO ACT OF 1962

Description of Vehicle	Rate of Duty		
	£	s.	d.
1. Bicycles of which the cylinder capacity of the engine does not exceed 150 cubic centimetres, or which are electrically propelled ... ..	2	0	0
2. Bicycles of which the cylinder capacity of the engine exceeds 150 cubic centimetres but does not exceed 250 cubic centimetres; tricycles and vehicles (other than mowing machines) with more than three wheels, being tricycles and vehicles neither constructed nor adapted for use nor used for the carriage of a driver or passenger ... ..	4	0	0
3. Bicycles and tricycles not in the foregoing paragraphs	8	0	0

PART II

RATES OF DUTY SUBSTITUTED FOR RATES IN  
PART II OF SCHEDULE 3 TO ACT OF 1962

1. Description	Weight unladen of vehicle		Rate of duty	
	2. Ex-ceeding	3. Not Ex-ceeding	4. Initial	5. Additional for each ton or part of a ton in excess of the weight in column 2
			£ s. d.	£ s. d.
1. Agricultural machines; digging machines; mobile cranes; works trucks; mowing machines.	—	—	3 15 0	—
2. Haulage vehicles, being showmen's vehicles.	—	7½ tons	37 10 0	—
	7½ tons	8 tons	45 0 0	—
	8 tons	10 tons	52 10 0	—
	10 tons	—	52 10 0	7 10 0
3. Haulage vehicles, not being showmen's vehicles.	—	2 tons	45 0 0	—
	2 tons	4 tons	72 0 0	—
	4 tons	6 tons	99 0 0	—
	6 tons	7½ tons	126 0 0	—
	7½ tons	8 tons	153 0 0	—
	8 tons	—	153 0 0	27 0 0

SCH. 5

## PART III

RATES OF DUTY SUBSTITUTED FOR RATES IN  
PART II OF SCHEDULE 4 TO ACT OF 1962

Tables showing annual rates of duty on goods vehicles

TABLE A  
General Rates of Duty

1. Description of vehicle	Weight unladen of vehicle		Rate of duty	
	2. Exceeding	3. Not Exceeding	4. Initial	5. Additional for each $\frac{1}{4}$ ton or part of a $\frac{1}{4}$ ton in excess of the weight in column 2
			£ s. d.	£ s. d.
1. Farmers' goods vehicles	—	12 cwt.	15 0 0	—
	12 cwt.	16 cwt.	16 0 0	—
	16 cwt.	1 ton	17 0 0	—
	1 ton	1 $\frac{1}{4}$ tons	18 0 0	—
	1 $\frac{1}{4}$ tons	2 $\frac{1}{2}$ tons	18 0 0	1 0 0
	2 $\frac{1}{2}$ tons	4 $\frac{1}{4}$ tons	23 0 0	1 10 0
	4 $\frac{1}{4}$ tons	—	33 10 0	15 0
2. Showmen's goods vehicles.	—	12 cwt.	15 0 0	—
	12 cwt.	16 cwt.	16 10 0	—
	16 cwt.	1 ton	18 0 0	—
	1 ton	3 tons	18 0 0	1 10 0
	3 tons	4 tons	30 0 0	1 15 0
	4 tons	7 tons	37 0 0	1 10 0
	7 tons	8 tons	55 0 0	1 15 0
	8 tons	—	62 0 0	1 10 0
3. Electrically propelled goods vehicles (other than farmers' goods vehicles or showmen's goods vehicles); tower wagons.	—	12 cwt.	18 0 0	—
	12 cwt.	16 cwt.	19 15 0	—
	16 cwt.	1 ton	21 10 0	—
	1 ton	2 tons	21 10 0	1 15 0
	2 tons	3 tons	28 10 0	2 0 0
	3 tons	4 tons	36 10 0	1 15 0
	4 tons	6 tons	43 10 0	2 0 0
	6 tons	8 tons	59 10 0	1 15 0
	8 tons	—	73 10 0	2 0 0
4. Goods vehicles not included in any of the foregoing provisions of this Part of this Schedule.	—	12 cwt.	18 0 0	—
	12 cwt.	16 cwt.	22 10 0	—
	16 cwt.	1 ton	27 0 0	—
	1 ton	3 tons	27 0 0	4 10 0
	3 tons	4 tons	63 0 0	6 15 0
	4 tons	—	90 0 0	9 0 0

TABLE B

SCH. 5

*Rates of Duty on Goods Vehicles used for Drawing Trailers*

1. Description of vehicle	Weight unladen of vehicle		4. Rate of duty
	2. Exceeding	3. Not Exceeding	
1. Showmen's goods vehicles ... ..	—	—	£ s. d. 15 0 0
2. Electrically propelled goods vehicles (other than farmers' goods vehicles and showmen's goods vehicles); tower wagons.	—	1½ tons	12 0 0
	1½ tons	—	18 0 0
3. Other goods vehicles... ..	—	1½ tons	12 0 0
	1½ tons	2½ tons	18 0 0
	2½ tons	4 tons	27 0 0
	4 tons	—	36 0 0

## PART IV

RATES OF DUTY SUBSTITUTED FOR RATES IN  
PART II OF SCHEDULE 5 TO ACT OF 1962

Description of vehicle	Rate of duty
	£ s. d.
1. Electrically propelled vehicles; vehicles not exceeding seven horse-power, if registered under the Roads Act 1920 for the first time before 1st January 1947 ...	12 10 0
2. Vehicles not included above ... ..	17 10 0

## PART V

## AMENDMENTS OF ACT OF 1962

1. In Part I of Schedule 1 to the Vehicles (Excise) Act 1962, in paragraph 3, in the definition of "bicycle", the word "and" shall be omitted and at the end there shall be added the words "and a bicycle to which a side-car is attached".

2. In Part I of Schedule 3 to the said Act of 1962, after paragraph 4, there shall be inserted the following paragraph—

"4A. In this Schedule "works truck" means a goods vehicle (within the meaning of Schedule 4 to this Act) designed for use in private premises and used on public roads only for carrying goods between such premises and a vehicle on a road in the

SCH. 5

immediate vicinity, or in passing from one part of any such premises to another or to other private premises in the immediate vicinity, or in connection with road works while at or in the immediate vicinity of the site of such works."

3. In Part I of Schedule 4 to the said Act of 1962, in paragraph 2(c), after the words "mobile crane" there shall be inserted the words "or works truck", and at the end of paragraph 7(1) there shall be inserted the words "'works truck' has the same meaning as in Schedule 3 to this Act".

## PART VI

## TRANSITORY RATES FOR CERTAIN VEHICLES

In Part II of this Schedule, for paragraph 2 there shall be substituted the following paragraph—

2. Haulage vehicles, being showmen's vehicles.	—	7½ tons	45 0 0	—
	7½ tons	8 tons	54 0 0	—
	8 tons	10 tons	63 0 0	—
	10 tons	—	63 0 0	9 0 0

In Part III of this Schedule, in Table A, for paragraphs 1, 2 and 3 there shall be substituted the following paragraphs—

1. Farmers' goods vehicles	—	12 cwt.	18 0 0	—
	12 cwt.	16 cwt.	19 5 0	—
	16 cwt.	1 ton	20 5 0	—
	1 ton	1½ tons	21 10 0	—
	1½ tons	2 tons	21 10 0	15 0
	2 tons	3½ tons	23 15 0	1 5 0
	3½ tons	—	31 5 0	15 0
2. Showmen's goods vehicles; electrically propelled goods vehicles (other than farmers' goods vehicles); tower wagons.	—	12 cwt.	18 0 0	—
	12 cwt.	16 cwt.	19 15 0	—
	16 cwt.	1 ton	21 10 0	—
	1 ton	2 tons	21 10 0	1 15 0
	2 tons	3 tons	28 10 0	2 0 0
	3 tons	4 tons	36 10 0	1 15 0
	4 tons	6 tons	43 10 0	2 0 0
	6 tons	8 tons	59 10 0	1 15 0
	8 tons	—	73 10 0	2 0 0

In Part III of this Schedule, in Table B, for paragraphs 1, 2 and 3 there shall be substituted the following paragraphs—

1. Showmen's goods vehicles; electrically propelled goods vehicles (other than farmers' goods vehicles); tower wagons.	—	—	18 0 0
2. Other goods vehicles... ..	—	2½ tons	18 0 0
	2½ tons	4 tons	27 0 0
	4 tons	—	36 0 0

## SCHEDULE 6

Section 22.

## CAPITAL GAINS: COMPUTATION

## PART I

*General*

1. The provisions of this Schedule shall have effect for computing for the purposes of this Part of this Act the amount of a gain accruing on the disposal of an asset.

*Exclusion from consideration for disposals of sums chargeable to income tax or corporation tax*

2.—(1) There shall be excluded from the consideration for a disposal of assets taken into account in the computation under this Schedule of the gain accruing on that disposal any money or money's worth charged to income tax as income of, or taken into account as a receipt in computing income or profits or gains or losses of, the person making the disposal for the purposes of the Income Tax Acts.

(2) The foregoing sub-paragraph shall not be taken as excluding from the consideration so taken into account any money or money's worth which is taken into account in the making of a balancing charge under Part X or Part XI of the Income Tax Act 1952 1952 c. 10. (Capital allowances).

(3) This paragraph shall not preclude the taking into account in a computation under this Schedule, as consideration for the disposal of an asset, of the capitalised value of a rentcharge (as in a case where a rentcharge is exchanged for some other asset) or of the capitalised value of a ground annual or feu duty, or of a right of any other description to income or to payments in the nature of income over a period, or to a series of payments in the nature of income.

*Exclusion of short-term gains*

3.—(1) Without prejudice to the generality of paragraph 2(1) of this Schedule, and subject to the following provisions of this paragraph, a gain accruing on a disposal of an asset which is a disposal chargeable under Case VII of Schedule D shall not be a chargeable gain for the purposes of this Part of this Act.

(2) A gain accruing on the disposal by way of gift of an asset shall not be a chargeable gain for the purposes of this Part of this Act—

(a) if by virtue of paragraph 3(1) or 3(2) of Schedule 9 to the Finance Act 1962 (or those sub-paragraphs as extended by 1962 c. 44. paragraph 4(1) of that Schedule) the donee is treated as if the donor's acquisition of the asset had been his acquisition of it, and

(b) the donee disposes of the asset in circumstances such that that disposal is chargeable under Case VII.



## SCH. 6

(3) A gain accruing to the trustee on the disposal of an asset forming part of settled property deemed to be effected by him under section 25(3) of this Act when a person becomes absolutely entitled to it as against the trustee shall not be a chargeable gain for the purposes of this Part of this Act—

- (a) if by virtue of paragraph 4(2) of the said Schedule 9 that person is treated as if the acquisition of the asset by the trustee had been his acquisition of it, and
- (b) if that person disposes of the asset in circumstances such that the disposal is chargeable under Case VII.

(4) A gain accruing on a disposal to which paragraph 5(1) of the said Schedule 9 (sale at an undervalue) applies shall not be a chargeable gain for the purposes of this Part of this Act if the person acquiring assets on the disposal disposes of those assets in circumstances such that the disposal is chargeable under Case VII.

(5) The amount or value of the consideration for the acquisition of an asset by the person acquiring it on a disposal chargeable under Case VII shall not under any provision of this Part of this Act be deemed to be an amount greater than the amount taken into account as consideration on that disposal for the purposes of Case VII.

(6) Neither paragraph 2 of this Schedule nor sub-paragraph (1) above shall apply in relation to a disposal which is chargeable under Case VII in consequence of the provisions of section 14 of the Finance Act 1962 (disposals of land effected indirectly) if, under the said section 14(2)(b), the amount on which the said person is chargeable to tax is reduced, but the amount of the gain accruing on the disposal for the purposes of this Part of this Act shall not exceed the amount of the reduction.

This sub-paragraph shall be applied before any provision of this Part of this Act which makes part of a gain a chargeable gain, and part not.

(7) Any apportionment of consideration or expenditure falling to be made in relation to a disposal chargeable under Case VII in accordance with section 13(3) of the Finance Act 1962, and in particular in a case where section 13(5) of that Act (enhancement of value of land by acquisition of adjoining land) applies, shall be followed for the purposes of this Part of this Act both in relation to a disposal of the assets acquired on the disposal chargeable under Case VII and, where the disposal chargeable under Case VII is a part disposal, in relation to a disposal of what remains undisposed of.

(8) In this paragraph references to a disposal chargeable under Case VII are references to cases where the acquisition and disposal is in circumstances such that the gain accruing on it is chargeable under Case VII of Schedule D, or where it would be so chargeable if there were a gain so accruing.

*Expenditure : general provisions*

4.—(1) Subject to the following provisions of this Schedule, the sums allowable as a deduction from the consideration in the com-

putation under this Schedule of the gain accruing to a person on the disposal of an asset shall be restricted to—

SCH. 6

- (a) the amount or value of the consideration, in money or money's worth, given by him or on his behalf wholly and exclusively for the acquisition of the asset, together with the incidental costs to him of the acquisition or, if the asset was not acquired by him, any expenditure wholly and exclusively incurred by him in providing the asset,
- (b) the amount of any expenditure wholly and exclusively incurred on the asset by him or on his behalf for the purpose of enhancing the value of the asset, being expenditure reflected in the state or nature of the asset at the time of the disposal, and any expenditure wholly and exclusively incurred by him in establishing, preserving or defending his title to, or to a right over, the asset,
- (c) the incidental costs to him of making the disposal.

(2) For the purposes of this paragraph and for the purposes of all other provisions of this Part of this Act the incidental costs to the person making the disposal of the acquisition of the asset or of its disposal shall consist of expenditure wholly and exclusively incurred by him for the purposes of the acquisition or, as the case may be, the disposal, being fees, commission or remuneration paid for the professional services of any surveyor or valuer, or auctioneer, or accountant, or agent or legal adviser and costs of transfer or conveyance (including stamp duty) together—

- (a) in the case of the acquisition of an asset, with costs of advertising to find a seller, and
- (b) in the case of a disposal, with costs of advertising to find a buyer and costs reasonably incurred in making any valuation or apportionment required for the purposes of the computation under this Schedule, including in particular expenses reasonably incurred in ascertaining market value where required by this Part of this Act.

*Exclusion of expenditure by reference to income tax*

5.—(1) There shall be excluded from the sums allowable under the last foregoing paragraph as a deduction in the computation under this Schedule any expenditure allowable as a deduction in computing the profits or gains or losses of a trade, profession or vocation for the purposes of income tax or allowable as a deduction in computing any other income or profits or gains or losses for the purposes of the Income Tax Acts and any expenditure which, although not so allowable as a deduction in computing any losses, would be so allowable but for an insufficiency of income or profits or gains; and this sub-paragraph applies irrespective of whether effect is or would be given to the deduction in computing the amount of tax chargeable or by discharge of repayment of tax or in any other way.

(2) Without prejudice to the provisions of sub-paragraph (1) above there shall be excluded from the sums allowable under the last foregoing paragraph as a deduction in the computation under this

SCH. 6

Schedule any expenditure which, if the assets, or all the assets to which the computation relates, were, and had at all times been, held or used as part of the fixed capital of a trade the profits or gains of which were (irrespective of whether the person making the disposal is a company or not) chargeable to income tax would be allowable as a deduction in computing the profits or gains or losses of the trade for the purposes of income tax.

*Restriction of losses by reference to capital allowances  
and renewals allowances*

6.—(1) The last foregoing paragraph shall not require the exclusion from the sums allowable as a deduction in the computation under this Schedule of any expenditure as being expenditure in respect of which a capital allowance or renewals allowance is made, but the amount of any losses accruing on the disposal of an asset shall be restricted by reference to capital allowances and renewals allowances as follows.

(2) In the computation under this Schedule of the amount of a loss accruing to the person making the disposal, there shall be excluded from the sums allowable as a deduction any expenditure to the extent to which any capital allowance or renewals allowance has been or may be made in respect of it.

(3) If the person making the disposal acquired the asset—

1952 c. 10.

(a) by a transfer by way of sale in relation to which an election under paragraph 4 of Schedule 14 to the Income Tax Act 1952 was made, or

1952 c. 33.

(b) by a transfer to which paragraph 6 or paragraph 7 of Schedule 6 to the Finance Act 1952 applies,

(being enactments under which a transfer is treated for the purposes of capital allowances as being made at written down value), the foregoing provisions of this paragraph shall apply as if any capital allowance made to the transferor in respect of the asset had (except so far as any loss to the transferor was restricted under those provisions) been made to the person making the disposal (that is the transferee); and where the transferor acquired the asset by such a transfer, capital allowances which by virtue of this sub-paragraph can be taken into account in relation to the transferor shall also be taken into account in relation to the transferee (that is the person making the disposal), and so on for any series of transfers before the disposal.

(4) In this paragraph “capital allowance” means—

(a) any allowance under Part X or Part XI of the Income Tax Act 1952, other than an investment allowance or an allowance under section 313 of that Act (relief for cost of maintenance of agricultural land),

1963 c. 25.

(b) any relief given under paragraph 16 of Schedule 4 to the Finance Act 1963 (expenditure on sea walls), and

1954 c. 44.

(c) any deduction in computing profits or gains allowable under section 22 of the Finance Act 1954 (cemeteries).

(5) In this paragraph “renewals allowance” means a deduction allowable in computing the profits or gains of a trade, profession

or vocation for the purpose of income tax by reference to the cost of acquiring an asset for the purposes of the trade, profession or vocation in replacement of another asset, and for the purposes of this Schedule a renewals allowance shall be regarded as a deduction allowable in respect of the expenditure incurred on the asset which is being replaced.

SCH. 6

(6) The amount of capital allowances to be taken into account under this paragraph in relation to a disposal include any allowances falling to be made by reference to the event which is the disposal, and there shall be deducted from the amount of the allowances the amount of any balancing charge to which effect has been or is to be given by reference to the event which is the disposal, or any earlier event, and of any balancing charge to which effect might have been so given but for the making of an election under section 296 of the Income Tax Act 1952 (option in case of replacement of machinery 1952 c. 10. or plant).

#### *Part disposals*

7.—(1) Where a person disposes of an interest or right in or over an asset and, generally wherever on the disposal of an asset any description of property derived from that asset remains undisposed of, the sums which under paragraphs (a) and (b) of paragraph 4(1) of this Schedule are attributable to the asset shall, both for the purposes of the computation under this Schedule of the gain accruing on the disposal and for the purpose of applying this Schedule in relation to the property which remains undisposed of, be apportioned.

(2) The apportionment shall be made by reference—

(a) to the amount or value of the consideration for the disposal on the one hand (call that amount or value A), and

(b) to the market value of the property which remains undisposed of on the other hand (call that market value B),

and accordingly the fraction of the said sums allowable as a deduction in computing under this Schedule the amount of the gain accruing on the disposal shall be  $\frac{A}{A + B}$ , and the remainder shall be attributed to the property which remains undisposed of.

(3) Any apportionment to be made in pursuance of this paragraph shall be made before operating the provisions of the last foregoing paragraph, and if, after a part disposal, there is a subsequent disposal of an asset the capital allowances or renewals allowances to be taken into account in pursuance of that paragraph in relation to the subsequent disposal shall, subject to the next following subparagraph, be those referable to the sums which under paragraphs (a) and (b) of paragraph 4(1) of this Schedule are attributable to the asset whether before or after the part disposal, but those allowances shall be reduced by the amount (if any) by which the loss on the earlier disposal was restricted under the provisions of that paragraph.

SCH. 6

(4) This paragraph shall not be taken as requiring the apportionment of any expenditure which, on the facts, is wholly attributable to what is disposed of, or wholly attributable to what remains undisposed of.

*Assets derived from other assets*

8. If and so far as, in a case where assets have been merged or divided or have changed their nature or rights or interests in or over assets have been created or extinguished, the value of an asset is derived from any other asset in the same ownership, an appropriate proportion of the sums allowable as a deduction in a computation under this Schedule in respect of the other asset under paragraphs (a) and (b) of paragraph 4(1) of this Schedule shall, both for the purpose of the computation of a gain accruing on the disposal of the first-mentioned asset and, if the other asset remains in existence, on a disposal of that other asset, be attributed to the first-mentioned asset.

*Wasting assets*

9.—(1) In this Schedule “wasting asset” means an asset with a predictable life not exceeding fifty years but so that—

- (a) freehold land shall not be a wasting asset whatever its nature, and whatever the nature of the buildings or works on it,
- (b) animals shall not be regarded as wasting assets so long as they are immature,
- (c) “life”, in relation to any tangible moveable property, means useful life, having regard to the purpose for which the tangible assets were acquired or provided by the person making the disposal,
- (d) plant and machinery shall in every case be regarded as having a predictable life of less than fifty years, and in estimating that life it shall be assumed that its life will end when it is finally put out of use as being unfit for further use, and that it is going to be used in the normal manner and to the normal extent and is going to be so used throughout its life as so estimated,
- (e) a life interest in settled property shall not be a wasting asset until the predictable expectation of life of the life tenant is fifty years or less, and the predictable life of life interests in settled property and of annuities shall be ascertained from actuarial tables approved by the Board.

(2) In this Schedule “the residual or scrap value”, in relation to a wasting asset, means the predictable value, if any, which the wasting asset will have at the end of its predictable life as estimated in accordance with this paragraph.

(3) The question what is the predictable life of an asset, and the question what is its predictable residual or scrap value at the end of that life, if any, shall, so far as those questions are not immediately answered by the nature of the asset, be taken, in relation to any disposal of the asset, as they were known or ascertainable at the time when the asset was acquired or provided by the person making the disposal.

*Wasting assets : straightline restriction of allowable expenditure*

SCH. 6

10.—(1) In the computation under this Schedule of the gain accruing on the disposal of a wasting asset it shall be assumed—

- (a) that any expenditure attributable to the asset under paragraph 4(1)(a) of this Schedule after deducting the residual or scrap value, if any, of the asset, is written off at a uniform rate from its full amount at the time when the asset is acquired or provided to nothing at the end of its life, and
- (b) that any expenditure attributable to the asset under paragraph 4(1)(b) of this Schedule is written off from the full amount of that expenditure at the time when that expenditure is first reflected in the state or nature of the asset to nothing at the end of its life,

so that an equal daily amount is written off day by day.

(2) Thus, calling the predictable life of a wasting asset at the time when it was acquired or provided by the person making the disposal  $L$ , the period from that time to the time of disposal  $T(1)$ , and, in relation to any expenditure attributable to the asset under paragraph 4(1)(b) of this Schedule, the period from the time when that expenditure is first reflected in the state or nature of the asset to the said time of disposal  $T(2)$ , there shall be excluded from the computation under this Schedule—

- (a) out of the expenditure attributable to the asset under paragraph 4(1)(a) of this Schedule a fraction  $\frac{T(1)}{L}$  of an amount equal to the amount of that expenditure minus the residual or scrap value, if any, of the asset, and
- (b) out of the expenditure attributable to the asset under paragraph 4(1)(b) of this Schedule a fraction  $\frac{T(2)}{L - (T(1) - T(2))}$  of the amount of the expenditure.

(3) If any expenditure attributable to the asset under paragraph 4(1)(b) of this Schedule creates or increases a residual or scrap value of the asset, the provisions of sub-paragraph (1)(a) above shall be applied so as to take that into account.

*Wasting assets qualifying for capital allowances*

11.—(1) The last foregoing paragraph shall not apply in relation to a disposal of an asset—

- (a) which, from the beginning of the period of ownership of the person making the disposal to the time when the disposal is made, is used and used solely for the purposes of a trade, profession or vocation and in respect of which that person has claimed or could have claimed any capital allowance in respect of any expenditure attributable to the asset under paragraph (a) or paragraph (b) of paragraph 4(1) of this Schedule, or

SCH. 6

- (b) on which the person making the disposal has incurred any expenditure which has otherwise qualified in full for any capital allowance.

(2) In the case of the disposal of an asset which, in the period of ownership of the person making the disposal, has been used partly for the purposes of a trade, profession or vocation and partly for other purposes, or has been used for the purposes of a trade, profession or vocation for part of that period, or which has otherwise qualified in part only for capital allowances,—

- (a) the consideration for the disposal, and any expenditure attributable to the asset by paragraph (a) or paragraph (b) of paragraph 4(1) of this Schedule shall be apportioned by reference to the extent to which that expenditure qualified for capital allowances, and
- (b) the computation under this Schedule shall be made separately in relation to the apportioned parts of the expenditure and consideration, and
- (c) paragraph 10 of this Schedule shall not apply for the purposes of the computation in relation to the part of the consideration apportioned to use for the purposes of the trade, profession or vocation, or to the expenditure qualifying for capital allowances, and
- (d) if an apportionment of the consideration for the disposal has been made for the purposes of making any capital allowance to the person making the disposal or for the purpose of making any balancing charge on him, that apportionment shall be employed for the purposes of this paragraph, and
- (e) subject to paragraph (d) above, the consideration for the disposal shall be apportioned for the purposes of this paragraph in the same proportions as the expenditure attributable to the asset is apportioned under paragraph (a) above.

#### *Premiums under policies of insurance*

12. Without prejudice to the provisions of paragraph 5 of this Schedule, there shall be excluded from the sums allowable as a deduction in the computation under this Schedule of the gain accruing to a person on the disposal of an asset any premiums or other payments made under a policy of insurance of the risk of any kind of damage or injury to, or loss or depreciation of, the asset.

#### *Compensation and insurance money*

13.—(1) If the recipient so claims, receipt of a capital sum within paragraph (a), (b), (c) or (d) of section 22(3) of this Act derived from an asset which is not lost or destroyed shall not be treated for the purposes of this Part of this Act as a disposal of the asset if—

- (a) the capital sum is wholly applied in restoring the asset, or
- (b) the capital sum is applied in restoring the asset except for a part of the capital sum which is not reasonably required

for the purpose and which is small as compared with the whole capital sum, or

SCH. 6

- (c) the amount of the capital sum is small, as compared with the value of the asset,

but, if the receipt is not treated as a disposal, all sums which would, if the receipt had been so treated, have been brought into account as consideration for that disposal in the computation under this Schedule of a gain accruing on the disposal shall be deducted from any expenditure allowable under this Schedule as a deduction in computing a gain on the subsequent disposal of the asset.

(2) If, in a case not falling within sub-paragraph (1)(b) above, a part of a capital sum within paragraph (a) or paragraph (b) of section 22(3) of this Act derived from an asset which is not lost or destroyed is applied in restoring the asset, then if the recipient so claims, that part of the capital sum shall not be treated as consideration for the disposal deemed to be effected on receipt of the capital sum but shall be deducted from any expenditure allowable under this Schedule as a deduction in computing a gain on the subsequent disposal of the asset.

(3) If an asset is lost or destroyed and a capital sum received by way of compensation for the loss or destruction, or under a policy of insurance of the risk of the loss or destruction, is within one year of receipt, or such longer period as the inspector may allow, applied in acquiring an asset in replacement of the asset lost or destroyed the owner shall if he so claims be treated for the purposes of this Part of this Act—

- (a) as if the consideration for the disposal of the old asset were (if otherwise of a greater amount) of such amount as would secure that on the disposal neither a loss nor a gain accrues to him, and
- (b) as if the amount of the consideration for the acquisition of the new asset were reduced by the excess of the amount of the capital sum received by way of compensation or under the policy of insurance, together with any residual or scrap value, over the amount of the consideration which he is treated as receiving under paragraph (a) above.

(4) A claim shall not be made under sub-paragraph (3) above if part only of the capital sum is applied in acquiring the new asset but if all of that capital sum except for a part which is less than the amount of the gain (whether all chargeable gain or not) accruing on the disposal of the old asset is so applied, then the owner shall if he so claims be treated for the purposes of this Part of this Act—

- (a) as if the amount of the gain so accruing were reduced to the amount of the said part (and, if not all chargeable gain, with a proportionate reduction in the amount of the chargeable gain), and
- (b) as if the amount of the consideration for the acquisition of the new asset were reduced by the amount by which the gain is reduced under paragraph (a) of this sub-paragraph.

(5) This paragraph shall not apply in relation to a wasting asset.



## SCH. 6

*Consideration due after time of disposal*

14.—(1) If the consideration, or part of the consideration, taken into account in the computation under this Schedule is payable by instalments over a period beginning not earlier than the time when the disposal is made, being a period exceeding eighteen months, the chargeable gain (or allowable loss) accruing on the disposal shall be regarded for all the purposes of this Part of this Act as accruing in proportionate parts in the year of assessment in which the disposal is made and in each of the subsequent years of assessment down to and including the year of assessment in which the last instalment is payable.

(2) The proportionate parts to be regarded as accruing in the respective years of assessment shall correspond to the proportions of the amounts of the instalments of consideration payable in those respective years of assessment.

(3) The time in the year or accounting period when any such part of a chargeable gain or allowable loss is deemed to accrue under this paragraph shall be the last day in that year of assessment.

(4) Sub-paragraph (1) above shall not apply to any part of the consideration which has effectively passed to the person making the disposal by way of a loan made to that person by the other party to the transaction.

(5) In the computation under this Schedule consideration for the disposal shall be brought into account without any discount for postponement of the right to receive any part of it and, in the first instance, without regard to a risk of any part of the consideration being irrecoverable or to the right to receive any part of the consideration being contingent; and if any part of the consideration so brought into account is subsequently shown to the satisfaction of the inspector to be irrecoverable, such adjustment, whether by way of discharge or repayment of tax or otherwise, shall be made as is required in consequence.

(6) This paragraph shall not be taken as applying this Part of this Act in relation to any disposal of an asset on or before 6th April 1965 so as to make a gain accruing on that disposal a chargeable gain.

*Contingent liabilities*

15.—(1) In the first instance no allowance shall be made in the computation under this Schedule—

- (a) in the case of a disposal by way of assigning a lease of land or other property, for any liability remaining with, or assumed by, the person making the disposal by way of assigning the lease which is contingent on a default in respect of liabilities thereby or subsequently assumed by the assignee under the terms and conditions of the lease,
- (b) for any contingent liability of the person making the disposal in respect of any covenant for quiet enjoyment or other obligation assumed as vendor of land, or of any estate or interest in land, or as a lessor,

(c) for any contingent liability in respect of a warranty or representation made on a disposal by way of sale or lease of any property other than land.

SCH. 6

(2) If it is subsequently shown to the satisfaction of the inspector that any such contingent liability has become enforceable, and is being or has been enforced such adjustment, whether by way of discharge or repayment of tax or otherwise, shall be made as is required in consequence.

*Expenses of sale and transfer in administration of estates and trusts*

16.—(1) In computing under this Schedule the gain accruing on a disposal of assets deemed to be made by an individual on his death, any expenditure within paragraph 4(2) of this Schedule incurred in relation to the actual disposition by the personal representatives of those assets, whether by way of sale or by way of disposition to legatees, shall, if the personal representatives so claim, be allowable as a deduction in the computation.

(2) In the case of a gain accruing to a person on the disposal of, or of a right or interest in or over, an asset to which he became absolutely entitled as legatee or as against the trustees of settled property—

- (a) any expenditure within paragraph 4(2) of this Schedule incurred by him in relation to the transfer of the asset to him by the personal representatives or trustees, and
- (b) except so far as taken into account under sub-paragraph (1) above, any such expenditure incurred in relation to the transfer of the asset by the personal representatives or trustees,

shall be allowable as a deduction in the computation under this Schedule of the gain accruing to that person on the disposal.

*Expenditure reimbursed out of public money*

17. There shall be excluded from the computation under this Schedule any expenditure which has been or is to be met directly or indirectly by the Crown or by any Government, public or local authority whether in the United Kingdom or elsewhere.

*Surtax in respect of shortfall in distributions of close company etc.*

18.—(1) If in pursuance of section 249 of the Income Tax Act 1952 c. 10, 1952 (under which, as extended by section 78(7) of this Act, individuals may be assessed to surtax in respect of sums apportioned under Chapter III of Part IX of the Income Tax Act 1952 or under Part IV of this Act) a person is assessed to surtax then in the computation under this Schedule of the gain accruing on a disposal by him of any shares forming part of his interest in the company to which the relevant apportionment relates the amount of the surtax paid by him, so far as attributable to those shares, shall be allowable as a deduction.

(2) The foregoing paragraph shall not apply in relation to surtax charged in respect of undistributed income which has, before the

SCH. 6 disposal, been subsequently distributed and is then exempt from surtax by virtue of subsection (5) of the said section 249.

(3) For the purposes of this paragraph the income assessed to surtax shall be the highest part of the individual's income for the year of assessment in question, but so that if the highest part of the said income is taken into account under this paragraph in relation to an assessment to surtax the next highest part shall be taken into account in relation to any other relevant assessment, and so on.

(4) For the purpose of identifying shares forming part of an interest in a company with shares subsequently disposed of which are of the same class, and in the same company, shares bought at an earlier time shall be deemed to have been disposed of before shares bought at a later time.

(5) The provisions of this paragraph shall be construed as if this paragraph formed part of the said section 249.

#### *Woodlands*

19.—(1) (a) Consideration for the disposal of trees standing or felled or cut on land assessed to income tax or corporation tax under Schedule B, and

(b) notwithstanding the provisions of section 22(3) of this Act, capital sums received under a policy of insurance in respect of the destruction of or damage or injury to trees by fire or other hazard on such land,

shall be excluded from the computation under this Schedule of the gain accruing on the disposal if the person making the disposal is the person assessed to the tax under Schedule B.

(2) In the computation under this Schedule so much of the cost of woodland in the United Kingdom shall be disregarded as is attributable to trees growing on the land.

(3) In the computation under this Schedule of the gain accruing on a disposal of woodland in the United Kingdom so much of the consideration for the disposal as is attributable to trees growing on the land shall be excluded.

(4) References in this paragraph to trees include references to saleable underwood.

#### *Foreign tax*

20. Subject to the provisions of this Part of this Act as regards double taxation relief the tax chargeable under the law of any country outside the United Kingdom on the disposal of an asset which is borne by the person making the disposal shall be allowable as a deduction in the computation under this Schedule.

#### *Supplemental*

21.—(1) No deduction shall be allowable in a computation under this Schedule more than once from any sum or from more than one sum.

(2) References in this Schedule to sums taken into account as receipts or as expenditure in computing profits or gains or

losses for the purposes of income tax shall include references to sums which would be so taken into account but for the fact that any profits or gains of a trade, profession, employment or vocation are not chargeable to income tax or that losses are not allowable for those purposes.

SCH. 6

(3) In this Part of this Schedule references to income or profits charged or chargeable to tax include references to income or profits taxed or as the case may be taxable by deduction at source.

(4) For the purposes of any computation under this Schedule any necessary apportionments shall be made of any consideration or of any expenditure and the method of apportionment adopted shall, subject to the express provisions of this Schedule, be such method as appears to the inspector or on appeal the Commissioners concerned to be just and reasonable.

(5) In this Schedule "capital allowance" and "renewals allowance" have the meanings given by sub-paragraphs (4) and (5) of paragraph 6 of this Schedule.

## PART II

## ASSETS HELD ON 6TH APRIL 1965

*Quoted securities*

22.—(1) This paragraph applies—

- (a) to shares and securities which on 6th April 1965 have quoted market values on a recognised stock exchange in the United Kingdom or elsewhere, or which have had such quoted market values at any time in the period of six years ending on 6th April 1965, and
- (b) to rights of unit holders in any unit trust scheme (as defined in section 26(1) of the Prevention of Fraud (Investments) Act 1958 or section 22 of the Prevention of Fraud (Investments) Act (Northern Ireland) 1940) the prices of which are published daily by the managers of the scheme.

1958 c. 45.  
1940 c. 9 (N.I.).

(2) For the purposes of this Part of this Act, including Part I of this Schedule, it shall be assumed, wherever relevant, that any assets to which this paragraph applies were sold by the owner, and immediately re-acquired by him, at their market value on 6th April 1965.

(3) For the purpose of ascertaining the market value of any shares or securities in accordance with sub-paragraph (2) above—

- (a) section 44(3)(a) of this Act shall have effect as if for the words "one-quarter" there were substituted the words "one-half", and as between the amount under paragraph (a) and the amount under paragraph (b) of the said section 44(3) the higher, and not the lower, amount shall be chosen ;
- (b) section 44(4) of this Act shall have effect as if for the reference to an amount equal to the buying price there were substituted a reference to an amount half-way between the buying and selling prices ;

SCH. 6

- (c) where the market value of any shares or securities not within the said section 44(3) falls to be ascertained by reference to a pair of prices quoted on a stock exchange, an adjustment shall be made so as to increase the market value by an amount corresponding to that by which any market value is increased under paragraph (a) above.

(4) Sub-paragraph (2) above shall not apply in relation to a disposal of assets—

- (a) if on the assumption in that sub-paragraph a gain would accrue on that disposal to the person making the disposal and either a smaller gain or a loss would so accrue (computed in accordance with the provisions of Part I of this Schedule) if the said sub-paragraph (2) did not apply, or

- (b) if on the assumption in the said sub-paragraph (2) a loss would so accrue and either a smaller loss or a gain would accrue if the said sub-paragraph (2) did not apply,

and accordingly the amount of the gain or loss accruing on the disposal shall be computed without regard to the provisions of this Part of this Schedule except that in a case where this sub-paragraph would otherwise substitute a loss for a gain or a gain for a loss it shall be assumed, in relation to the disposal, that the relevant assets were sold by the owner, and immediately re-acquired by him, for a consideration such that, on the disposal, neither a gain nor a loss accrued to the person making the disposal.

(5) This paragraph shall not apply in relation to a disposal of shares or securities of a company by a person to whom those shares were issued as an employee either of the company or of some other person on terms which restrict his rights to dispose of them.

(6) For the purpose of—

- (a) identifying shares or securities held on 6th April 1965 with shares previously acquired, and

- (b) identifying the shares or securities held on that date with shares or securities subsequently disposed of, and distinguishing them from shares or securities acquired subsequently,

so far as that identification is needed for the purposes of sub-paragraph (4) above, and so far as the shares or securities are of the same class, shares or securities acquired at an earlier time shall be deemed to be disposed of before shares or securities acquired at a later time.

*Sales of land in United Kingdom reflecting  
development value*

23.—(1) This paragraph shall apply in relation to a disposal of an asset which is land in the United Kingdom, or an estate or interest in land in the United Kingdom—

- (a) if, but for this paragraph, the expenditure allowable as a deduction in computing under this Schedule the gain accruing on the disposal would include any expenditure incurred before 6th April 1965, and

- (b) if the consideration for the asset acquired on the disposal exceeds what its market value would be if, immediately before the disposal, it had become unlawful to carry out any development in, on or over the land other than development of the kinds specified in Schedule 3 to the Town and Country Planning Act 1962 (for land in England and Wales or Northern Ireland) or Schedule 3 to the Town and Country Planning (Scotland) Act 1947 (for land in Scotland).

SCH. 6

1962 c. 38.

1947 c. 53.

In this sub-paragraph "development" has, in relation to land in England or Wales or Northern Ireland, the meaning given by the Town and Country Planning Act 1962 and, in relation to land in Scotland, the meaning given by the Town and Country Planning (Scotland) Act 1947.

(2) For the purposes of this Part of this Act, including Part I of this Schedule, it shall be assumed in relation to the disposal and, if it is a part disposal, in relation to any subsequent disposal of the asset which is land in the United Kingdom or an estate or interest in land in the United Kingdom that that asset was sold by the person making the disposal, and immediately re-acquired by him, at its market value on 6th April 1965.

(3) Sub-paragraph (2) above shall apply also in relation to any prior part disposal of the asset and, if tax has been charged, or relief allowed, by reference to that part disposal on a different footing, all such adjustments shall be made, whether by way of assessment or discharge or repayment of tax as are required to give effect to the provisions of this sub-paragraph.

(4) Sub-paragraph (2) above shall not apply in relation to a disposal of assets—

- (a) if on the assumption in that sub-paragraph a gain would accrue on that disposal to the person making the disposal and either a smaller gain or a loss would so accrue (computed in accordance with the provisions of Part I of this Schedule) if the said sub-paragraph (2) did not apply, or
- (b) if on the assumption in the said sub-paragraph (2) a loss would so accrue and either a smaller loss or a gain would accrue if the said sub-paragraph (2) did not apply,

and accordingly the amount of the gain or loss accruing on the disposal shall be computed without regard to the provisions of this Part of this Schedule except that in a case where this sub-paragraph would otherwise substitute a loss for a gain or a gain for a loss it shall be assumed, in relation to the disposal, that the relevant assets were sold by the owner, and immediately re-acquired by him, for a consideration such that, on the disposal, neither a gain nor a loss accrued to the person making the disposal.

*Apportionment by reference to straightline growth  
of gain or loss over period of ownership*

24.—(1) This paragraph applies subject to the provisions of the last foregoing two paragraphs.

(2) On the disposal of assets by a person whose period of ownership began before 6th April 1965 only so much of any gain accruing

SCH. 6 on the disposal as is under this paragraph to be apportioned to the period beginning with 6th April 1965 shall be a chargeable gain.

(3) Subject to the following provisions of this Schedule, the gain shall be assumed to have grown at a uniform rate from nothing at the beginning of the period of ownership to its full amount at the time of the disposal so that, calling the part of that period before 6th April 1965 P, and the time beginning with 6th April 1965 and ending with the time of the disposal T, the fraction of the gain which is a chargeable gain is  $\frac{T}{P+T}$ .

(4) If any of the expenditure which is allowable as a deduction in the computation under this Schedule of the gain is within paragraph 4(1)(b) of this Schedule—

- (a) the gain shall be attributed to the expenditure, if any, allowable under paragraph (a) of the said paragraph 4(1) as one item of expenditure, and to the respective items of expenditure under the said paragraph 4(1)(b) in proportion to the respective amounts of those items of expenditure,
- (b) sub-paragraph (3) of this paragraph shall apply to the part of the gain attributed to the expenditure under the said paragraph 4(1)(a),
- (c) each part of the gain attributed to the items of expenditure under the said paragraph 4(1)(b) shall be assumed to have grown at a uniform rate from nothing at the time when the relevant item of expenditure was first reflected in the value of the asset to the full amount of that part of the gain at the time of the disposal,

so that, calling the respective proportions of the gain E(0), E(1), E(2) and so on (so that they add up to unity) and calling the respective periods from the times when the items under the said paragraph 4(1)(b) were reflected in the value of the asset to 5th April 1965 P(1), P(2) and so on, and employing also the abbreviations in sub-paragraph (3) above, the fraction of the gain which is a chargeable gain is  $E(0)\frac{T}{P+T} + E(1)\frac{T}{P(1)+T} + E(2)\frac{T}{P(2)+T}$  and so on.

(5) In a case within sub-paragraph (4) above where there is no initial expenditure (that is no expenditure under paragraph 4(1)(a) of this Schedule) or that initial expenditure is, compared with any item of expenditure under paragraph 4(1)(b), disproportionately small having regard to the value of the asset immediately before the subsequent item of expenditure was incurred, the part of the gain which is not attributable to the enhancement of the value of the asset due to any item of expenditure under the said paragraph 4(1)(b) shall be deemed to be attributed to expenditure incurred at the beginning of the period of ownership and allowable under paragraph 4(1)(a), and the part or parts of the gain attributable to expenditure under paragraph 4(1)(b) shall be reduced accordingly.

(6) The beginning of the period over which a gain, or a part of a gain, is, under sub-paragraphs (3) and (4) above, to be treated as

growing shall not be earlier than 6th April 1945, and this sub-paragraph shall have effect notwithstanding any provision in this Schedule or elsewhere in this Part of this Act.

SCH. 6

(7) If in pursuance of paragraph 7 in Part I of this Schedule an asset's market value at a date before 6th April 1965 is to be ascertained sub-paragraphs (3) to (5) above shall have effect as if that asset had been on that date sold by the owner, and immediately re-acquired by him, at that market value.

(8) If in pursuance of the said paragraph 7 an asset's market value at a date on or after 6th April 1965 is to be ascertained sub-paragraphs (3) to (5) above shall have effect as if—

(a) the asset on that date had been sold by the owner, and immediately re-acquired by him, at that market value, and

(b) accordingly, the computation of any gain on a subsequent disposal of that asset shall be computed—

(i) by apportioning in accordance with this paragraph the gain or loss over a period ending on the said date (the date of the part disposal), and

(ii) by bringing into account the entire gain or loss over the period from the date of the part disposal to the date of subsequent disposal.

(9) For the purposes of this paragraph the period of ownership of an asset shall, where under paragraph 8 of this Schedule account is to be taken of expenditure in respect of an asset from which the asset disposed of was derived, or where it would so apply if there were any relevant expenditure in respect of that other asset, include the period of ownership of that other asset.

(10) If under this paragraph part only of a gain is a chargeable gain, the fraction in section 29(3) of this Act shall be applied to that part, instead of to the whole of the gain.

#### *Election for valuation on 6th April 1965*

25.—(1) If the person making a disposal so elects by notice in writing to the inspector within two years from the date of the disposal paragraph 24 of this Schedule shall not apply in relation to that disposal and it shall be assumed, both for the purposes of computing under this Schedule the gain accruing to that person on the disposal, and for all other purposes both in relation to that person and other persons, that the assets disposed of, and any assets of which account is to be taken in relation to the disposal under paragraph 8 of this Schedule, being assets which were in the ownership of the said person on 6th April 1965, were on that date sold, and immediately re-acquired, by him at their market value on the said 6th April 1965.

(2) Sub-paragraph (1) shall not apply in relation to a disposal of assets if on the assumption in that sub-paragraph a loss would accrue on that disposal to the person making the disposal and either a smaller loss or a gain would accrue if the said sub-paragraph (1) did



SCH. 6 not apply, but in a case where this sub-paragraph would otherwise substitute a gain for a loss it shall be assumed, in relation to the disposal that the relevant assets were sold by the owner, and immediately re-acquired by him, for a consideration such that, on the disposal, neither a gain nor a loss accrued to the person making the disposal.

The displacement of sub-paragraph (1) above by this sub-paragraph shall not be taken as bringing paragraph 24 of this Schedule into operation.

(3) For the avoidance of doubt it is hereby declared that an election under this paragraph is irrevocable.

(4) An election may not be made under this paragraph as respects, or in relation to, an asset the market value of which at a date on or after 6th April 1965, and before the date of the disposal to which the election relates, is to be ascertained in pursuance of paragraph 7 in Part 1 of this Schedule.

*Shares, commodities, etc.*

26.—(1) This paragraph has effect as respects shares held by any person on 6th April 1965 other than shares which are to be treated under this Part of this Act as if disposed of and immediately re-acquired by him on that date.

(2) Paragraph 2 of Schedule 7 to this Act shall not apply in relation to the shares while that person continues to hold them and, in particular, shall not apply in relation to a disposal of the shares by him.

(3) For the purpose of—

- (a) identifying the shares so held on 6th April 1965 with shares previously acquired, and
- (b) identifying the shares so held on that date with shares subsequently disposed of, and distinguishing them from shares acquired subsequently,

so far as the shares are of the same class shares bought at an earlier time shall be deemed to have been disposed of before shares bought at a later time.

(4) Shares shall not be treated for the purposes of this paragraph as being of the same class unless if dealt with on a recognised stock exchange in the United Kingdom or elsewhere they would be so treated, but shall be treated in accordance with this paragraph notwithstanding that they are identified in a different way by a disposal or by the transfer or delivery giving effect to it.

(5) This paragraph shall not apply to any shares the disposal of which by the said person is chargeable to Case VII of Schedule D (that is to say where the acquisition and disposal of the shares by him is in circumstances such that a gain accruing from it is chargeable to income tax under Case VII of Schedule D or that, if a gain had so accrued, it would have been so chargeable), and for the purposes of this sub-paragraph the shares so disposed of shall be identified with shares acquired by that person as provided by paragraph 8 of Schedule 9 to the Finance Act 1962.

(6) This paragraph, without sub-paragraph (4), shall apply in relation to any assets, other than shares, which are of a nature to be dealt with without identifying the particular assets disposed of or acquired.

*Reorganisation of share capital, conversion of securities, etc.*

27.—(1) For the purposes of this Part of this Act, including Part I of this Schedule, it shall be assumed that any shares or securities held by a person on 6th April 1965 (identified in accordance with the last foregoing paragraph) which, in accordance with paragraph 4 of Schedule 7 to this Act as extended by paragraphs 5 and 6 of that Schedule, are to be regarded as being or forming part of a new holding were sold and immediately re-acquired by him on 6th April 1965 at their market value on that date.

(2) If, at any time after 5th April 1965, a person comes to have, in accordance with the said paragraph 4 as so extended, a new holding sub-paragraphs (3) to (5) of paragraph 24 of this Schedule shall have effect as if—

- (a) the new holding had at that time been sold by the owner, and immediately reacquired by him, at its market value at that time, and
- (b) accordingly, the amount of any gain on a disposal of the new holding or any part of it shall be computed—
  - (i) by apportioning in accordance with the said paragraph 24 the gain or loss over a period ending at the said time, and
  - (ii) by bringing into account the entire gain or loss over the period from that time to the date of the disposal.

(3) This paragraph shall not apply in relation to a reorganisation of a company's share capital if the new holding differs only from the original shares in being a different number, whether greater or less, of shares of the same class as the original shares.

*Capital allowances*

28. If under any provision in this Part of this Schedule it is to be assumed that any asset was on 6th April 1965 sold by the owner, and immediately reacquired by him, paragraph 6 of this Schedule shall apply in relation to any capital allowance or renewals allowance as defined in that paragraph, made in respect of the expenditure actually incurred by the owner in providing the asset, and so made for the year 1965-66 or for any subsequent year of assessment, as if it were made in respect of the expenditure which, on the said assumption, was incurred by him in re-acquiring the asset on 7th April 1965.

*Assets transferred to close companies*

29.—(1) This paragraph has effect—

- (a) where at any time, including a time before 7th April 1965, any of the persons having control of a close company, or any person who (in the terms of paragraph 21 of Schedule 7

SCH. 6

to this Act) is connected with a person having control of a close company has transferred assets to the company, and

- (b) paragraph 24 of this Schedule applies in relation to a disposal by one of the persons having control of the company of shares or securities in the company, or in relation to a disposal by a person having, up to the time of disposal, a substantial holding of shares or securities in the company, being in either case a disposal after the transfer of the assets.

(2) So far as the gain accruing to the said person on the disposal of the shares is attributable to a profit on the assets so transferred, the period over which the gain is to be treated under the said paragraph 24 as growing at a uniform rate shall begin with the time when the assets were transferred to the company, and accordingly a part of a gain attributable to a profit on assets transferred on or after 6th April 1965 shall all be a chargeable gain.

(3) This paragraph shall not apply where a loss, and not a gain, accrues on the disposal.

(4) In this paragraph "close company" means a close company as defined in Schedule 18 to this Act.

*Husbands and wives to be treated as one person*

30. Where paragraph 20 of Schedule 7 to this Act is applied in relation to a disposal of an asset by a man to his wife, or by a man's wife to him, then in relation to a subsequent disposal of the asset (not within the said paragraph 20) the one making the disposal shall be treated for the purposes of this Part of this Schedule as if the other's acquisition or provision of the asset had been his or her acquisition or provision of it.

*Supplemental*

31. So far as the provisions of this Part of this Act as modified by this Part of this Schedule require the computation of a gain by reference to events before 6th April 1965 all those provisions including Part I of this Schedule, and Schedules 7 and 8 and the provisions fixing the amount of the consideration deemed to be given on a disposal or acquisition, shall apply except so far as expressly excluded.

Section 22.

SCHEDULE 7

CAPITAL GAINS: MISCELLANEOUS RULES

*Appropriations to and from stock in trade*

1.—(1) Subject to sub-paragraph (3) below, where an asset acquired by a person otherwise than as trading stock of a trade carried on by him is appropriated by him for the purposes of the trade as trading stock (whether on the commencement of the trade or otherwise) and, if he had then sold the asset for its market value, a gain or loss would have accrued to him, he shall be treated as having thereby disposed of the asset by selling it for its then market value.

(2) Where an asset forming part of the trading stock of a person's trade is appropriated by him for any other purpose, or is retained by him on his ceasing to carry on the trade, he shall be treated as having acquired it for a consideration equal to the amount brought into the accounts of the trade in respect of it for tax purposes on the appropriation or on his ceasing to carry on the trade, as the case may be.

(3) Sub-paragraph (1) above shall not apply in relation to a person's appropriation of an asset for the purposes of a trade if he is chargeable to income tax in respect of the profits of the trade under Case I of Schedule D, and elects that instead the market value of the asset at the time of the appropriation shall, in computing the profits of the trade for purposes of tax, be treated as reduced by the amount of the gain or increased by the amount of the loss referred to in that sub-paragraph, and where that sub-paragraph does not apply by reason of such an election, the profits of the trade shall be computed accordingly:

Provided that if a person making an election under this sub-paragraph is at the time of the appropriation carrying on the trade in partnership with others, the election shall not have effect unless concurred in by the others.

*Dealings in marketable securities, commodities, etc.*

2.—(1) Any number of shares of the same class held by one person in one capacity shall for the purposes of this Part of this Act be regarded as indistinguishable parts of a single asset (in this paragraph referred to as a holding) growing or diminishing on the occasions on which additional shares of the class in question are acquired, or some of the shares of the class in question are disposed of.

(2) Without prejudice to the generality of the foregoing sub-paragraph, a disposal of shares in a holding, other than the disposal outright of the entire holding, is a disposal of part of an asset and the provisions of this Part of this Act relating to the computation of a gain accruing on a disposal of part of an asset shall apply accordingly.

(3) Shares shall not be treated for the purposes of this paragraph as being of the same class unless they are so treated by the practice of a recognised stock exchange in the United Kingdom or elsewhere or would be so treated if dealt with on such a stock exchange, but shares shall be treated in accordance with this paragraph notwithstanding that they are identified in some other way by the disposal or by the transfer or delivery giving effect to it.

(4) A person's holding shall not include any shares the disposal of which by him is chargeable to Case VII of Schedule D (that is to say where the acquisition and disposal of the shares by him is in circumstances such that a gain accruing from it is or would have been chargeable to income tax under Case VII of Schedule D), and for the purposes of this sub-paragraph the shares so disposed of shall be identified with shares acquired by that person as provided by paragraph 8 of Schedule 9 to the Finance Act 1962.

## SCH. 7

(5) This paragraph shall apply separately in relation to any shares held by a person to whom they were issued as an employee of the company or of any other person on terms which restrict his rights to dispose of them, so long as those terms are in force, and, while applying separately to any such shares, shall have effect as if the owner held them in a capacity other than that in which he holds any other shares of the same class.

(6) Nothing in this paragraph shall be taken as affecting the manner in which the market value of any asset is to be ascertained.

(7) This paragraph, without sub-paragraph (3), shall apply in relation to a disposal of any assets as they apply in relation to a disposal of shares, where the assets are of a nature to be dealt in without identifying the particular assets disposed of or acquired.

(8) This paragraph applies in relation to securities of a company as it applies in relation to shares.

*Capital distributions by companies*

3.—(1) Where a person receives or becomes entitled to receive in respect of shares in a company any capital distribution from the company (other than a new holding as defined in paragraph 4 of this Schedule) he shall be treated as if he had in consideration of that capital distribution disposed of an interest in the shares.

(2) If the inspector is satisfied that the amount of any capital distribution is small, as compared with the value of the shares in respect of which it is made, and so directs, the occasion of the capital distribution shall not be treated for the purposes of this Part of this Act as a disposal of the asset, but the amount or value of the capital distribution shall be deducted from any expenditure allowable under any Part of this Act as a deduction in computing a gain or loss on the disposal of the shares by the person receiving or becoming entitled to receive the distribution of capital.

(3) A person who is dissatisfied with the refusal of the inspector to give a direction under this paragraph may appeal to the Commissioners having jurisdiction on an appeal against an assessment to tax in respect of a gain accruing on the disposal.

(4) In this paragraph "capital distribution" means any distribution from a company, including a distribution in the course of dissolving or winding up the company, in money or money's worth except a distribution which in the hands of the recipient constitutes income for the purposes of income tax.

*Reorganisation of share capital, conversion of securities, etc.*

4.—(1) This paragraph shall apply in relation to any reorganisation or reduction of a company's share capital; and for the purposes of this paragraph—

(a) references to a reorganisation of a company's share capital include—

(i) any case where persons are, whether for payment or not, allotted shares in or debentures of the company

in respect of and in proportion to (or as nearly as may be in proportion to) their holdings of shares in the company or of any class of shares in the company; and

(ii) any case where there are more than one class of share and the rights attached to shares of any class are altered; and

- (b) "original shares" means shares held before and concerned in the reorganisation or reduction of capital, and "new holding" means, in relation to any original shares, the shares in and debentures of the company which as a result of the reorganisation or reduction of capital represent the original shares (including such, if any, of the original shares as remain).

(2) Subject to the following sub-paragraphs, a reorganisation or reduction of a company's share capital shall not be treated as involving any disposal of the original shares or any acquisition of the new holding or any part of it, but the original shares (taken as a single asset) and the new holding (taken as a single asset) shall be treated as the same asset acquired as the original shares were acquired.

(3) Where, on a reorganisation or reduction of a company's share capital, a person gives or becomes liable to give any consideration for his new holding or any part of it, that consideration shall in relation to any disposal of the new holding or any part of it be treated as having been given for the original shares, and if the new holding or part of it is disposed of with a liability attaching to it in respect of that consideration, the consideration given for the disposal shall be adjusted accordingly:

Provided that there shall not be treated as consideration given for the new holding or any part of it any surrender, cancellation or other alteration of the original shares or of the rights attached thereto, or any consideration consisting of any application in paying up the new holding or any part of it of assets of the company or of any dividend or other distribution declared out of those assets but not made.

(4) Where, on a reorganisation or reduction of a company's share capital, a person receives (or is deemed to receive), or becomes entitled to receive, any consideration, other than the new holding, for the disposal of an interest in the original shares, and in particular—

- (a) where under paragraph 3 of this Schedule he is to be treated as if he had in consideration of a capital distribution disposed of an interest in the original shares, or
- (b) where he receives (or is deemed to receive) consideration from other shareholders in respect of a surrender of rights derived from the original shares,

he shall be treated as if the new holding resulted from his having for that consideration disposed of an interest in the original shares (but without prejudice to the original shares and the new holding being treated in accordance with sub-paragraph (2) above as the same asset).

SCH. 7

(5) Where for the purpose of computing the gain or loss accruing to a person from the acquisition and disposal of any part of the new holding it is necessary to apportion the cost of acquisition of any of the original shares between what is disposed of and what is retained, the apportionment shall be made by reference to market value at the date of the disposal (with such adjustment of the market value of any part of the new holding as may be required to offset any liability attaching thereto but forming part of the cost to be apportioned); and any corresponding apportionment for the purposes of sub-paragraph (4) above shall be made in like manner.

(6) Where on a reorganisation of a company's share capital a person receives or becomes entitled to receive in respect of any shares a provisional allotment of shares in or debentures of the company, then unless he neither accepts the allotment nor disposes of his rights before or after the making of the allotment, those rights shall be treated in relation to him and in relation to any person acquiring them directly or indirectly from him as if they were the shares or debentures to which they relate and as if the consideration to be given for the shares or debentures were a liability attaching to the rights.

(7) References in this paragraph to a reduction of share capital do not include the paying off of redeemable share capital, and where shares in a company are redeemed by the company otherwise than by the issue of shares or debentures (with or without other consideration) and otherwise than in a liquidation, the shareholder shall be treated as disposing of the shares at the time of the redemption.

5.—(1) Subject to sub-paragraph (2) below, the last foregoing paragraph shall apply with any necessary adaptations in relation to the conversion of securities as it applies in relation to the reorganisation or reduction of a company's share capital.

(2) If in consequence of a conversion on their redemption date of securities of one of the descriptions in Schedule 9 to this Act any securities of that description and a new holding of Government securities are, under paragraph 4(2) of this Schedule as applied by this paragraph, to be treated as the same asset acquired as the converted securities were acquired, and the adjusted purchase price (as defined in section 27(3) of this Act) of the converted securities is less than one hundred pounds then, in computing under Schedule 6 to this Act the gain accruing on the acquisition and disposal of the new holding, or any part of the new holding, there shall be added to the amount of the expenditure which is allowable as a deduction the amount of the gain which would have been exempted from being a chargeable gain by virtue of the said section 27(3) if the converted securities, or as the case may be the corresponding part of them, had been disposed of at the time of their redemption for a consideration equal to their nominal value.

(3) For the purposes of this paragraph—

(a) "conversion of securities" includes—

(i) a conversion of securities of a company into shares in the company, and

(ii) a conversion at the option of the holder of the securities converted as an alternative to the redemption of those securities for cash, and

(iii) any exchange of securities effected in pursuance of any enactment (including an enactment passed after this Act) which provides for the compulsory acquisition of any shares or securities and the issue of securities or other securities instead, and

(b) "security" includes any loan stock or similar security whether of the Government of the United Kingdom or of any other government, or of any public or local authority in the United Kingdom or elsewhere, or of any company, and whether secured or unsecured.

#### *Company amalgamations*

6.—(1) Subject to the following sub-paragraphs, where a company issues shares or debentures to a person in exchange for shares in or debentures of another company, paragraph 4 above shall apply with any necessary adaptations as if the two companies were the same company and the exchange were a reorganisation of its share capital.

(2) This paragraph shall apply only where the company issuing the shares or debentures has or in consequence of the exchange will have control of the other company, or where the first-mentioned company issues the shares or debentures in exchange for shares as the result of a general offer made to members of the other company or any class of them (with or without exceptions for persons connected with the first-mentioned company), the offer being made in the first instance on a condition such that if it were satisfied the first-mentioned company would have control of the other company.

7.—(1) Where under any arrangement between a company and the persons holding shares in or debentures of the company or any class of such shares or debentures, being an arrangement entered into for the purposes of or in connection with a scheme of reconstruction or amalgamation, another company issues shares or debentures to those persons in respect of and in proportion to (or as nearly as may be in proportion to) their holdings of the first-mentioned shares or debentures, but the first-mentioned shares or debentures are either retained by those persons or cancelled, then those persons shall be treated as exchanging the first-mentioned shares or debentures for those held by them in consequence of the arrangement (any shares or debentures retained being for this purpose regarded as if they had been cancelled and replaced by a new issue):

Provided that sub-paragraph (2) of the last foregoing paragraph shall not apply.

(2) Where any scheme of reconstruction or amalgamation involves the transfer of the whole or part of a company's business to another company, and the first-mentioned company receives no part of the consideration for the transfer (otherwise than by the other company taking over the whole or part of the liabilities of the business), then the two companies shall be treated as if any assets included in the transfer were acquired by the one company from the other company



SCH. 7 for a consideration of such amount as would secure that on the disposal by way of transfer neither a gain or a loss would accrue to the company making the disposal, and for the purposes of Part II of Schedule 6 to this Act the acquiring company shall be treated as if the respective acquisitions of the assets by the other company had been the acquiring company's acquisition of them :

Provided that this sub-paragraph shall not apply in relation to an asset which, until the transfer, formed part of trading stock of a trade carried on by the company making the disposal or in relation to an asset which is acquired as trading stock for the purposes of a trade carried on by the company acquiring the asset.

(3) In this paragraph "scheme of reconstruction or amalgamation" means a scheme for the reconstruction of any company or companies or the amalgamation of any two or more companies, and references to shares or debentures being retained include their being retained with altered rights or in an altered form, whether as the result of reduction, consolidation, division or otherwise.

#### *Transfer of business to a company*

8.—(1) This paragraph shall apply where a business is transferred to a company as a going concern, together with the whole assets of the business, or together with the whole of those assets other than cash, and is so transferred wholly or partly in exchange for shares issued by the company to the person transferring the business.

(2) Subject to this paragraph any gain accruing to the person transferring the business on his disposal of any asset included in the transfer, in so far as the consideration for it consists of shares so issued, shall not be a chargeable gain ; and any such asset, and such of the shares so issued as represent the consideration for it, shall be treated as the same asset acquired as the original asset was acquired.

(3) For the purposes of this paragraph the consideration for the transfer of the business (where it does not consist wholly of shares of a single class) shall be allocated between the transfer and any other matter for which it is given, and between the assets included in the transfer, as follows :—

(a) any part of the consideration consisting of liabilities of the business taken over with the business shall be treated so far as may be as consideration for the transfer, and as consideration for any cash included in the transfer ; and

(b) any part of the consideration not consisting of any such liabilities nor of shares issued as mentioned in sub-paragraph (1) above shall as far as may be—

(i) be treated as consideration for matters other than the transfer ; and

(ii) so far as it is not so treated, be treated as consideration for assets in the case of which the person making the transfer is (apart from sub-paragraph (2) above) chargeable by reference to the transfer in respect of his disposal of them ; and

- (c) subject to paragraph (a) and (b) above, the consideration of any description shall (so far as necessary) be allocated between items rateably according to their amounts after taking account of any prior allocation thereto under those paragraphs.

#### *Underwriters*

9.—(1) An underwriting member of Lloyd's or of an approved association of underwriters shall, subject to the following provisions of this paragraph, be treated for the purposes of this Part of this Act as absolutely entitled as against the trustees to the investments of his premiums trust fund, his special reserve fund (if any) and any other trust fund required or authorised by the rules of Lloyd's or the association in question, or required by the underwriting agent through whom his business or any part of it is carried on, to be kept in connection with the business.

(2) The trustees of any such fund shall, subject to the next following sub-paragraph, be assessed and charged to capital gains tax as if sub-paragraph (1) above had not been passed.

(3) The assessment to be made on the trustees of a fund by virtue of sub-paragraph (2) above for any year of assessment shall not take account of losses accruing in any previous year of assessment, and if for that or any other reason the tax paid on behalf of an underwriting member for any year of assessment by virtue of assessments so made exceeds the capital gains tax for which he is liable, the excess shall, on a claim by him, be repaid.

#### *Policies of insurance*

10.—(1) The rights of the insured under any insurance effected in the course of a capital redemption business as defined in section 431 of the Income Tax Act 1952 shall constitute an asset on the disposal of which a gain may accrue to the person making the disposal but subject to that neither the rights of the insurer nor the rights of the insured under any policy of insurance, whether the risks insured relate to property or not, shall constitute an asset on the disposal of which a gain may accrue. 1952 c. 10.

(2) Notwithstanding sub-paragraph (1) above, sums received under a policy of insurance of the risk of any kind of damage to, or the loss or depreciation of, assets are for the purposes of this Part of this Act, and in particular for the purposes of section 22(3) of this Act, sums derived from the assets.

(3) In this paragraph "policy of insurance" does not include a policy of assurance on human life.

#### *Debts and interests in settled property*

11.—(1) Where a person incurs a debt to another, whether in sterling or in some other currency, no chargeable gain shall accrue to that (that is the original) creditor or his legatee on a disposal of the debt, except in the case of the debt on a security (as defined in paragraph 5 of this Schedule).

SCH. 7

(2) Subject to the provisions of paragraphs 5 and 6 of this Schedule (and subject to the foregoing sub-paragraph) the satisfaction of a debt or part of it (including a debt on a security as defined in paragraph 5 of this Schedule) shall be treated as a disposal of the debt or of that part by the creditor made at the time when the debt or that part is satisfied.

(3) Where property is acquired by a creditor in satisfaction of his debt or part of it, then subject to the provisions of the said paragraphs 5 and 6 the property shall not be treated as disposed of by the debtor or acquired by the creditor for a consideration greater than its market value at the time of the creditor's acquisition of it; but if under sub-paragraph (1) of this paragraph (and in a case not falling within either of the said paragraphs 5 and 6) no chargeable gain is to accrue on a disposal of the debt by the creditor (that is the original creditor), and a chargeable gain accrues to him on a disposal by him of the property, the amount of the chargeable gain shall (where necessary) be reduced so as not to exceed the chargeable gain which would have accrued if he had acquired the property for a consideration equal to the amount of the debt or that part of it.

(4) A loss accruing on the disposal of a debt acquired by the person making the disposal from the original creditor or his legatee at a time when the creditor or his legatee is a person connected with the person making the disposal, and so acquired either directly or by one or more purchases through persons all of whom are connected with the person making the disposal, shall not be an allowable loss.

12. No chargeable gain shall accrue to any person on the disposal of a right to, or to any part of—

- (a) any allowance, annuity or capital sum payable out of any superannuation fund, or under any superannuation scheme, established solely or mainly for persons employed in a profession, trade, undertaking or employment, and their dependants,
- (b) an annuity granted otherwise than under a contract for a deferred annuity by a company as part of its business of granting annuities on human life, whether or not including instalments of capital, or an annuity granted or deemed to be granted under the Government Annuities Act 1929, or
- (c) annual payments which are due under a covenant made by any person and which are not secured on any property.

13.—(1) No chargeable gain shall accrue on the disposal of an interest created by or arising under a settlement (including, in particular, an annuity or life interest, and the reversion to an annuity or life interest) by the person for whose benefit the interest was created by the terms of the settlement or by any other person except one who acquired, or derives his title from one who acquired, the interest for a consideration in money or money's worth, other than consideration consisting of another interest under the settlement.

(2) Subject to sub-paragraph (1) of this paragraph, where a person who has acquired an interest in settled property (including in particular the reversion to an annuity or life interest) becomes, as the

holder of that interest, absolutely entitled as against the trustee to any settled property, he shall be treated as disposing of the interest in consideration of obtaining that settled property (but without prejudice to any gain accruing to the trustee on the disposal of that property deemed to be effected by him under section 25(3) of this Act).

### *Options*

14.—(1) Without prejudice to the provisions of section 22 of this Act, the grant of an option, and in particular—

- (a) the grant of an option in a case where the grantor binds himself to sell what he does not own, and because the option is abandoned, never has occasion to own, and
- (b) the grant of an option in a case where the grantor binds himself to buy what, because the option is abandoned, he does not acquire,

is the disposal of an asset (namely of the option), but subject to the following provisions of this paragraph as to treating the grant of an option as part of a larger transaction.

(2) If an option is exercised the grant of the option and the transaction entered into by the grantor in fulfilment of his obligations under the option shall be treated as a single transaction and accordingly—

- (a) if the option binds the grantor to sell, the consideration for the option is part of the consideration for the sale, and
- (b) if the option binds the grantor to buy, the consideration for the option shall be deducted from the cost of acquisition incurred by the grantor in buying in pursuance of his obligations under the option.

(3) The exercise or abandonment of an option by the person for the time being entitled to exercise it shall not constitute the disposal of an asset by that person, but, if an option is exercised then the acquisition of the option (whether directly from the grantor or not) and the transaction entered into by the person exercising the option in exercise of his rights under the option shall be treated as a single transaction and accordingly—

- (a) if the option binds the grantor to sell, the cost of acquiring the option shall be part of the cost of acquiring what is sold, and
- (b) if the option binds the grantor to buy, the cost of the option shall be treated as a cost incidental to the disposal of what is bought by the grantor of the option.

(4) In relation to the disposal by way of transfer of an option binding the grantor to sell or buy shares or securities which have a quoted market value on a recognised stock exchange in the United Kingdom or elsewhere, the option shall be regarded as a wasting asset the life of which ends when the right to exercise the option ends, or when the option becomes valueless, whichever is the earlier, but without prejudice to the application of the provisions in Schedule 6 to this Act relating to wasting assets to other descriptions of options.

SCH. 7

(5) In the case of an option relating to shares or securities this paragraph shall apply subject to the provisions of paragraph 2 of this Schedule and, accordingly, the option may be regarded in relation to the grantor or in relation to the person entitled to exercise the option, as relating to part of a holding of shares or securities as defined in the said paragraph 2.

(6) This paragraph shall apply in relation to an option binding the grantor both to sell and to buy as if it were two separate options with half the consideration attributed to each.

(7) In this paragraph references to an option include references to an option binding the grantor to grant a lease for a premium, or enter into any other transaction which is not a sale, and references to buying and selling in pursuance of an option shall be construed accordingly.

(8) This paragraph shall apply in relation to a forfeited deposit of purchase money or other consideration money for a prospective purchase or other transaction which is abandoned as it applies in relation to the consideration for an option which binds the grantor to sell and which is not exercised.

*Transactions involving gratuitous transfers  
of value derived from assets*

15.—(1) Without prejudice to the generality of the provisions of this Part of this Act as to the transactions which are disposals of assets, any transaction which under the following sub-paragraphs is to be treated as a disposal of an asset shall be so treated (with a corresponding acquisition of an interest in the asset) notwithstanding that there is no consideration and so far as, on the assumption that the parties to the transaction were at arm's length, the party making the disposal could have obtained consideration, or additional consideration, for the disposal the transaction shall be treated as not being at arm's length and the consideration so obtainable, or the additional consideration so obtainable added to the consideration actually passing, shall be treated as the market value of what is acquired.

(2) If a person having control of a company exercises his control so that value passes out of shares in the company owned by him or a person with whom he is connected, or out of rights over the company exercisable by him or by a person with whom he is connected, and passes into other shares in or rights over the company, that shall be a disposal of the shares or rights out of which the value passes by the person by whom they were owned or exercisable.

(3) If, after a transaction which results in the owner of land or of any other description of property becoming the lessee of the property there is any adjustment of the rights and liabilities under the lease, whether or not involving the grant of a new lease, which is as a whole favourable to the lessor, that shall be a disposal by the lessee of an interest in the property.

(4) If an asset is subject to any description of right or restriction the extinction or abrogation, in whole or in part, of the right or restriction by the person entitled to enforce it shall be a disposal by him of the right or restriction.

*Valuation of assets disposed of in a series of transactions*

SCH. 7

16. If a person is given, or acquires from one or more persons with whom he is connected, by way of two or more gifts or other transactions, assets of which the aggregate market value, when considered separately in relation to the separate gifts or other transactions, is less than their aggregate market value when considered together, then for the purposes of this Part of this Act their market value, where, relevant, shall be taken to be the larger market value, to be apportioned rateably to the respective disposals.

*Transactions between connected persons*

17.—(1) This paragraph shall apply where a person acquires an asset and the person making the disposal is connected with him.

(2) Without prejudice to the generality of section 22(4) of this Act the person acquiring the asset and the person making the disposal shall be treated as parties to a transaction otherwise than by way of a bargain made at arm's length.

(3) If on the disposal a loss accrues to the person making the disposal, it shall not be deductible except from a chargeable gain accruing to him on some other disposal of an asset to the person acquiring the asset mentioned in sub-paragraph (1) above, being a disposal made at a time when they are connected persons.

(4) Where the asset mentioned in sub-paragraph (1) above is an option to enter into a sale or other transaction given by the person making the disposal a loss accruing to the person acquiring the asset shall not be an allowable loss unless it accrues on a disposal of the option at arm's length to a person who is not connected with him.

(5) In a case where the asset mentioned in sub-paragraph (1) above is subject to any right or restriction enforceable by the person making the disposal, or by a person connected with him, then (the amount of the consideration for the acquisition being, in accordance with sub-paragraph (2) of this paragraph, deemed to be equal to the market value of the asset) that market value shall be—

- (a) what its market value would be if not subject to the right or restriction, minus—
- (b) the market value of the right or restriction or the amount by which its extinction would enhance the value of the asset to its owner, whichever is the less :

Provided that if the right or restriction is of such a nature that its enforcement would or might effectively destroy or substantially impair the value of the asset without bringing any countervailing advantage either to the person making the disposal or a person connected with him or is an option or other right to acquire the asset or, in the case of incorporeal property, is a right to extinguish the asset in the hands of the person giving the consideration by forfeiture or merger or otherwise, that market value of the asset shall be determined, and the amount of the gain accruing on the disposal shall be computed, as if the right or restriction did not exist.

SCH. 7

This sub-paragraph shall not apply to a right of forfeiture or other right exercisable on breach of a covenant contained in a lease of land or other property, and shall not apply to any right or restriction under a mortgage or other charge.

*Shares in close company transferring assets at an undervalue*

18.—(1) If after 6th April 1965 a company which is a close company as defined in Schedule 18 to this Act transfers an asset to any person otherwise than by way of a bargain made at arm's length and for a consideration of an amount or value less than the market value of the asset an amount equal to the difference shall be apportioned among the issued shares of the company, and the holders of those shares shall be treated in accordance with the following provisions of this paragraph.

(2) For the purposes of the computation under Schedule 6 to this Act of a gain accruing on the disposal of any of those shares by the person owning them on the date of transfer an amount equal to the amount so apportioned to that share shall be excluded from the expenditure allowable as a deduction under paragraph 4(1)(a) of that Schedule from the consideration for the disposal.

(3) If the person owning any of the said shares at the date of transfer is itself a close company as so defined an amount equal to the amount apportioned to the shares so owned under sub-paragraph (1) above to that close company shall be apportioned among the issued shares of that close company, and the holders of those shares shall be treated in accordance with sub-paragraph (2) above, and so on through any number of close companies.

*Gifts: recovery of tax from donee*

19.—(1) If in any year of assessment a chargeable gain accrues to any person on the disposal of an asset by way of gift and any amount of capital gains tax assessed on that person for that year of assessment is not paid within twelve months from the date when the tax becomes payable the donee may, by an assessment made not later than two years from the date when the tax became payable, be assessed and charged (in the name of the donor) to capital gains tax on an amount not exceeding the amount of the chargeable gain so accruing, and not exceeding the grossed up amount of that capital gains tax unpaid at the time when he is so assessed, grossing up at the marginal rate of tax, that is to say taking capital gains tax on a chargeable gain at the amount which would not have been chargeable but for that chargeable gain.

(2) A person paying any amount of tax in pursuance of this paragraph shall be entitled to recover a sum of that amount from the donor.

(3) References in this paragraph to a donor include, in the case of an individual who has died, references to his personal representatives.

(4) In this paragraph references to a gift include references to any transaction otherwise than by way of a bargain made at arm's length

so far as money or money's worth passes under the transaction without full consideration in money or money's worth, and "donor" and "donee" shall be construed accordingly; and this paragraph shall apply in relation to a gift made by two or more donors with the necessary modifications and subject to any necessary apportionments.

SCH. 7

### *Husband and wife*

20.—(1) If, in any year of assessment, and in the case of a woman who in that year of assessment is a married woman living with her husband, the man disposes of an asset to the wife, or the wife disposes of an asset to the man, both shall be treated as if the asset was acquired from the one making the disposal for a consideration of such amount as would secure that on the disposal neither a gain or a loss would accrue to the one making the disposal.

(2) This paragraph shall not apply—

- (a) if until the disposal the asset formed part of trading stock of a trade carried on by the one making the disposal, or if the asset is acquired as trading stock for the purposes of a trade carried on by the one acquiring the asset, or
- (b) if the disposal is on the occasion of the death of the one making the disposal,

but this paragraph shall have effect notwithstanding the provisions of paragraph 1 of this Schedule or of any other provisions of this Part of this Act fixing the amount of the consideration deemed to be given on a disposal or acquisition.

### *Connected persons*

21.—(1) Any question whether a person is connected with another shall for the purposes of this Part of this Act be determined in accordance with the following sub-paragraphs of this paragraph (any provision that one person is connected with another being taken to mean that they are connected with one another).

(2) A person is connected with an individual if that person is the individual's husband or wife, or is a relative, or the husband or wife of a relative, of the individual or of the individual's husband or wife.

(3) A person, in his capacity as trustee of a settlement, is connected with any individual who in relation to the settlement is a settlor, with any person who is connected with such an individual and with a body corporate which, under section 411(4) of the Income Tax Act 1952 is deemed to be connected with that settlement 1952 c. 10. ("settlement" and "settlor" having for the purposes of this sub-paragraph the meanings assigned to them by Chapter III of Part XVIII of the Income Tax Act 1952).

(4) Except in relation to acquisitions or disposals of partnership assets pursuant to bona fide commercial arrangements, a person is connected with any person with whom he is in partnership, and with the husband or wife or a relative of any individual with whom he is in partnership.



SCH. 7

(5) A company is connected with another company—

- (a) if the same person has control of both, or a person has control of one and persons connected with him, or he and persons connected with him, have control of the other ; or
- (b) if a group of two or more persons has control of each company, and the groups either consist of the same persons or could be regarded as consisting of the same persons by treating (in one or more cases) a member of either group as replaced by a person with whom he is connected.

(6) A company is connected with another person, if that person has control of it or if that person and persons connected with him together have control of it.

(7) Any two or more persons acting together to secure or exercise control of a company shall be treated in relation to that company as connected with one another and with any person acting on the directions of any of them to secure or exercise control of the company.

(8) In this paragraph “ relative ” means brother, sister, ancestor or lineal descendant.

Section 22.

## SCHEDULE 8

## CAPITAL GAINS: LEASES

*Leases of land as wasting assets: curved line restriction of allowable expenditure*

1.—(1) A lease of land shall not be a wasting asset until the time when its duration does not exceed fifty years.

(2) If at the beginning of the period of ownership of a lease of land it is subject to a sub-lease not at a rackrent and the value of the lease at the end of the duration of the sub-lease, estimated as at the beginning of the period of ownership, exceeds the expenditure allowable under paragraph 4(1)(a) of Schedule 6 to this Act in computing the gain accruing on a disposal of the lease, the lease shall not be a wasting asset until the end of the duration of the sub-lease.

(3) In the case of a wasting asset which is a lease of land the rate at which expenditure is assumed to be written off shall, instead of being a uniform rate as provided by paragraph 10 of Schedule 6 to this Act, be a rate fixed in accordance with the Table below.

(4) Accordingly, for the purposes of the computation under the said Schedule 6 of the gain accruing on a disposal of a lease, and given that—

- (a) the percentage derived from the Table for the duration of the lease at the beginning of the period of ownership is P(1),
- (b) the percentage so derived for the duration of the lease at the time when any item of expenditure attributable to the lease under paragraph 4(1)(b) of Schedule 6 to this Act is first reflected in the nature of the lease is P(2), and

(c) the percentage so derived for the duration of the lease at the time of the disposal is P(3),

then—

(i) there shall be excluded from the expenditure attributable to the lease under the said paragraph 4(1)(a) a fraction equal to  $\frac{P(1)-P(3)}{P(1)}$ , and

(ii) there shall be excluded from any item of expenditure attributable to the lease under the said paragraph 4(1)(b) a fraction equal to  $\frac{P(2)-P(3)}{P(2)}$ .

(5) This paragraph applies notwithstanding that the period of ownership of the lease is a period exceeding fifty years and, accordingly, no expenditure shall be written off under this paragraph in respect of any period earlier than the time when the lease becomes a wasting asset.

(6) Paragraph 11 of Schedule 6 to this Act shall apply in relation to this paragraph as it applies in relation to paragraph 10 of that Schedule.

TABLE

Years	Percentage	Years	Percentage
50 (or more)	100	25	81·100
49	99·657	24	79·622
48	99·289	23	78·055
47	98·902	22	76·399
46	98·490	21	74·635
45	98·059	20	72·770
44	97·595	19	70·791
43	97·107	18	68·697
42	96·593	17	66·470
41	96·041	16	64·116
40	95·457	15	61·617
39	94·842	14	58·971
38	94·189	13	56·167
37	93·497	12	53·191
36	92·761	11	50·038
35	91·981	10	46·695
34	91·156	9	43·154
33	90·280	8	39·399
32	89·354	7	35·414
31	88·371	6	31·195
30	87·330	5	26·722
29	86·226	4	21·983
28	85·053	3	16·959
27	83·816	2	11·629
26	82·496	1	5·983
		0	0

If the duration of the lease is not an exact number of years the percentage to be derived from the Table above shall be the percentage for the whole number of years plus one twelfth of the difference between that and the percentage for the next higher number of years for each odd month counting an odd 14 days or more as one month.

## SCH. 8

*Premiums for leases*

2.—(1) Subject to this Schedule where the payment of a premium is required under a lease of land, or otherwise under the terms subject to which a lease of land is granted, there is a part disposal of the freehold or other asset out of which the lease is granted.

(2) In applying paragraph 7 of Schedule 6 to this Act to such a part disposal, the property which remains undisposed of includes a right to any rent or other payments, other than a premium, payable under the lease, and that right shall be valued as at the time of the part disposal.

3.—(1) This paragraph applies in relation to a lease of land.

(2) Where, under the terms subject to which a lease is granted, a sum becomes payable by the tenant in lieu of the whole or part of the rent for any period, or as consideration for the surrender of the lease, the lease shall be deemed for the purposes of this Schedule to have required the payment of a premium to the landlord (in addition to any other premium) of the amount of that sum for the period in relation to which the sum is payable.

(3) Where, as consideration for the variation or waiver of any of the terms of a lease, a sum becomes payable by the tenant otherwise than by way of rent, the lease shall be deemed for the purposes of this Schedule to have required the payment of a premium to the landlord (in addition to any other premium) of the amount of that sum for the period from the time when the variation or waiver takes effect to the time when it ceases to have effect.

(4) If under sub-paragraph (2) or (3) above a premium is deemed to have been received by the landlord, otherwise than as consideration for the surrender of the lease, then subject to sub-paragraph (5) below, both the landlord and the tenant shall be treated as if that premium were, or were part of, the consideration for the grant of the lease due at the time when the lease was granted, and the gain accruing to the landlord on the disposal by way of grant of the lease shall be recomputed and any necessary adjustments of tax, whether by way of assessment for the year in which the premium is deemed to have been received, or by way of discharge or repayment of tax made accordingly.

(5) If under sub-paragraph (2) or (3) above a premium is deemed to have been received by the landlord, otherwise than as consideration for the surrender of the lease, and the landlord is a tenant under a lease the duration of which does not exceed fifty years this Schedule shall apply as if an amount equal to the amount of that premium deemed to have been received had been given by way of consideration for the grant of the part of the sub-lease covered by the period in respect of which the premium is deemed to have been paid as if that consideration were expenditure incurred by the sub-lessee and attributable to that part of the sub-lease under paragraph (4)(1)(b) of Schedule 6 to this Act.

(6) Where under sub-paragraph (2) above a premium is deemed to have been received as consideration for the surrender of a lease the surrender of the lease shall not be the occasion of any re-computation of the gain accruing on the receipt of any other premium,

and the premium which is consideration for the surrender of the lease shall be regarded as consideration for a separate transaction consisting of the disposal by the landlord of his interest in the lease.

(7) Sub-paragraph (3) above shall apply in relation to a transaction not at arm's length, and in particular in relation to a transaction entered into gratuitously, as if such sum had become payable by the tenant otherwise than by way of rent as might have been required of him if the transaction had been at arm's length.

*Sub-leases out of short leases*

4.—(1) In the computation under Schedule 6 to this Act of the gain accruing on the part disposal of a lease which is a wasting asset by way of the grant of a sub-lease for a premium the expenditure attributable to the lease under paragraph 4(1)(a) and 4(1)(b) of Schedule 6 to this Act shall be apportioned in accordance with this paragraph, and paragraph 7 of Schedule 6 to this Act shall not apply.

(2) Out of each item of the expenditure attributable to the lease under the said paragraph 4(1)(a) and 4(1)(b) there shall be apportioned to what is disposed of—

- (a) if the amount of the premium is not less than what would be obtainable by way of premium for the said sub-lease if the rent payable under that sub-lease were the same as the rent payable under the lease, the fraction which, under paragraph 1(3) of this Schedule, is to be written off over the period which is the duration of the sub-lease, and
- (b) if the amount of the premium is less than the said amount so obtainable, the said fraction multiplied by a fraction equal to the amount of the said premium divided by the said amount so obtainable.

(3) If the sub-lease is a sub-lease of part only of the land comprised in the lease this paragraph shall apply only in relation to a proportion of the expenditure attributable to the lease under the said paragraph 4(1)(a) and 4(1)(b) which is the same as the proportion which the value of the land comprised in the sub-lease bears to the value of that and the other land comprised in the lease; and the remainder of that expenditure shall be apportioned to what remains undisposed of.

*Exclusion of premiums taxed under Case VIII of Schedule D, etc.*

5.—(1) Where by reference to any premium income tax has become chargeable under section 22 of the Finance Act 1963 on any amount, that amount out of the premium shall be excluded from the consideration brought into account in the computation under paragraph 7 of Schedule 6 to this Act, except where the consideration is taken into account in the denominator of the fraction by reference to which an apportionment is made. 1963 c. 25.

(2) Where by reference to any premium in respect of a sub-lease granted out of a lease the duration of which (that is of the lease) does not, at the time of granting the lease, exceed fifty years, income tax has become chargeable under the said section 22 on any amount

SCH. 8

that amount shall be deducted from any gain accruing on the disposal for which the premium is consideration as computed in accordance with the provisions of this Part of this Act apart from this sub-paragraph, but not so as to convert the gain into a loss, or to increase any loss.

(3) If under section 22(6) of the said Act (premiums payable by instalments) a claim is made as respects any amount, the whole of that amount shall be so excluded or deducted, and on the allowance of the claim all such adjustments shall be made, whether by discharge or repayment of tax or otherwise, as are required to give effect to the provisions of this sub-paragraph.

(4) Where income tax has become chargeable under section 24 of the Finance Act 1963 (sale of land with right of re-conveyance) on any amount a sum of that amount shall be excluded from the consideration brought into account in the computation under Schedule 6 to this Act of a gain accruing on the disposal of the estate or interest in respect of which income tax becomes so chargeable, except where the consideration is taken into account in the denominator of the fraction by reference to which an apportionment is made under paragraph 7 of the said Schedule 6:

Provided that if what is disposed of is the remainder of a lease or a sub-lease out of a lease the duration of which does not exceed fifty years the foregoing provisions of this sub-paragraph shall not apply but the said amount shall be deducted from any gain accruing on the disposal as computed in accordance with the provisions of this Part of this Act apart from this sub-paragraph, but not so as to convert the gain into a loss, or to increase any loss.

(5) References in sub-paragraph (1) and (2) above to a premium include references to a premium deemed to have been received under subsection (3) or subsection (4) of section 22 of the Finance Act 1963 (which correspond to paragraph 3(2)(3) of this Schedule).

(6) Paragraph 2 of Schedule 6 to this Act shall not be taken as authorising the exclusion of any amount from the consideration for a disposal of assets taken into account in the computation under that Schedule by reference to any amount chargeable to tax under Chapter II of Part II of the Finance Act 1963.

6.—(1) If under paragraph 9(1) of Schedule 4 to the Finance Act 1963 (allowance where, by the grant of a sub-lease, a lessee has converted a capital amount into a right to income) a person is to be treated as paying additional rent in consequence of having granted a sub-lease, the amount of any loss accruing to him on the disposal by way of the grant of the sub-lease shall be reduced by the total amount of rent which he is thereby treated as paying over the term of the sub-lease (and without regard to whether relief is thereby effectively given over the term of the sub-lease), but not so as to convert the loss into a gain, or to increase any gain.

(2) Nothing in paragraph 2 of Schedule 6 to this Act shall be taken as applying in relation to any amount on which tax is paid under section 23 of the Finance Act 1963 (charge on assignment of lease granted at undervalue).

1963 c. 25.

(3) If any adjustment is made under section 24(2)(b) of the Finance Act 1963 on a claim under that paragraph, any necessary adjustment shall be made to give effect to the consequences of the claim on the operation of this or the last foregoing paragraph. SCH. 8  
1963 c. 25.

7. If under section 22(2) of the Finance Act 1963 income tax is chargeable on any amount, as being a premium the payment of which is deemed to be required by the lease, the person so chargeable shall be treated for the purposes of the computation of any gain accruing to him on a disposal of the lease as having incurred at the time the lease was granted expenditure of that amount (in addition to any other expenditure) attributable to the asset under paragraph 4(1)(b) of Schedule 6 to this Act.

#### *Terminable and renewable leases*

8. In ascertaining for the purposes of this Schedule the duration of a lease of land, the following provisions shall have effect—

- (a) where the terms of the lease include provision for the determination thereof by notice given either by the landlord or by the tenant, the lease shall not be treated as granted for a term longer than one ending at the earliest date on which it could be determined by notice;
- (b) where any of the terms of the lease (whether relating to forfeiture or to any other matter) or any other circumstances render it unlikely that the lease will continue beyond a date falling before the expiration of the term of the lease, the lease shall not be treated as having been granted for a term longer than one ending on that date:

Provided that where the duration of a lease falls to be ascertained after a date on which the lease has for any reason come to an end, the duration shall be taken to have extended from its commencement to that date, and where the duration falls to be ascertained at a time when the lease is subsisting the provisions of the foregoing paragraphs shall be applied in accordance with circumstances prevailing at that time.

#### *Leases of property other than land*

9.—(1) Paragraphs 2, 3, 4 and 8 of this Schedule shall apply in relation to leases of property other than land as they apply to leases of land, but subject to any necessary modifications.

(2) Where by reference to any capital sum within the meaning of section 17 of the Finance Act 1964 (leases of assets other than land) any person has been charged to income tax on any amount, that amount out of the capital sum shall be deducted from any gain accruing on the disposal for which that capital sum is consideration, as computed in accordance with the provisions of this Part of this Act apart from this sub-paragraph, but not so as to convert the gain into a loss, or increase any loss. 1964 c. 49.

(3) In the case of a lease of a wasting asset which is movable property the lease shall be assumed to terminate not later than the end of the life of the wasting asset.

## SCH. 8

## Interpretation

10.—(1) In this Schedule “premium” includes any like sum, whether payable to the intermediate or a superior landlord, and for the purposes of this Schedule any sum (other than rent) paid on or in connection with the granting of a tenancy shall be presumed to have been paid by way of premium except in so far as other sufficient consideration for the payment is shown to have been given.

(2) In the application of this Schedule to Scotland “premium” includes in particular a grassum payable to any landlord or intermediate landlord on the creation of a sub-lease.

Sections 17  
and 27.

## SCHEDULE 9

## CAPITAL GAINS: GOVERNMENT SECURITIES ISSUED AT A DISCOUNT

Description of Government securities	Exempt price range (for £100 nominal of Stock)	
	from	to
5½% Exchequer Stock 1966 ... ..	99½	100
5% Exchequer Stock 1967 ... ..	96½	100
4% Exchequer Stock 1968 ... ..	98	100
3½% Conversion Stock 1969 ... ..	99	100
3% Funding Stock 1959/69 ... ..	98	100
British Electricity 4½% Guaranteed Stock 1967/69 ... ..	98½	100
5% Conversion Stock 1971 ... ..	98½	100
British Gas 3½% Guaranteed Stock 1969/71 ...	98	100
6% Conversion Stock 1972 ... ..	97½	100
British Gas 4% Guaranteed Stock 1969/72 ...	98	100
British Transport 3% Stock 1968/73 ... ..	73½	100
5½% Conversion Stock 1974 ... ..	97½	100
4% Victory Bonds ... ..	85	100
British Electricity 3% Guaranteed Stock 1974/77 ... ..	99½	100
British Transport 4% Stock 1972/77 ... ..	95½	100
5% Exchequer Stock 1976/78 ... ..	96	100
British Electricity 4½% Guaranteed Stock 1974/79 ... ..	99	100
British Electricity 3½% Guaranteed Stock 1976/79 ... ..	99	100
5½% Funding Stock 1978/80 ... ..	96½	100
3½% Treasury Stock 1977/80 ... ..	75½	100
3½% Treasury Stock 1979/81 ... ..	81	100
5½% Funding Stock 1982/84 ... ..	£90 18s. 2d.	100
5% Treasury Stock 1986/89 ... ..	84½	100
4% Funding Stock 1960/90 ... ..	80	100
5½% Funding Stock 1987/91 ... ..	97	100
3½% Funding Stock 1999/2004 ... ..	80	100
5½% Treasury Stock 2008/12 ... ..	95	100
North of Scotland Hydro Electricity 4% Guaranteed Stock 1973/78 ... ..	96	100
Nyasaland Government 3% Guaranteed Stock 1954/74 ... ..	98½	100
Sudan Government 4% Guaranteed Stock 1974 ... ..	86	100
Sudan Government 4½% Guaranteed Stock 1939/73 ... ..	93	100
Tanganyika Government 4% Guaranteed Stock 1952/72 ... ..	98	100

## SCHEDULE 10

Section 45.

## CAPITAL GAINS: ADMINISTRATION

## PART I

## CAPITAL GAINS TAX

*Application of income tax administrative provisions*

1.—(1) Capital gains tax shall be under the care and management of the Board and the provisions of the Income Tax Acts in the Table below shall apply in relation to capital gains tax as they apply in relation to income tax chargeable under Schedule D at the standard rate and subject to any necessary modifications.

(2) An appeal shall lie against an assessment to capital gains tax made in accordance with section 5 of the Income Tax Management Act 1964 as applied by sub-paragraph (1) above and the appeal shall, subject to section 44 of this Act, be to the General Commissioners or the Special Commissioners; and, subject to the said section 44, section 12 of the said Act of 1964 shall apply accordingly in relation to the appeal. 1964 c. 37.

(3) Section 9 of the Income Tax Management Act 1964 as applied by sub-paragraph (1) above shall apply to every claim under this Part of this Act.

## TABLE

## INCOME TAX PROVISIONS APPLIED TO CAPITAL GAINS TAX

The Income Tax Act 1952	1952 c. 10.
Section 47 (time limit for assessments).	
Section 63 (grounds of appeal to be stated, and recovery of tax not in dispute).	
Sections 65 and 66 (relief against double assessment or error or mistake in return).	
Chapter IV of Part II (collection) except section 72.	
Part XV (representative assessments) except section 367.	
Section 370 (assessment of agent and non-resident).	
Sections 495 to 497 (interest on overdue tax).	
Sections 500 to 505 (penalties).	
Section 507 with the amendment in Schedule 4 to the Income Tax Management Act 1964 (time limit for claims).	
Sections 510, 513 to 515 and 520 (miscellaneous).	
The Finance Act 1953	1953 c. 34.
Section 29 (assessments in Scilly Isles).	
The Finance Act 1956	1956 c. 54.
Section 10(3) (question of ordinary residence).	
The Finance Act 1960	1960 c. 44.
Part III (penalties)	
The Income Tax Management Act 1964	
The whole Act	



## SCH. 10

*Regulations about appeals*

2.—(1) The Board may make regulations—

- (a) as respects the conduct of appeals against assessments and decisions on claims under this Part of this Act,
- (b) entitling persons, in addition to those who would be so entitled apart from the regulations, to appear on such appeals,
- (c) regulating the time within which such appeals or claims may be brought or made,
- (d) where the market value of an asset on a particular date, or an apportionment or any other matter, may affect the liability to capital gains tax of two or more persons, enabling any such person to have the matter determined by the tribunal having jurisdiction to determine that matter if arising on an appeal against an assessment, and prescribing a procedure by which the matter is not determined differently on different occasions,
- (e) authorising an inspector or other officer of the Board, notwithstanding the obligation as to secrecy imposed by virtue of this or any other Act, to disclose to a person entitled to appear on such an appeal the market value of an asset as determined by an assessment or decision on a claim, or to disclose to a person whose liability to tax may be affected by the determination of the market value of an asset on a particular date, or an apportionment or any other matter, any decision on the matter made by an inspector or other officer of the Board.

(2) Regulations under this paragraph may contain such supplemental and incidental provisions as appear to the Board to be expedient including in particular—

- (a) provisions as to the choice of the Commissioners, whether a body of General Commissioners or the Special Commissioners, to hear the appeal where, in addition to the appellant against an assessment, or the claimant in the case of an appeal against the decision on a claim, and in addition to the inspector or other officer of the Board, some other person is entitled to be a party to the appeal, and
- (b) provisions corresponding to section 329 of the Income Tax Act 1952 (procedure on apportionments where more than one body of General Commissioners has jurisdiction), and
- (c) provisions authorising the giving of conditional decisions where, under section 44 or any other provision of this Act, questions on an appeal against an assessment or a decision on a claim may go partly to one tribunal and partly to another.

(3) Regulations under this paragraph—

- (a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons, and
- (b) shall have effect notwithstanding anything in the provisions of the Income Tax Acts applied by this Schedule.

*Married women*

SCH. 10

3.—(1) Subject to this paragraph, the amount of capital gains tax on chargeable gains accruing to a married woman in a year of assessment, or part of a year of assessment, during which she is a married woman living with her husband shall be assessed and charged on the husband and not otherwise but this sub-paragraph shall not affect the amount of capital gains tax chargeable on a man apart from this sub-paragraph nor result in the additional amount of capital gains tax charged on a man by virtue of this sub-paragraph being different from the amount which would otherwise have remained chargeable on the married woman.

(2) Sub-paragraph (1) above shall not apply in relation to a husband and wife in any year of assessment if, before 6th July in the year next following that year of assessment, an application is made by either the husband or wife, and such an application duly made shall have effect not only as respects the year of assessment for which it is made but also for any subsequent year of assessment:

Provided that the applicant may give, for any subsequent year of assessment, a notice to withdraw that application and where such a notice is given the application shall not have effect with respect to the year for which the notice is given or any subsequent year.

A notice of withdrawal under this proviso shall not be valid unless it is given within the period for making, for the year for which the notice is given, an application similar to that to which the notice relates.

(3) Returns under section 7 or section 9(6) of the Income Tax 1964 c. 37. Management Act 1964 as respects chargeable gains accruing to a married woman may be required either from her or, if her husband is liable under sub-paragraph (1) above, from him.

(4) Section 359 (collection from wife of tax assessed on husband attributable to her income) and section 360 (right of husband to disclaim liability for tax on deceased wife's income) of the Income Tax Act 1952 shall apply with any necessary modifications in relation to capital gains tax as they apply in relation to income tax other than surtax. 1952 c. 10.

(5) An application or notice of withdrawal under this paragraph shall be in such form and made in such manner as may be prescribed by the Board.

*Postponement of payment of tax*

4.—(1) Capital gains tax chargeable on gains accruing—

- (a) on the disposal of assets deemed to have been disposed of by a deceased person on his death, or
- (b) on the disposal of settled property deemed to be effected on any occasion in accordance with subsection (3) or subsection (4) of section 25 of this Act,

being chargeable gains accruing—

- (i) on the disposal of land or an estate or interest in land, or

SCH. 10

1940 c. 29.

- (ii) on the disposal of shares or securities of a company the value of which at the time of the disposal is to be ascertained for the purposes of estate duty under section 55 of the Finance Act 1940 (valuation by reference to assets of the company) or the corresponding enactment forming part of the law of Northern Ireland, or would fall to be so ascertained if estate duty were leviable on the shares or securities on a death at the time of the disposal, or
- (iii) where the Board are satisfied that the capital gains tax chargeable on gains accruing on the disposal of any shares or securities of a company not falling within paragraph (ii) above, and not quoted on a recognised stock exchange in the United Kingdom or elsewhere, cannot be paid at once without undue hardship, on the disposal of those shares or securities,

1952 c. 10.

may, at the option of the personal representatives or as the case may be of the trustees, be paid by eight equal yearly instalments or sixteen half-yearly instalments, but subject to the payment of interest under sections 495 to 497 of the Income Tax Act 1952 as applied by this Schedule.

(2) The first instalment shall be due at the expiration of twelve months from the time of the disposal and the interest on the unpaid portion of the tax shall be added to each instalment and paid accordingly; but the tax for the time being unpaid, with interest to the date of payment, may be paid at any time and, if the property is disposed of for valuable consideration, shall become due and payable on the disposal.

(3) If relief is given under section 24(2) or section 25(5) of this Act in respect of an aggregate sum which includes gains to which this paragraph applies and other gains, then for the purpose of ascertaining the amount of capital gains tax chargeable on the gains to which this paragraph applies, that relief shall be treated as having been applied rateably in respect of tax on those respective gains.

## PART II

### PROVISIONS FOR CAPITAL GAINS TAX AND CORPORATION TAX

#### *General*

5. This Part of this Schedule has effect in relation to capital gains tax, including capital gains tax chargeable under section 82 of this Act, and also in relation to corporation tax and in this Part of this Schedule "tax" shall be construed accordingly.

#### *Information as to assets acquired*

6.—(1) A notice under section 7 or section 9(6) of the Income Tax Management Act 1964 (return of total income and return of income for purposes of a claim) may require particulars of any

assets acquired by the person on whom the notice was served (or if the notice relates to income or chargeable gains of some other person, of any assets acquired by that other person) in the period specified in the notice, being a period beginning not earlier than 6th April 1965 but excluding—

- (a) any assets exempted by section 27 of this Act, without subsection (2) of that section, or
- (b) unless the amount or value of the consideration for its acquisition exceeded one thousand pounds, any asset which is tangible moveable property and is not within the exceptions in section 30(6) of this Act, or
- (c) any assets acquired as trading stock.

(2) The particulars required under this paragraph may include particulars of the person from whom the asset was acquired, and of the consideration for the acquisition.

#### *Special returns*

7.—(1) For the purpose of obtaining particulars of chargeable gains the inspector may by notice in writing require a return under any of the provisions of this paragraph.

(2) An issuing house or other person carrying on a business of effecting public issues of shares or securities in any company, or placing of shares or securities in any company, either on behalf of the company, or on behalf of holders of blocks of shares or securities which have not previously been the subject of a public issue or placing, may be required to make a return of all such public issues or placings effected by that person in the course of the business in the period specified in the notice requiring the return, giving particulars of the persons to or with whom the shares or securities are issued, allotted or placed, and the number or amount of the shares or securities so obtained by them respectively.

(3) A person not carrying on such a business may be required to make a return as regards any such public issue or placing effected by that person and specified in the notice, giving particulars of the persons to or with whom the shares or securities are issued, allotted, or placed and the number or amount of the shares or securities so obtained by them respectively.

(4) A member of a stock exchange in the United Kingdom, other than a jobber, may be required to make a return giving particulars of any transactions effected by him in the course of his business in the period specified in the notice requiring the return giving particulars of the parties to the transactions and the number or amount of the shares or securities dealt with in the respective transactions and the amount or value of the consideration.

(5) The committee or other person or body of persons responsible for managing a clearing house for any terminal market in commodities may be required to make a return giving particulars of

**SCH. 10** any transactions effected through the clearing house in the period specified in the notice requiring the return giving particulars of the parties to the transactions and of the amounts dealt with in those transactions respectively and the amount or value of the consideration.

(6) An auctioneer, and any person carrying on a trade of dealing in any description of tangible moveable property, or of acting as an agent or intermediary in dealings in any description of tangible moveable property, may be required to make a return giving particulars of any transactions effected by or through him in which any asset which is tangible moveable property is disposed of for a consideration the amount or value of which, in the hands of the recipient, exceeds one thousand pounds.

(7) No person shall be required under this paragraph to include in a return particulars of any transaction effected before 7th April 1965 or more than three years before the service of the notice requiring him to make the return.

1960 c. 44.

(8) Part III of the Finance Act 1960 (penalties) shall have effect as if this paragraph were among the provisions specified in the second column of Schedule 6 to that Act.

#### *Nominee shareholdings*

1952 c. 10.

8.—(1) Section 250(4) of the Income Tax Act 1952 (information from nominee shareholders) shall apply for the purposes of obtaining particulars of chargeable gains, but a notice under that subsection as so applied may be given by an inspector or other officer of the Board.

(2) The said section 250(4) as applied by this paragraph shall have effect as if references to shares included references to securities and loan capital.

#### *Returns of assets in settlements*

9. Section 410 of the Income Tax Act 1952 (power to obtain information for purposes connected with settlements) shall apply for the purposes of this Part of this Act as it applies for the purposes of Chapter III of Part XVIII of that Act.

#### *Partnerships*

10. A return of income of a partnership under section 144 of the Income Tax Act 1952 shall include—

- (a) with respect to any disposal of partnership property during a period to which any part of the return relates the like particulars as if the partnership were liable to tax on any chargeable gain accruing on the disposal, and
- (b) with respect to any acquisition of partnership property the particulars required under paragraph 6 of this Schedule.

*Information as to non-resident companies and trusts*

SCH. 10

11.—(1) A person holding shares or securities in a company which is not resident or ordinarily resident in the United Kingdom, or who is interested in settled property under a settlement the trustees of which are not resident or ordinarily resident in the United Kingdom, may be required by a notice by the Board to give such particulars as the Board may consider are required to determine whether the company or trust falls within section 41 or section 42 of this Act, and whether any chargeable gains have accrued to that company, or to the trustees of that settlement, in respect of which the person to whom the notice is given is liable to capital gains tax under the said section 41 or the said section 42.

(2) Part III of the Finance Act 1960 (penalties) shall have effect 1960 c. 44. as if this paragraph were among the provisions specified in the second column of Schedule 6 to that Act.

*Liability of trustees, etc.*

12.—(1) Capital gains tax chargeable in respect of chargeable gains accruing to the trustees of a settlement or capital gains tax due from the personal representatives of a deceased person may be assessed and charged on and in the name of any one or more of those trustees or personal representatives, but where an assessment is made in pursuance of this sub-paragraph otherwise than on all the trustees or all the personal representatives the persons assessed shall not include a person who is not resident or ordinarily resident in the United Kingdom.

(2) Subject to section 22(5) of this Act, chargeable gains accruing to the trustees of a settlement or to the personal representatives of a deceased person, and capital gains tax chargeable on or in the name of such trustees or personal representatives, shall not be regarded for the purposes of this Part of this Act as accruing to, or chargeable on, any other person, nor shall any trustee or personal representative be regarded for the purposes of this Part of this Act as an individual, but the provisions of Part XV of the Income Tax Act 1952 as applied 1952 c. 10. by this Schedule shall not affect the question of who is the person to whom chargeable gains accrue, or who is chargeable to capital gains tax, so far as that question is relevant for the purposes of any exemption or of any provision determining the rate at which capital gains tax is chargeable.

(3) Chargeable gains which accrue to an individual on the disposal of assets deemed to be made by him on his death shall be regarded for the purposes of this Part of this Act as accruing to an individual notwithstanding that capital gains tax in respect of the gains is chargeable and assessable on his personal representatives.

*Conclusiveness of income tax decisions*

13. Any assessment to income tax or decision on a claim under the Income Tax Acts, and any decision on an appeal under the Income Tax Acts against such an assessment or decision, shall be conclusive

SCH. 10 so far as under section 21 of this Act or Schedule 6 to this Act or any other provision of this Part of this Act liability to tax depends on the provisions of the Income Tax Acts.

#### *Valuation*

14.—(1) If for the purposes of this Part of this Act the Board authorise an inspector or other officer of the Board to inspect any property for the purpose of ascertaining its market value the person having the custody or possession of that property shall permit the inspector or other officer so authorised to inspect it at such reasonable times as the Board may consider necessary.

(2) If any person wilfully delays or obstructs an inspector or other officer of the Board acting in pursuance of this paragraph he shall be liable on summary conviction to a fine not exceeding five pounds.

#### *Priority of tax in bankruptcy*

15.—(1) In a bankruptcy under the law of any part of the United Kingdom capital gains tax and corporation tax shall each have the same priority as income tax.

(2) In the application of this Part of this Act to Northern Ireland the reference in this paragraph to priority in bankruptcy includes a reference to any other priority given to income tax under the Bankruptcy Acts (Northern Ireland) 1857 to 1964.

#### *Form of declaration of Commissioners and others*

16. In the form of declaration in Part I of Schedule 1 to the Income Tax Management Act 1964 for the words "the profits tax" (in both places) there shall be substituted the words "any tax on company profits or capital gains", but not so as to invalidate any declaration made before the passing of this Act.

1964 c. 37.

#### *Forms of assessments and returns and other documents*

17. Any return or assessment or other document relating to chargeable gains or tax on capital gains may be combined with one relating to income or income tax.

#### *Northern Ireland*

18. Any reference in this Part of this Act to the General Commissioners shall in its application to Northern Ireland be a reference to the Special Commissioners.

### SCHEDULE 11

#### MEANING OF "DISTRIBUTION"

##### PART I

##### GENERAL MEANING

#### *Matters to be treated as distributions*

1.—(1) In relation to any company "distribution" means—  
(a) any dividend paid by the company, including a capital dividend;

- (b) any other distribution out of assets of the company (whether in cash or otherwise) in respect of shares in the company, except so much of the distribution, if any, as represents a repayment of capital on the shares or is, when it is made, equal in amount or value to any new consideration given for the distribution ;
- (c) any redeemable share capital or security issued by the company in respect of shares in the company otherwise than wholly for new consideration, or such part of any redeemable share capital or security so issued as is not properly referable to new consideration ;
- (d) any interest or other distribution out of assets of the company in respect of securities of the company (except so much, if any, of any such distribution as represents the principal thereby secured), where the securities are either—
- (i) securities issued as mentioned in paragraph (c) above ; or
  - (ii) securities convertible directly or indirectly into shares in the company and not securities quoted on a recognised stock exchange nor issued on terms which are reasonably comparable with the terms of issue of securities so quoted ; or
  - (iii) securities under which the consideration given by the company for the use of the principal secured is to any extent dependent on the results of the company's business or any part of it, or under which the consideration so given represents more than a reasonable commercial return for the use of that principal ; or
  - (iv) securities issued by the company to a company not resident in the United Kingdom, where the former is a subsidiary of the latter or both are subsidiaries of a third company (" subsidiary " having the meaning assigned to it by section 42(1) of the Finance Act 1938) ;
- (e) any such amount as is required to be treated as a distribution by sub-paragraph (2) or (3) below.

1938 c. 46.

(2) Where on a transfer of assets or liabilities by a company to its members or to a company by its members, the amount or value of the benefit received by a member (taken according to its market value) exceeds the amount or value (so taken) of any new consideration given by him, the company shall be treated as making a distribution to him of an amount equal to the difference.

(3) Where a company—

- (a) repays any share capital, or has done so at any time after 6th April, 1965 ; and
- (b) at or after the time of that repayment (but not before the year 1966-67) issues as paid up otherwise than by the receipt



SCH. 11

of new consideration any share capital, not being redeemable share capital ;

the amount so paid up shall be treated as a distribution made in respect of the shares on which it is paid up, except in so far as that amount exceeds the amount or aggregate amount of share capital so repaid less any amounts previously so paid up and treated by virtue of this sub-paragraph as distributions.

*Matters to be treated or not treated as repayments  
of share capital*

2.—(1) Where—

- (a) a company issues any share capital as paid up otherwise than by the receipt of new consideration, or has done so after 6th April, 1965 ; and
- (b) any amount so paid up does not fall to be treated as a distribution ;

then for the purposes of paragraph 1 above distributions afterwards made by the company in respect of shares representing that share capital shall not be treated as repayments of share capital, except to the extent to which those distributions, together with any relevant distributions previously so made, exceed the amounts so paid up (then or previously) on such shares after that date and not falling to be treated as distributions.

(2) In sub-paragraph (1) above “ relevant distribution ” means so much of any distribution made in respect of shares representing the relevant share capital as apart from that sub-paragraph would be treated as a repayment of share capital, but by virtue of that sub-paragraph cannot be so treated.

(3) For the purposes of this paragraph all shares of the same class shall be treated as representing the same share capital, and where shares are issued in respect of other shares, or are directly or indirectly converted into or exchanged for other shares, all such shares shall be treated as representing the same share capital.

3.—(1) Where share capital is issued at a premium representing new consideration, the amount of the premium is to be treated as forming part of that share capital for the purpose of determining under this Part of this Schedule whether any distribution made in respect of shares representing the share capital is to be treated as a repayment of share capital :

Provided that this sub-paragraph shall not have effect in relation to any part of the premium after that part has been applied in paying up share capital.

(2) Subject to sub-paragraph (1) above, premiums paid on redemption of share capital are not to be treated as repayments of capital.

*“ New consideration ”*

4. In this Part of this Schedule “ new consideration ” means consideration not provided directly or indirectly out of the assets of the company, and in particular does not include amounts retained by the company by way of capitalising a distribution :

Provided that where share capital has been issued at a premium representing new consideration, any part of that premium afterwards applied in paying up share capital shall be treated as new consideration also for that share capital, except in so far as the premium has been taken into account under paragraph 3 above so as to enable a distribution to be treated as a repayment of share capital.

5. A distribution shall be treated under this Schedule as made, or consideration as provided, out of assets of a company if the cost falls on the company.

*Expressions relating to shares or securities*

6.—(1) In this Part of this Schedule “share” includes stock, and any other interest of a member in a company.

(2) References in this Part of this Schedule to issuing share capital as paid up apply also to the paying up of any issued share capital.

7.—(1) For purposes of this Part of this Schedule “security” includes securities not creating or evidencing a charge on assets, and interest paid by a company on money advanced without the issue of a security for the advance, or other consideration given by a company for the use of money so advanced, shall be treated as if paid or given in respect of a security issued for the advance by the company.

(2) Where securities are issued at a price less than the amount repayable on them, and are not quoted on a recognised stock exchange, the principal secured shall not be taken for the purposes of this Part of this Schedule to exceed the issue price, unless the securities are issued on terms reasonably comparable with the terms of issue of securities so quoted.

8.—(1) For purposes of this Part of this Schedule a thing is to be regarded as done in respect of a share if it is done to a person as being the holder of the share, or as having at a particular time been the holder, or is done in pursuance of a right granted or offer made in respect of a share; and anything done in respect of shares by reference to share holdings at a particular time is to be regarded as done to the then holders of the shares or the personal representatives of any share holder then dead.

(2) Sub-paragraph (1) above shall apply in relation to securities as it applies in relation to shares.

## PART II

### EXTENDED MEANING FOR CLOSE COMPANIES

9.—(1) In relation to a close company “distribution” includes, unless otherwise stated,—

- (a) any interest or other consideration paid or given by the company to a director who is not a whole-time service director, but is a participator, for the use of money advanced

SCH. 11

by any person, or to a person who is an associate of such a director for the use of money so advanced ;

(b) any annuity or other annual payment paid by the company to a participator, other than interest ;

1956 c. 74.

(c) any rent, royalty or other consideration paid or given by the company to a participator for the use of property other than money or, in the case of tangible property or of copyright in a literary, dramatic, musical or artistic work within the meaning of the Copyright Act 1956 (or any corresponding right under the law of a country to which that Act does not extend), so much of any such consideration as represents more than a reasonable commercial consideration ;

(d) any such amount as is required to be treated as a distribution by sub-paragraph (2) below.

(2) Where a close company incurs expense in or in connection with the provision for any participator of living or other accommodation, of entertainment, of domestic or other services or of other benefits or facilities of whatever nature the company shall be treated as making a distribution to him of an amount equal to so much of that expense as is not made good to the company by the participator :

1952 c. 10.

Provided that this sub-paragraph shall not apply to expense incurred in or in connection with the provision of benefits or facilities for a person to whom section 161 of the Income Tax Act 1952 applies as a director or employee of the company, or the provision for the spouse, children or dependants of any such person of any pension, annuity, lump sum, gratuity or other like benefit to be given on his death or retirement.

(3) Any reference in sub-paragraph (2) above to expense incurred in or in connection with any matter includes a reference to a proper proportion of any expense incurred partly in or in connection with that matter, and section 162 of the Income Tax Act 1952 (valuation of benefits in kind provided for directors or employees) shall apply for purposes of sub-paragraph (2) above as it applies for purposes of section 161, references to sub-paragraph (2) above being substituted for references to section 161(1) and references to a body corporate including any company.

(4) Where each of two or more close companies makes a payment to a person who is not a participator in that company, but is a participator in another of those companies, and the companies are acting in concert or under arrangements made by any person, then each of those companies and any participator in it shall be treated as if the payment made to him had been made by that company.

This sub-paragraph shall apply, with any necessary adaptations, in relation to the giving of any consideration and to the provision of any facilities as it applies in relation to the making of a payment.

(5) In this paragraph any reference to a participator includes an associate of a participator.

## SCHEDULE 12

Sections  
48, 71 and 85.

## SUPPLEMENTARY PROVISIONS ABOUT TAX ON DISTRIBUTIONS, ETC.

## PART I

*Procedure etc. for payments by and repayments to companies*

1.—(1) Any income tax for which a company resident in the United Kingdom is liable to account in respect of distributions made by it in any year of assessment after the year 1965-66, or in respect of any payments made by it in any such year other than distributions, shall in accordance with paragraph 2 below be accounted for and paid during or on the expiration of the year, subject to such set off as is available to the company under paragraph 3 below against income tax on franked investment income or on payments received subject to deduction of tax other than franked investment income.

(2) If it appears after the end of any such year of assessment either—

(a) that in respect of distributions made by the company in the year the company is liable to account for income tax to an amount greater than the income tax (if any) borne by it on franked investment income received in the year and on any surplus of franked investment income carried forward to the year ; or

(b) that in respect of payments made by the company in the year other than distributions the company is liable to account for income tax to an amount greater than the income tax (if any) borne by it by deduction on payments received in the year other than franked investment income ;

and the amount paid by and not repaid to the company in respect of the year in accordance with sub-paragraph (1) above is less than the amount of the excess referred to in paragraph (a) or (b) of this sub-paragraph, the company shall be liable to pay the difference between the two last-mentioned amounts.

(3) The amount which a company is liable to pay for any year of assessment under sub-paragraph (2) above, if or in so far as it is not agreed between the company and the inspector or is not paid in pursuance of such an agreement, shall be recovered by means of an assessment made on the company.

(4) Nothing in this Part of this Schedule shall apply to income tax for which a company is liable to account under section 157 (pay as you earn) of the Income Tax Act 1952 ; but in section 27(1) of the Finance Act 1960 (payments for interest on securities sold cum dividend) the reference to section 170(2) of the Income Tax Act 1952 shall include a reference to this Part of this Schedule. 1952 c. 10.  
1960 c. 44.

2.—(1) A company shall from time to time make to the collector returns of all distributions and payments made by it to which paragraph 1 above applies, and shall in any such return specify any amount of dividends included therein which has been paid under

SCH. 12 deduction of tax notwithstanding that an election under section 48(3) of this Act was in force in relation thereto.

(2) A return under this paragraph of distributions and payments made in any month shall be made within fourteen days from the end of the month, except that a return for the first five months of the year 1966-67 shall be made within fourteen days of the end of those five months; and any claim under paragraph 3 below shall be made at the like times.

In this sub-paragraph "month" means a month of a year of assessment, that is to say, a month beginning with the sixth day of a month of the calendar year.

(3) Subject to sub-paragraph (5) below, income tax in respect of any payment required to be included in a return under this paragraph shall be due at the time by which the return is to be made, and income tax so due shall be payable by the company without the making of any assessment.

(4) Income tax in respect of distributions included in a return, not being payments, shall be assessed on the company; and if it appears to the inspector that there are distributions (of whatever description) which ought to have been and have not been included in a return, or if the inspector is dissatisfied with any return, he may make an assessment on the company to the best of his judgment.

(5) Where a company is liable to pay income tax in respect of any payment if, but only if, it amounts to or involves a distribution, and it is not in the circumstances apparent whether or how far it does so, then—

- (a) particulars of the payment shall be included in the return under this paragraph; but
- (b) sub-paragraph (3) above shall not apply to the payment and income tax in respect of it shall be assessed as in the case of distributions other than payments.

3.—(1) Where in the year 1966-67 or any later year of assessment a company resident in the United Kingdom receives franked investment income, or receives any payment on which it bears income tax by deduction, the company may claim to have the income tax thereon brought into account under this paragraph.

(2) If on the making of any such claim it is shown by the required evidence that income tax has been or will be paid in respect of any franked investment income or payment included in the claim, that tax shall be set against any income tax which the company has paid or is liable to pay in respect of distributions or other payments included in returns made under paragraph 2 above for the same year of assessment, and (where necessary) income tax paid by the company before the claim is allowed shall be repaid accordingly.

(3) Where, on a claim made under this paragraph for any year of assessment, account would be taken of distributions made by

the company in the year, and the company has a surplus of franked investment income carried forward to that year (and not already dealt with under this paragraph), the claim shall so state and the income tax on the surplus shall under sub-paragraph (2) above be set against income tax on distributions made by the company (but not against income tax on other payments).

SCH. 12

(4) Section 9 of the Income Tax Management Act 1964 shall apply to a claim under this paragraph. 1964 c. 37.

4. Income tax set against other tax under paragraph 3 above shall be treated as paid or repaid, as the case may be, and the same tax shall not be taken into account both under this Part of this Schedule and under section 48(6) of this Act ; but for purposes of section 48(6) any amount paid by a company by virtue of paragraph 1(2)(a) above shall be treated as if it were income tax borne by deduction on a payment not being franked investment income, and as if that payment had been received at the end of the year of assessment for which the said amount is paid, and the said amount shall be set off against corporation tax or repayable accordingly.

5.—(1) Income tax assessed on a company under this Schedule shall, subject to any appeal against the assessment, be due within fourteen days after the issue of the notice of assessment (unless due earlier under paragraph 2(3) above) ; and where the amount of any tax payable in accordance with paragraph 1(2) above is agreed between the company and the inspector, it shall be due within fourteen days after it is so agreed.

(2) Sections 63 and 66 of the Income Tax Act 1952 (which make special provision for Schedule D in relation to appeals and to the correction of mistakes) shall apply to any assessment made by virtue of this Schedule as if it were an assessment under Schedule D, and section 13 of the Income Tax Management Act 1964 shall have effect accordingly. 1952 c. 10.

(3) Section 495 of the Income Tax Act 1952 (interest on overdue income tax) shall apply in relation to income tax assessable in accordance with this Schedule as it applies to income tax charged by an assessment under Schedule D, except that subsection (2) and paragraph (a) of subsection (3) (remission of interest on tax less than three months overdue and on assessments for less than one thousand pounds) shall not apply.

(4) Nothing in the foregoing provisions of this Schedule shall be taken to prejudice any powers conferred by the Income Tax Acts for the recovery of income tax by means of an assessment or otherwise.

(5) Subject to the foregoing provisions of this Schedule the Board may by statutory instrument make regulations with respect to the procedure to be adopted for giving effect to section 48 of this Act, and as to the information and evidence to be furnished by a company in or in connection with any return or claim made for purposes thereof.

*Payments received from subsidiary or jointly owned company*

6.—(1) An election (that is to say in this Part of this Schedule, an election under section 48(3) of this Act) shall be made by notice in writing to the inspector, and the notice shall set out the facts necessary to show that the companies are entitled to make the election.

(2) An election shall not have effect in relation to dividends paid less than three months after the giving of the notice and before the inspector is satisfied that the election is validly made, and has so notified the companies concerned; but shall be of no effect if within those three months the inspector notifies the companies concerned that the validity of the election is not established to his satisfaction:

Provided that the companies shall have the like right of appeal against any decision that the validity of the election is not established as the company paying the dividends would have if it were an assessment made on that 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.

(3) An election shall cease to be in force if at any time the companies cease to be entitled to make the election, and on that happening each company shall forthwith notify the inspector.

(4) Either of the companies making an election may at any time give the inspector notice in writing revoking the election; and any such notice shall have effect from the time it is given.

7.—(1) Section 48(3) of this Act shall not apply to dividends received by a company on any investments, if a profit on the sale of those investments would be treated as a trading receipt of that company.

(2) Section 48(3) shall not apply to dividends paid by a company to another unless both are bodies corporate.

8. Where a company purports by virtue of an election to pay any dividends without deduction of income tax, and income tax ought to have been deducted, then the company receiving the dividends shall be treated for purposes of sections 47 and 48 of this Act as if that tax had been deducted and been repaid to it under Part I of this Schedule, and the amount of that tax may be recovered from it accordingly by adjustment of the payments and repayments under Part I or otherwise.

9.—(1) For purposes of section 48(3) of this Act a body corporate shall be deemed to be a subsidiary of another body corporate if and so long as more than one half of its ordinary share capital is owned by that other body corporate, whether

directly or through another body corporate or other bodies corporate, or partly directly and partly through another body corporate or other bodies corporate.

SCH. 12

(2) In determining under this paragraph whether one body corporate is a subsidiary of another, that other shall be treated as not being the owner—

- (a) of any share capital which it owns directly or indirectly in a body corporate not resident in the United Kingdom ; or
- (b) of any share capital which it owns indirectly, and which is owned directly by a body corporate for which a profit on the sale of the shares would be a trading receipt.

10. References to ownership and to ordinary share capital in section 48(3) of this Act and in this Part of this Schedule shall be construed in accordance with section 42(3) of the Finance Act 1938 ; and, except in so far as paragraph 9(2) above provides otherwise, section 42(2) of that Act, together with Part I of Schedule 4, shall apply for purposes of paragraph 9 above as they applied for purposes of that section. 1938 c. 46.

11. This Part of this Schedule shall apply for purposes of section 48(7) of this Act, with the necessary adaptations of references to dividends, as it applies for purposes of section 48(3).

## SCHEDULE 13

Sections  
55 and 82.

### CHARGEABLE GAINS OF COMPANIES

#### PART I

#### GROUPS OF COMPANIES

##### *Interpretation*

1. For purposes of this Part of this Schedule—

- (a) references to a company apply only to a company resident in the United Kingdom, and only to a company within the meaning of the Companies Act 1948 or the corresponding enactment in force in Northern Ireland and to a registered industrial and provident society within the meaning of section 442 of the Income Tax Act 1952 ; 1948 c. 49.  
1952 c. 10.
- (b) a principal company and all its subsidiaries form a group, and where a principal company is a member of a group as being itself a subsidiary, that group shall comprise all its subsidiaries ;
- (c) “ subsidiary ” has the meaning assigned to it for certain purposes of the profits tax by section 42 of the Finance Act 1938 except that in the application of that section any share



## SCH. 13

capital of a registered industrial and provident society shall be treated as within the definition of ordinary share capital, and "principal company" means a company of which another company is a subsidiary.

*Transfers within the group*

2.—(1) Notwithstanding any provision in Part III of this Act fixing the amount of the consideration deemed to be received on a disposal or given on an acquisition, where a member of a group of companies disposes of an asset to another member of the group, both members shall, except as provided by sub-paragraphs (2) and (3) below, be treated, so far as relates to corporation tax on chargeable gains, as if the asset acquired by the member to whom the disposal is made were acquired for a consideration of such amount as would secure that on the other's disposal neither a gain nor a loss would accrue to that other; but where it is assumed for any purpose that a member of a group of companies has sold or acquired an asset, it shall be assumed also that it was not a sale to or acquisition from another member of the group.

(2) Sub-paragraph (1) above shall not apply where the disposal is—

- (a) a disposal of a debt due from a member of a group of companies effected by satisfying the debt or part of it; or
- (b) a disposal of redeemable shares in a company on the occasion of their redemption;

and the reference in that sub-paragraph to a member of a group of companies disposing of an asset shall not apply to anything which under Schedule 7 to this Act is to be treated as a disposal of an interest in shares in a company in consideration for a capital distribution (as defined in paragraph 3 of that Schedule) from that company, whether or not involving a reduction of capital.

(3) For the purposes of sub-paragraph (1) above, so far as the consideration for the disposal consists of money or money's worth by way of compensation for any kind of damage or injury to assets, or for the destruction or dissipation of assets or for anything which depreciates or might depreciate an asset, the disposal shall be treated as being to the person who, whether as an insurer or otherwise, ultimately bears the burden of furnishing that consideration.

3.—(1) Where a member of a group of companies acquires an asset as trading stock from another member of the group, and the asset did not form part of the trading stock of any trade carried on by the other member, the member acquiring it shall be treated for purposes of paragraph 1 of Schedule 7 to this Act as having acquired the asset otherwise than as trading stock and immediately appropriated it for the purposes of the trade as trading stock.

(2) Where a member of a group of companies disposes of an asset to another member of the group, and the asset formed part

of the trading stock of a trade carried on by the member disposing of it but is acquired by the other member otherwise than as trading stock of a trade carried on by it, the member disposing of the asset shall be treated for purposes of paragraph 1 of Schedule 7 to this Act as having immediately before the disposal appropriated the asset for some purpose other than the purpose of use as trading stock.

SCH. 13

*Disposal or acquisition outside the group*

4. Where a member of a group of companies disposes of an asset acquired from another member of the group, paragraph 6 of Schedule 6 to this Act shall apply in relation to any capital allowances made to the other member (so far as not taken into account in relation to a disposal of the asset by that other member), and so on as respects previous transfers of the asset between members of the group (but this shall not be taken as affecting the consideration for which an asset is deemed under paragraph 2(1) above to be acquired).

5. Part II of Schedule 6 to this Act shall apply in relation to a disposal of an asset by a member of a group of companies which acquired the asset from another member of the group, as if all members of the group for the time being were the same person, and as if the acquisition or provision of the asset by the group, so taken as a single person, had been the acquisition or provision of it by the member disposing of it.

6. For purposes of the provisions of this Act relating to capital gains tax in connection with the replacement of trade assets, all the trades carried on by members of a group of companies shall be treated as a single trade (unless it is a case of one member of the group acquiring, or acquiring the interest in, the new assets from another or disposing of, or of the interest in, the old assets to another).

*Recovery of tax*

7.—(1) If at any time a chargeable gain accrues to a company which at that time is a member of a group of companies and any of the corporation tax assessed on the company for the accounting period in which the chargeable gain accrues is not paid within six months from the date when it becomes payable by the company, then, if the tax so assessed included any amount in respect of chargeable gains,—

- (a) a company which was at that time when the gain accrued the principal company of the group; and
- (b) any other company which in any part of the period of two years ending with that time was a member of the said group of companies and owned the asset disposed of or any part of it, or where that asset is an interest or right in or over another asset, owned either asset or any part of either asset;

may at any time within two years from the time when the tax became payable be assessed and charged (in the name of the company

SCH. 13 to whom the chargeable gain accrued) to an amount of that corporation tax not exceeding corporation tax on the amount of that gain at the rate in force when the gain accrued.

(2) A company paying any amount of tax under the foregoing sub-paragraph shall be entitled to recover a sum of that amount—

(a) from the company to which the capital gain accrued ; or

(b) if that company is not the company which was the principal company of the group at the time when the capital gain accrued, from that principal company ;

and a company paying any amount under paragraph (b) shall be entitled to recover a sum of that amount from the company to which the capital gain accrued, and so far as it is not so recovered, to recover from any company which is for the time being a member of the group and which has while a member of the group owned the asset disposed of or any part of it (or where that asset is an interest or right in or over another asset, owned either asset or any part of it) such proportion of the amount unrecovered as is just having regard to the value of the asset at the time when the asset, or an interest or right in or over it, was disposed of by that company.

## PART II

### RECOVERY OF TAX FROM PERSONS RECEIVING DISTRIBUTIONS

8.—(1) This paragraph applies where a person who is connected with a company resident in the United Kingdom receives or becomes entitled to receive in respect of shares in the company any capital distribution from the company, other than a capital distribution representing a reduction of capital, and—

(a) the capital so distributed derives from the disposal of assets in respect of which a chargeable gain accrues to the company ; or

(b) the distribution constitutes such a disposal of assets.

(2) If the corporation tax assessed on the company for the accounting period in which the chargeable gain accrues included any amount in respect of chargeable gains, and any of the tax assessed on the company for that period is not paid within six months from the date when it becomes payable by the company, the said person may by an assessment made within two years from that date be assessed and charged (in the name of the company) to an amount of that corporation tax—

(a) not exceeding the amount or value of the capital distribution which that person has received or become entitled to receive ; and

(b) not exceeding a proportion equal to that person's share of the capital distribution made by the company of corporation

tax on the amount of that gain at the rate in force when the gain accrued.

SCH. 13

(3) A person paying any amount of tax under this paragraph shall be entitled to recover a sum equal to that amount from the company.

(4) The provisions of this paragraph are without prejudice to any liability of the person receiving or becoming entitled to receive the capital distribution in respect of a chargeable gain accruing to him by reference to the capital distribution as constituting a disposal of an interest in shares in the company.

(5) In this paragraph "capital distribution" has the same meaning as in paragraph 3 of Schedule 7 to this Act, and "connected with" shall be construed in accordance with paragraph 21 of that Schedule.

## SCHEDULE 14

Section 63.

### ADAPTATION OF SYSTEM OF CAPITAL ALLOWANCES

#### PART I

#### GENERAL

#### *Vocabulary*

1.—(1) The following provisions of this paragraph shall have effect for the construction of this Schedule and of the enactments thereby amended.

(2) "Chargeable period" means an accounting period of a company or a year of assessment; and

(a) a reference to a "chargeable period or its basis period" is a reference to the chargeable period if it is an accounting period and to the basis period for it if it is a year of assessment;

(b) a reference to a "chargeable period related to" expenditure, or a sale or other event, is a reference to the chargeable period in which, or to that in the basis period for which, the expenditure is incurred or the sale or other event takes place, and means the latter if, but only if, the chargeable period is a year of assessment.

(3) "Tax", where neither corporation tax nor income tax is specified, means either of those taxes, and references to tax for a chargeable period shall be construed, in relation to corporation tax, as referring to the tax for any financial year which is chargeable in respect of that period.

(4) A reference to allowances or charges being made in taxing a trade is a reference to their being made in computing the trading income for corporation tax or in charging the profits or gains of the trade to income tax.

SCH. 14

(5) Where it is provided that writing-down allowances shall be made in respect of any expenditure during a writing-down period of a specified length, there shall for any chargeable period wholly or partly comprised in the writing-down period be made an allowance equal to the appropriate fraction of the expenditure; and, subject to any provision to the contrary, the appropriate fraction is such fraction of the writing-down period as falls within the chargeable period:

Provided that the aggregate amount of the allowances made whether to the same or to different persons, together with the amount of any initial allowance (but not any investment allowance), shall not exceed the amount of the expenditure.

(6) "Writing-down allowance", where the reference is partly to years of assessment before the year 1966-67, includes an annual allowance in the sense which in the context that phrase had immediately before the commencement of this Act.

#### *General amendments*

1952 c. 10.

2.—(1) Except as otherwise provided by this Schedule, Parts X and XI of the Income Tax Act 1952 and any other provision of the Income Tax Acts which is to be treated as included in the said Part X or XI shall be amended in accordance with this paragraph.

(2) For the expression "annual allowance" there shall be substituted the expression "writing-down allowance".

(3) For any reference to the year of assessment in the basis period for which anything happened there shall be substituted a reference to the chargeable period related to that happening.

(4) For any other reference to the basis period for a year of assessment there shall be substituted a reference to a chargeable period or its basis period (any words particularising the year of assessment attaching to the chargeable period).

(5) For any other reference to a year of assessment there shall be substituted a reference to a chargeable period.

(6) For any reference to charging the profits or gains of a trade there shall be substituted a reference to taxing the trade.

(7) For any reference to income tax there shall be substituted a reference to tax, and for any reference to the Income Tax Acts there shall be substituted a reference to the Corporation Tax Acts or the Income Tax Acts.

(8) The foregoing sub-paragraphs shall not have effect to amend any reference to a named year of assessment, or to amend any expression where in the context it is used only of years of assessment before the year 1966-67 and cannot relate to corporation tax.

(9) Except in so far as the context otherwise requires, in any provision of the Income Tax Acts which is not referred to in sub-paragraph (1) above any reference to an allowance or charge for

a year of assessment under a provision which is referred to in subparagraph (1) shall include the like allowance or charge for an accounting period of a company, and any reference to the making of an allowance or charge in charging profits or gains of a trade shall be construed as a reference to making it in taxing a trade. SCH. 14

3. Where any enactment amended by this Schedule provides for the amount of a writing-down allowance to be determined by reference to a fraction or percentage, specified numerically, of any expenditure or other sum, or by reference to a percentage determined or deemed to be determined for a year of assessment, then (except as otherwise provided in Part IV of this Schedule) for a chargeable period of less than a year the fraction or percentage shall be proportionately reduced; and similarly with the amounts by reference to which writing-down allowances for certain vehicles are limited by section 41(3) and (where it applies) (6) of the Finance Act 1963. 1963 c. 25.

4. Any provision of the Income Tax Acts whereby, for any purpose of the enactments amended by this Schedule, a trade is, or is not, to be treated as permanently discontinued or a new trade as set up and commenced on its being so treated by virtue of section 19 of the Finance Act 1953 shall apply in like manner in the case of a trade so treated by virtue of any provision of Part IV of this Act, other than the provision about companies ceasing to be overseas trade corporations. 1953 c. 34.

## PART II

### INDUSTRIAL BUILDINGS: DREDGING

#### *Industrial buildings*

5. For section 266(2) of the Income Tax Act 1952 there shall be substituted— 1952 c. 10.

“(2) Where the interest in a building or structure which is the relevant interest in relation to any expenditure is sold while the building or structure is an industrial building or structure, then (subject to any further adjustment under this subsection on a later sale) the writing down allowance for any chargeable period, if that chargeable period or its basis period ends after the time of the sale, shall be the residue (as defined in section 268(1) of this Act) of that expenditure immediately after the sale, reduced in the proportion (if it is less than one) which the length of the chargeable period bears to the part unexpired at the date of the sale of the period of twenty-five years (or, where the expenditure was incurred before 6th November 1962, fifty years) beginning with the time when the building or structure was first used.”

6.—(1) For section 267(1) proviso of the Income Tax Act 1952 there shall be substituted:—

“Provided that no balancing allowance or balancing charge shall be made by reason of any event occurring more than twenty-five years (or, where the expenditure was incurred before 6th November 1962, fifty years) after the building or structure was first used.”

SCH. 14  
1952 c. 10.

(2) For section 267(4) of the Income Tax Act 1952 there shall be substituted :—

“ (4) Where a balancing charge falls to be made on a person, and any part of the relevant period (as defined for purposes of this subsection) is not comprised in a chargeable period for which a writing down allowance or scientific research allowance has been made to him or its basis period, the amount on which the balancing charge is to be made shall be reduced in the proportion which the part or parts that are so comprised bear to the whole of the relevant period.

In this subsection ‘the relevant period’ means the period beginning when the building or structure was first used for any purpose and ending—

- (a) if the event giving rise to the balancing charge occurs on the last day of a chargeable period or its basis period, with that day ; or
- (b) if not, with the latest date before that event which is the last day of a chargeable period or its basis period :

Provided that where, before the said event (but not before the appointed day), the building or structure has been sold while an industrial building or structure, the relevant period shall begin with the day following that sale or, if there has been more than one such sale, the last such sale.”

(3) In section 267(6) of the Income Tax Act 1952 (which restricts a balancing charge by reference to the total of the allowances made to the person chargeable, exclusive of any investment allowance) for the words “for years of assessment his basis periods for which end on or before the date of the event which gives rise to the charge” there shall be substituted the words “for chargeable periods which end on or before the date of the event giving rise to the charge or of which the basis periods end on or before that date.”

(4) In section 323(3) of the Income Tax Act 1952 (under which a balancing allowance for the last year of assessment of a trade may in special cases be carried back to earlier years) for the words from “so, however,” onwards there shall be substituted the words “so, however, that allowances shall not be given by virtue of this subsection for periods together amounting to more than five years (inclusive of any period for which an allowance might be made but cannot be given effect for want of profits or gains) otherwise than by giving a proportionately reduced allowance for a chargeable period of which part is required to make up the five years.”

(5) In the case of a company no allowance shall be given by virtue of section 323(3) of the Income Tax Act 1952 so as to create or augment a loss in any accounting period ; and where on a company ceasing to carry on a trade a claim is made both under the said section 323(3) and under section 59 of this Act the allowance for which the claim is made under section 323(3) shall be disregarded for purposes of the claim under section 59, but effect shall be given to the claim under section 59 in priority to the claim under section 323(3).

(6) In Schedule 19 to the Income Tax Act 1952, in paragraph 6(1) (which adjusts the effect on certain other reliefs of a balancing allowance reduced by the fraction specified in section 267(4)) for the words "the same fraction, and the same fraction only, of the" there shall be substituted the words "only a proportionately reduced." SCH. 14  
1952 c. 10.

7.—(1) For section 268(5) of the Income Tax Act 1952 there shall be substituted the following subsection:—

"(5) If, for any period or periods between the time when the building or structure was first used for any purpose and the time at which the residue of the expenditure falls to be ascertained, the building or structure has not been in use as an industrial building or structure, then, subject to the provisions of the next following subsection, there shall in ascertaining that residue be treated as having been previously written off in respect of the said period or periods amounts equal to writing-down allowances made for chargeable periods of a total length equal thereto at such rate or rates as would have been appropriate having regard to any sale on which section 266(2) of this Act operated".

(2) In section 268(10) of the Income Tax Act 1952 (which deals with Crown land and provides for writing off certain amounts as if the land were owned and used by a person other than the Crown) after the words "other than the Crown" in paragraph (a) there shall be inserted the words "and other than a company"; and accordingly paragraph 2(4) and (5) of this Schedule shall not apply to amend section 268(10)(d).

(3) A building or structure shall not, for purposes of section 268(5) of the Income Tax Act 1952, be treated by virtue of either of the provisions to which this sub-paragraph applies as having been an industrial building or structure before the year of assessment for which that provision first had effect.

This sub-paragraph applies—

- (a) to section 25 of the Finance Act 1952 (buildings of tunnel undertakings); and
- (b) section 17 of the Finance Act 1953 (fishing, and overseas farming and forestry).

8. In section 271 of the Income Tax Act 1952 (which defines an industrial building or structure) there shall be added at the end as a new subsection (6):—

"(6) For purposes of this Chapter references to use as an industrial building or structure do not apply, in the case of a building or structure outside the United Kingdom, to use for the purposes of a trade at a time when the profits or gains of the trade are not assessable in accordance with the rules applicable to Case I of Schedule D."

9. In section 276 of the Income Tax Act 1952, in the words "the same or any previous or subsequent year of assessment", the word "other" shall be substituted for the words "previous or subsequent".



## SCH. 14

*Dredging*

1956 c. 54.

10.—(1) In section 17(1) of the Finance Act 1956 (dredging) for the words from “there shall be made” onwards there shall be substituted the following paragraphs:—

- “(a) an initial allowance equal to one-twentieth of the expenditure shall be made for the first relevant chargeable period to the person incurring the expenditure; and
- (b) writing-down allowances shall be made in respect of that expenditure to the person for the time being carrying on the trade during a writing-down period of twenty-five years (or, where the expenditure was incurred before 6th November 1962, fifty years) beginning with the first relevant chargeable period, but where a writing-down allowance falls to be made for a year of assessment to such a person, and he is within the charge to income tax in respect of the trade for part only of that year, that part shall be treated as a separate chargeable period for the purposes of computing allowances under this section.”

Accordingly in section 17(4) there shall be omitted the words from “and” onwards.

1954 c. 44.

(2) In section 17(3) of the Finance Act 1956 for the words “section 17 of the Finance Act 1954” there shall be substituted the words “section 61(2) of the Finance Act 1965”.

(3) In section 17(11) of the Finance Act 1956, in the words “the same or any previous or subsequent year of assessment”, the word “other” shall be substituted for the words “previous or subsequent”.

## PART III

## MACHINERY AND PLANT

11. Paragraph 2(5) of this Schedule shall not apply to substitute references to a chargeable period for references to a year of assessment—

1952 c. 10.

- (a) in section 281(2), 282(2) or 287 of the Income Tax Act 1952 (under which are determined the percentages to be used in calculating writing-down allowances by the normal and by the alternative method); or
- (b) where the reference is to the period for which a percentage is determined or deemed to be determined, in section 35 of the Finance Act 1963;

1963 c. 25.

but in section 287(3) of the Income Tax Act 1952 for the words “income tax” there shall be substituted the word “tax”.

12.—(1) In section 291(1) of the Income Tax Act 1952 (annual allowances where previous use has not attracted full annual allowances) for the words “during any previous year of assessment”

there shall be substituted the words “ before that chargeable period ”, and section 291(2) shall be amended as follows:— SCH. 14

(a) in paragraph (a) for the words “ income tax ” there shall be substituted the word “ tax ”; and

(b) at the end of the subsection there shall be added:—

“ In the case of a company paragraph (a) above shall not alter the periods which are to be taken as chargeable periods, but if during any time after the year 1965-66, and after the company acquired the machinery or plant, the company has not been within the charge to corporation tax, any year of assessment or part of a year of assessment falling within that time shall be taken as a chargeable period as if it had been an accounting period of the company.”

(2) Section 295 of the Income Tax Act 1952 (which applies 1952 c. 10. section 291 for purposes of balancing allowances and charges) shall have effect accordingly, and in section 295(2) for the words “ income tax ” there shall be substituted the word “ tax ”.

13. In section 297(b) of the Income Tax Act 1952 (meaning of “ expenditure unallowed ”) for the words “ or for a year of assessment the basis period for which ended before the time in question ” there shall be substituted the words “ or for any other chargeable period if that chargeable period or its basis period ended before the time in question ”.

14. In section 304 of the Income Tax Act 1952 in the words “ the same or any previous or subsequent year of assessment ” the word “ other ” shall be substituted for the words “ previous or subsequent ”.

15.—(1) In section 72 of the Finance Act 1960 (business or estate 1960 c. 44. management expenditure) the references to management expenses claims shall be amended in accordance with the following subparagraphs.

(2) In subsection (3) for the words from “ be made ”, where secondly occurring, to “ as the case may be ” there shall be substituted the words “ for purposes of Case VIII of Schedule D be made in computing his profits or gains ”, and there shall be omitted in the proviso the words from “ whether ” onwards.

(3) In subsection (7) for the words from “ in a management expenses claim ” to “ may be made ” there shall be substituted the words “ by notice in writing to the inspector ”, and for the words from “ effect ” to “ business ” there shall be substituted the words “ an assessment in respect of the business for that or a subsequent chargeable period has been finally determined without such an election ”.

(4) In subsection (8) for the words “ on a management expenses claim ”, where first occurring, there shall be substituted “ under section 56(8) of the Finance Act 1965 ” and for the words “ any management expenses claim or assessment under Case VIII of

SCH. 14 Schedule D” there shall be substituted the words “any assessment to tax”.

(5) In subsection (11) for the words “on a management expenses claim in respect of the business” there shall be substituted the words “within the meaning of section 57 of the Finance Act 1965”.

#### PART IV

##### MINES, OIL-WELLS, ETC.

1952 c. 10. 16. In section 307(3) of the Income Tax Act 1952 (which makes special provision about the amount of annual allowances for the last six years of working a mine etc., or of a foreign concession) for the reference to the year of assessment in which the event occurs and each of the five previous years of assessment there shall be substituted a reference to any chargeable period beginning within the six years which end with the date of the event.

1952 c. 33. 17.—(1) Section 22 of the Finance Act 1952 (contributions by mining concerns to public services etc., outside the United Kingdom) shall be amended in accordance with the following sub-paragraphs.

(2) In subsection (1) for the words from “for each of the ten relevant years of assessment” onwards there shall be substituted the words “writing-down allowances shall be made to him in respect of that expenditure during a writing-down period of ten years beginning with the chargeable period related to the expenditure”; and subsection (5) shall be omitted.

(3) In subsection (3) (which provides in effect that on a sale of the relevant mine etc., any remaining allowances shall be transferred from the vendor to the purchaser) for paragraph (b) there shall be substituted—

“(b) for the part of the writing-down period remaining at the beginning of the last chargeable period for which an allowance is made to the first-mentioned person, allowances shall be made to the second-mentioned person as if he had incurred the expenditure for the purposes of the said trade, but so that the allowance for a chargeable period not wholly comprised in that part of the writing-down period shall be proportionately reduced”.

1963 c. 25. 18.—(1) In section 37(1) of the Finance Act 1963 (which provides for the making of annual allowances for mineral depletion in the United Kingdom) for the words “any year of assessment the basis period for which ends after the incurring of the expenditure” there shall be substituted the words “the chargeable period related to the expenditure and subsequent chargeable periods”.

(2) Paragraph 3 of this Schedule shall not apply to fractions mentioned in section 37(2) of the Finance Act 1963 so as to reduce writing-down allowances under that section.

## PART V

SCH. 14

## AGRICULTURAL LAND AND BUILDINGS

19.—(1) Section 314 of the Income Tax Act 1952 (allowances for 1952 c. 10. capital expenditure on farm buildings and works) shall be amended in accordance with the following sub-paragraphs.

(2) In subsection (1) the words “the year preceding any year of assessment” shall be omitted, and for the words from “he shall be entitled” onwards there shall be substituted the words “writing-down allowances shall be made to him in respect of that expenditure during a writing-down period of ten years beginning with the chargeable period related to that expenditure”.

(3) In subsection (4) for paragraphs (a) and (b) there shall be substituted—

“for the part of the writing-down period falling after the date of the transfer the person to whom the interest is transferred shall, to the exclusion of the person from whom it is transferred, be entitled to the allowances (any allowance to either of them for a chargeable period falling partly before and partly within that part of the writing-down period being reduced accordingly):

Provided that, where the interest transferred is in part only of the land, this subsection shall apply to so much of the allowance as is properly referable to that part of the land as if it were a separate allowance”.

(4) In subsection (7) for the words “In this section, references to the year preceding the year of assessment shall be construed as references to” there shall be substituted the words “For the purposes of this section the basis period of a chargeable period is” (the words “that chargeable period” being also substituted for the words “that year”).

## PART VI

## PATENTS

20.—(1) Section 316 of the Income Tax Act 1952 (annual allowances for capital expenditure on purchase of patent rights) shall be amended as follows:—

(a) in subsection (1) for the words from “for each of the relevant years of assessment” down to (but excluding) the proviso there shall be substituted the words “writing-down allowances in respect of that expenditure during the writing-down period as hereinafter defined”, and for the words “income tax” in proviso (b) there shall be substituted the word “tax”;

(b) in subsection (2) for the words preceding the proviso there shall be substituted the words “The writing-down period shall be the seventeen years beginning with the chargeable period related to the expenditure”;

SCH. 14

(c) subsection (3) shall be omitted.

(2) In section 317 of that Act for any reference to the relevant years of assessment there shall be substituted a reference to the writing-down period under section 316, but so that in subsection (4)(b) for "the number of the relevant years of assessment" there shall be substituted "the number of complete years of the writing-down period".

1952 c. 10.

21.—(1) In section 318 of the Income Tax Act 1952 (charges on capital sums received for sale of patent rights) for the words in subsection (1) from "for the year of assessment" down to (but excluding) the proviso there shall be substituted the words "for the chargeable period in which the sum is received by him and successive chargeable periods, being charged in each period on the same fraction of the sum as the period is of six years (or such less fraction as has not already been charged)."

(2) In section 318(2) of that Act the word "tax" shall mean income tax, unless the seller of the patent rights, being a company, would be within the charge to corporation tax in respect of any proceeds of the sale not consisting of a capital sum; and where the subsection applies to charge a company to corporation tax in respect of a sum paid to it, the proviso shall not apply, but the company may, by notice in writing given to the Board not later than two years after the end of the accounting period in which the sum is paid, elect that the sum shall be treated as arising rateably in the accounting periods ending not later than six years from the beginning of that in which the sum is paid (being accounting periods during which the company remains within the charge to corporation tax as aforesaid), and there shall be made all such payments of tax and assessments to tax as are necessary to give effect to any such election.

## PART VII

## SCIENTIFIC RESEARCH

22. In section 335 of the Income Tax Act 1952 for the words "income tax" there shall be substituted the word "tax".

23.—(1) In section 336 of the Income Tax Act 1952 there shall (except as regards expenditure incurred before 6th November 1962) be added at the end as subsection (6):—

"(6) Subsections (2) to (5) of this section shall apply only for purposes of income tax, and the relevant chargeable period for purposes of corporation tax shall be that in which the expenditure is incurred or, if it is incurred before the setting up and commencement of the trade, the chargeable period beginning when the trade is set up and commenced."

(2) If, in the case of expenditure incurred by a company before 6th November 1962, the five years of assessment referred to in section 336(1) of the Income Tax Act 1952, have not expired at or

before the end of the year 1965-66, allowances under that section shall be made for successive accounting periods without restriction of number, but so that—

SCH. 14

- (a) the allowance for an accounting period of less than a year shall be proportionately reduced; and
- (b) the aggregate of the allowances in respect of any expenditure (whether for years of assessment or for accounting periods) shall not exceed the amount of the expenditure.

(3) Accordingly in section 268(4) of the Income Tax Act 1952, after the words “section 336 of this Act” there shall be inserted the words “as at the end of the chargeable period or, if it is a year of assessment”.

1952 c. 10.

## PART VIII

### MISCELLANEOUS

24.—(1) In Chapter VI (miscellaneous and general) of Part X of the Income Tax Act 1952—

- (a) sections 323, 324 and 325 (making of allowances and charges, and meaning of “basis period”), except section 323(3), shall not have effect in relation to corporation tax, and accordingly shall not be amended in accordance with paragraph 2 of this Schedule;
- (b) in section 329(1) (procedure on apportionments etc. affecting the liability to income tax of different persons) for the words “liability to income tax (for whatever year of assessment)” there shall be substituted the words “liability to tax (for whatever period)”;
- (c) in section 330(1)(a) (under which a person incurring expenditure may not treat it as capital expenditure if it is deductible in computing trading income for purposes of income tax) for the words “income tax” there shall be substituted the word “tax”.

(2) Section 339(2) of the Income Tax Act 1952 shall not have effect in relation to corporation tax in so far as it applies section 323(2) for purposes of Part XI of that Act.

(3) Schedule 15 to the Income Tax Act 1952 (allowances for contributions to another’s capital expenditure) shall be amended as follows:—

- (a) in paragraph 2(a) for the words from “the annual allowance” onwards there shall be substituted the words “writing-down allowances for chargeable periods ending after the date of transfer shall be made to the transferee, and shall not be made to the transferor”; and
- (b) in paragraph 3(1) for the words from “the annual allowance” to “interest in the land” there shall be substituted the words “a writing-down allowance shall be made to a person for a chargeable period if at the end of that period he is entitled to the contributor’s interest in the land.”

- SCH. 14  
1953 c. 34. 25. In relation to the following enactments, that is to say,—
- 1954 c. 44. (a) section 25 of the Finance Act 1953 (postponement of capital allowances to secure double taxation relief);
- 1956 c. 54. (b) section 16 of the Finance Act 1954 and Schedule 2 to that Act (investment allowances);
- 1962 c. 46. (c) section 16 of the Finance Act 1956 (expenditure on cutting, tunnelling etc.);
- 1952 c. 10. (d) section 42(2) of the Transport Act 1962 (adjustment of Railways Board's capital allowances in connection with the Board's suspended debt);
- paragraph 2 of this Schedule shall apply as if those enactments were included in Part X of the Income Tax Act 1952; and in section 25(1) of the Finance Act 1953 for the words "income tax" there shall be substituted the word "tax".

## PART IX

## TRANSITIONAL

26. The amendments made by this Schedule shall not have effect in relation to income tax for the year 1965-66 or any earlier year of assessment, except in so far as it is affected by their operation in relation to corporation tax; but any computation falling to be made for the purposes of income tax for any such year of assessment shall, where necessary, proceed from a computation made in accordance with those amendments (and in particular a computation of the residue of expenditure under section 268(5) of the Income Tax Act 1952).

27.—(1) In connection with the transition for companies from income tax to corporation tax the enactments amended by this Schedule and any other provision of the Income Tax Acts relevant thereto shall have effect with such modifications as are necessary to preserve the continuity of the system of allowances and charges thereunder, so that in particular—

- (a) references to a previous chargeable period or to a subsequent chargeable period, or to a time before, or a time after, a chargeable period, shall have effect in relation to a company as if the year 1965-66 or any earlier year of assessment preceded that company's first accounting period for corporation tax;
- (b) in a case where an event gives rise to any allowance or charge as taking place in a chargeable period, an event taking place in the year 1964-65 or 1965-66 at a time falling also in a company's accounting period for corporation tax shall be taken into account as happening in that year and shall not be again taken into account, so as to duplicate the allowance or charge, as happening in the accounting period.

(2) Where it is provided that writing-down allowances are to be made for a specified period, allowances may be made for accounting

periods of a company falling wholly or partly within the year 1964-65 or 1965-66, notwithstanding that allowances are also made for that year and, in reckoning the period for which allowances are to be made, the periods for which allowances are so made shall be added together, notwithstanding that the same time is (according to the calendar) counted twice; and similarly with section 323(3) of the Income Tax Act 1952 (allowances on cessation of working of a source of mineral deposits). 1952 c. 10. SCH. 14

(3) Subject to sub-paragraph (2) above, this paragraph shall not be taken to require any time to be counted twice in reckoning duration.

28. Without prejudice to the generality of paragraph 27 above, such part of any allowances falling to be made to a company in taxing a trade as but for this Act might have been carried forward to the year 1966-67 under section 323(2) of the Income Tax Act 1952 may be dealt with under section 56(1) of this Act as if it were an allowance for the first accounting period for which the company is within the charge to corporation tax in respect of the trade (but shall be disregarded for purposes of section 58(2)); and allowances which might have been carried forward to that year under section 324(1) of that Act may be dealt with under section 56 of this Act as if carried forward under section 56(5).

## SCHEDULE 15

Section 63.

### MISCELLANEOUS ADAPTATIONS OF INCOME TAX ACTS FOR CORPORATION TAX

#### PART I

#### APPLICATION AND ADAPTATION OF ENACTMENTS

##### *The Income Tax Act 1952*

1. In section 125 of the Income Tax Act 1952 (woodlands) the references in subsection (2) to the year of assessment shall, in relation to corporation tax, be construed as references to the accounting period.

2. Section 202 of the Income Tax Act 1952 (which provides for the issue of funding bonds to be treated as payment of the interest) shall have effect for purposes of corporation tax.

3. In section 203(1) of the Income Tax Act 1952 (sale and repurchase of securities) paragraph (ii) shall in relation to corporation tax apply (subject to the provisions of this Act about distributions) to any interest within the meaning of that section, whether or not the securities are of such a character that the interest may be paid without deduction of tax; and section 416(3) of that Act shall apply in like manner, and with the omission of the proviso.

4.—(1) Section 440 of the Income Tax Act 1952 shall be amended—

- (a) by adding at the end of subsection (1) (exemptions for friendly societies) the words “and any such unregistered or registered friendly society shall be entitled to exemption from tax in respect of chargeable gains”; and



SCH. 15

(b) by inserting in subsection (2) (exemptions for trade unions) at the end of the first paragraph the words "and to exemption from tax in respect of chargeable gains which are applicable and applied for the purpose of provident benefits".

1952 c. 10.

(2) Section 449 of the Income Tax Act 1952 (exemptions for scientific research associations) shall be amended by inserting in subsection (1) immediately before the proviso the words "and exemption from tax in respect of chargeable gains".

(3) Section 451 of the Income Tax Act 1952 (exemption of British Museum) shall be amended by adding at the end of subsection (1) the words "and exemption from tax in respect of chargeable gains".

(4) Section 460 of the Income Tax Act 1952 (Central Banks of India and Pakistan) shall be amended by inserting after the word "1947" the words "including chargeable gains so arising or accruing".

5. In section 468 of the Income Tax Act 1952 (removal of company or company's business overseas etc.) for the proviso to subsection (6) there shall be substituted, in relation to offences committed in or after the year 1966-67:—

"Provided that where the person in question is a body corporate which is or was resident in the United Kingdom, the maximum amount of the fine shall be three times the corporation tax, profits tax, capital gains tax and income tax paid or payable which is attributable to the income, profits or gains (including chargeable gains) arising in the thirty-six months immediately preceding the commission of the offence, or ten thousand pounds, whichever is the greater";

and in subsection (7) the reference to an income tax purpose shall include a corporation tax purpose.

6. Sections 482 to 484 of the Income Tax Act 1952 (which relate to nationalised industries) shall have effect for corporation tax as for income tax; and references to years of assessment, to charging the profits or gains of a trade, and to any provision of the Income Tax Act 1952, shall have effect accordingly as if they were or included references to accounting periods, to taxing a trade, and to the relevant provision of Part IV of this Act; but in section 484 there shall be omitted (as being spent) the references to the owner of the assets before the date of vesting.

7.—(1) As from the beginning of the year 1966-67, sections 491 and 492 of the Income Tax Act 1952 (which provide for adjusting under-deductions and over-deductions of income tax from certain payments made before the passing of an annual Act imposing the tax) shall be amended in accordance with the following subparagraphs.

(2) For section 491(3)(a) (by virtue of which section 491(2) has effect where too little tax is deducted under section 184 from preference dividends) there shall be substituted:—

"(a) any preference dividend within the meaning of Part IV of the Finance Act 1965 from which a deduction of tax may be made under the said Part IV; and".

(3) In section 492 (over-deductions by bodies corporate under section 169 from interest payments on securities or under section 184 from preference dividends)—

- (a) after the words “section 169” there shall be inserted the words “or section 170”; and
- (b) for the words “section 184 of this Act” there shall be substituted the words “Part IV of the Finance Act 1965”; and
- (c) at the end of the section there shall be added—  
 “In this section ‘preference dividend’ has the same meaning as in Part IV of the Finance Act 1965, and ‘share’ includes stock.”

8. Sections 495 to 497 of the Income Tax Act 1952 (interest on overdue tax) shall have effect for corporation tax as for income tax, references to accounting periods being substituted for references to years of assessment. 1952 c. 10.

9. In Schedule 20 to the Income Tax Act 1952 (assessment on the herd basis) the references in paragraph 2 to years of assessment shall, in relation to corporation tax, be construed as references to accounting periods.

#### *The Finance Act 1953*

10.—(1) Section 20 of the Finance Act 1953 (subvention payments) shall have effect subject to the following sub-paragraphs. 1953 c. 34.

(2) In relation to a time after the year 1965-66 “accounting period” in relation to any company shall mean its accounting period for corporation tax, and the question whether a company has a deficit or surplus for tax purposes, or what is the amount of that deficit or surplus, shall be ascertained by applying the rules applicable under Part IV of this Act to the computation of total profits for corporation tax (deducting any loss incurred in a trade from profits of any description), except that—

- (a) franked investment income shall be included other than income received by the company from its subsidiary or from a subsidiary of a third company of which it is also a subsidiary (“subsidiary” having for this purpose the meaning assigned to it for certain purposes of the profits tax by section 42 of the Finance Act 1938);
- (b) no regard shall be had to any deduction falling to be made in respect of losses, allowances or expenses of management of any other period, except any deduction falling to be made against chargeable gains in respect of losses incurred before the accounting period;
- (c) there shall be deducted any charges on income.

1938 c. 46.

(3) Where an accounting period of a company for corporation tax begins before but ends after the end of the year 1965-66, sub-paragraph (2) above shall apply, except that the deficit or surplus shall be ascertained separately for the part of the period falling in that year (according to the rules applying to that year) and for the

SCH. 15 part falling after it (in accordance with sub-paragraph (2) above), and shall be aggregated with, or as the case may be, set off against, the other to arrive at the deficit or surplus for the whole period.

(4) Where any period of account of a company beginning before the year 1966-67 is partly but not wholly comprised in an accounting period for corporation tax ending in that year, then the part not so comprised shall be treated for purposes of section 20 as a separate accounting period.

1958 c. 56. (5) In subsection (2) of section 20 for the words "second year of assessment" in the proviso (as amended by the Finance Act 1958) there shall, in relation to accounting periods ending after the year 1965-66, be substituted the words "second year".

1953 c. 34. 11. In section 23 of the Finance Act 1953 (elections for the herd basis after compulsory slaughter of farm animals) subsections (2) and (3) shall, in relation to corporation tax, have effect as if references to years of assessment were references to accounting periods, and with the omission of the proviso to each of those subsections.

#### *The Atomic Energy Authority Act 1954*

1954 c. 32. 12. In section 6(2) of the Atomic Energy Authority Act 1954 (which confers certain exemptions from income tax on the Authority and its pension fund) there shall be inserted as a new paragraph (e)—

"(e) tax in respect of chargeable gains";

and at the end of the final paragraph (which relates to the pension fund) there shall be added the words "and similarly with chargeable gains (the exemptions from corporation tax conferred on the Authority having effect as exemptions from income tax or capital gains tax)".

#### *The Finance Act 1957*

1957 c. 49. 13. In section 22 of the Finance Act 1957 there shall be inserted as a new subsection (1A):—

"(1A) A bank or issue department of a bank to which this section for the time being applies shall be exempt from tax in respect of chargeable gains accruing to it:

Provided that subsection (1) above may be applied to a bank or issue department without this subsection, or this subsection without that."

#### *The Finance Act 1960*

1960 c. 44.  
1952 c. 10. 14. In section 25(6) of the Finance Act 1960 for the reference to section 346 of the Income Tax Act 1952 there shall be substituted a reference to the corresponding provision of this Act.

15. In the Finance Act 1960—

(a) in section 28(2) for the reference to section 256(2) and (3) of the Income Tax Act 1952 there shall be substituted a reference to paragraph 3 of Schedule 18 to this Act; and

(b) for section 28(11) proviso there shall be substituted:— SCH. 15

“ Provided that there shall be disregarded any amount received by a company by way of dividend from an associated company in so far as the dividend is paid out of income arising to the company paying it since the two companies became associated companies, and Schedule 17 to the Finance Act 1965 shall with the necessary modifications apply for determining the extent to which the dividend was so paid ” ; and

(c) in section 29 (power to obtain information), and in the definition of “ tax advantage ” in section 43(4)(g), the references to income tax shall include corporation tax ;

and (without prejudice to any general provision of this Act for the continuity of income tax and corporation tax) in relation to tax advantages related to corporation tax the said section 28 shall apply to transactions taking place before the charge to corporation tax becomes effective.

16. In the Finance Act 1960, the references in section 33(4) to a 1960 c. 44.  
company to which section 245 of the Income Tax Act 1952 applies, 1952 c. 10.  
not being an investment company, and to Chapter III of Part IX  
of that Act shall include references to a close company and to section  
78 of this Act and the other provisions of this Act having effect  
for purposes of that section.

#### *The Finance Act 1962*

17. Section 22 of the Finance Act 1962 (taxation of Gas Council 1962 c. 44.  
and Area Boards) shall apply in relation to corporation tax as it  
applied in relation to income tax.

#### *The Finance Act 1963*

18.—(1) Schedule 4 to the Finance Act 1963 shall have effect 1963 c. 25.  
subject to the following sub-paragraphs.

(2) In relation to a company the references in paragraph 15(1) to a year of assessment shall not be read as references to an accounting period, but any deduction authorised by that paragraph shall be apportioned between the accounting periods (if more than one) comprising the year of assessment ; and for the references in paragraph 15(1) to a company to which section 245 of the Income Tax Act 1952 applies and to a director or member of it within the meaning of Chapter III of Part IX of that Act there shall be substituted references to a close company and to a director of or participator in it within the meaning of Part IV of this Act.

(3) In relation to a company the references in paragraph 16 to a year of assessment shall not be read as references to an accounting period, but any deduction authorised by that paragraph shall be apportioned between the accounting periods (if more than one) comprising the year of assessment, other than any such period ended before the expenditure is incurred or transfer takes place by virtue of which the company is entitled to the deduction.

SCH. 15 (4) In paragraph 17, sub-paragraph (3)(b) shall not have effect in relation to a company.

1963 c. 25. 19. In Schedule 8 to the Finance Act 1963, paragraph 5(a) shall not have effect in relation to a company.

## PART II

### CONTINUITY OF LOSS RELIEF AND OTHER MATTERS

#### *Trade losses*

1952 c. 10. 20.—(1) For purposes of section 341 of the Income Tax Act 1952 the question whether a company has sustained a loss in a trade in the year 1964-65 or the year 1965-66, and any question as to the amount of a loss so sustained, shall not be affected by the company being within the charge to corporation tax in respect of the trade for the whole or part of that year, but subject to sub-paragraph (2) below, a company shall not be entitled to relief by virtue of that section except against income tax for years of assessment before the year 1966-67, and section 15(3) of the Finance Act 1953 and section 20 of the Finance Act 1954 shall apply accordingly in relation to claims by a company for losses sustained in, but not after, the year 1964-65.

1953 c. 34.  
1954 c. 44.

(2) Where in the year 1965-66 a company is entitled to claim relief under section 341 of the Income Tax Act 1952 in respect of any loss (including any amount treated as a loss under section 20 of the Finance Act 1954), the company may claim that such part, if any, of that loss as cannot be relieved against income tax for that year shall be deducted or set off against profits arising in the year 1965-66, otherwise than from any trade carried on by the company, being profits in respect of which the company would otherwise be chargeable to corporation tax, and in so far as the loss arose in the year 1965-66 and cannot be so deducted or set off against profits arising in that year, that it shall be deducted from or set off against any such profits so arising in the year 1966-67; and up to the amount of the deduction or set off those profits shall be excluded accordingly from any assessment to corporation tax (the relief in any year of assessment being given as far as may be against profits of an earlier, rather than the profits of a later, accounting period).

(3) Relief in respect of the same matter shall not be given both in a manner authorised under this paragraph and in some other manner.

21.—(1) Where a company has before the year 1966-67 incurred a loss in a trade carried on by it, such part, if any, of that loss as but for this Act might have been carried forward to that year under section 342 of the Income Tax Act 1952 may be dealt with under section 58(1) or (7) of this Act as if it were a loss incurred by the company while within the charge to corporation tax in respect of the trade, but incurred in an accounting period ending at the time when the company in fact comes within the charge to tax in respect of the trade.

(2) This paragraph shall apply to any amount which by virtue of section 345 of the Income Tax Act 1952, or of paragraph 3 of Schedule 3 to the Finance Act 1954, might be dealt with under section 342 as a loss incurred by a company in a trade as if that amount were a loss so incurred; but where section 345 applies by virtue of section 443(1)(b) of that Act to any amount of share interest or loan interest paid by a registered industrial and provident society, this sub-paragraph shall not have effect except in relation to so much of the said amount as represents share interest or loan interest paid before the society comes within the charge to corporation tax in respect of its trade. SCH. 15  
1952 c. 10.  
1954 c. 44.

#### *Losses within Case VI*

22. Where a company resident in the United Kingdom has incurred a loss in respect of which relief might be given under section 346 of the Income Tax Act 1952 against income tax for the year 1965-66 or an earlier year of assessment, then in so far as relief cannot be so given the loss may be dealt with under section 60 of this Act as if it had been incurred in the accounting period of the company beginning first after the date when the loss arose; but except in accordance with this paragraph relief shall not be given against corporation tax in respect of a loss if relief can be given in respect of it under the said section 346.

#### *Expenses of management*

23.—(1) No deduction shall be made under section 57 of this Act (or under that section as applied by section 69) in respect of sums disbursed as expenses of management in or before the year 1965-66, or in respect of any amounts which are by virtue of any enactment to be treated as sums so disbursed, in so far as relief can be given in respect thereof under section 425 of the Income Tax Act 1952 or under that section as applied by any other enactment; but in so far as relief cannot be so given, the amount unrelieved shall be treated for purposes of section 57 or 69 of this Act as an amount disbursed as expenses of management for the first accounting period for which the company is within the charge to corporation tax in respect of the business.

(2) Where sub-paragraph (1) above has effect the company may by notice in writing given not later than twelve months after the end of the accounting period specified in the notice elect to treat such an amount of sums disbursed as expenses of management as is specified in the notice (being an amount not exceeding the total of the sums so disbursed in the said accounting period) as an amount unrelieved for the purpose of sub-paragraph (1), and where such a notice is given the amount so treated shall not be available for relief under section 425 of the Income Tax Act 1952.

#### *Terminal losses*

24.—(1) Where a company carrying on a trade at the beginning of the year 1966-67 ceases to do so within four years of coming

SCH. 15 within the charge to corporation tax in respect of it, section 59 of this Act shall apply, with any necessary adaptations, so as to enable relief to be given under that section against income tax for years of assessment before 1966-67 in so far as relief cannot be given against corporation tax, but so that—

1954 c. 44.

- (a) where relief is given against income tax, section 18(4) of the Finance Act 1954 shall apply as it applies in relation to the corresponding relief under that section ; and
- (b) where section 59 of this Act has effect by virtue of this paragraph to reduce the profits of any period and income tax for more than one year of assessment has been computed wholly or partly by reference to those profits, such adjustment shall be made as may be necessary to prevent relief being given more than once.

(2) Where sub-paragraph (1) above has effect, and before the year 1966-67 there has been in the trade a relevant change within the meaning of Schedule 3 to the Finance Act 1954 (company reconstructions), section 59 of this Act and that sub-paragraph shall apply so as to enable a person carrying on the trade before the relevant change to be given relief in the like circumstances and to the like extent, as nearly as may be, as he might have been given relief under section 18 of the Finance Act 1954 by virtue of paragraph 5 of Schedule 3 to that Act.

#### *Continuation of elections etc.*

25.—(1) Where before the year 1966-67 a company has for purposes of income tax made any election or done any other act of a description which—

- (a) would have had continuing effect for income tax for that year or, if revocable, would have had continuing effect unless revoked ;
- (b) may also be made for corporation tax ;

then that election or act shall for corporation tax be valid and effectual as if duly made or done for that tax, and have effect from the beginning of the first accounting period for which the company is within the charge to corporation tax in respect of the matter in question.

(2) Accordingly where any such election or act is required to be made or done, if at all, at a particular time, no provision of this Act amending the enactment under which it is made or done so as to specify a different time in relation to corporation tax (whether by substituting a reference to the first accounting period for a reference to the first year of assessment in which anything takes place, or otherwise) shall be taken, unless the contrary intention appears, to invalidate any election or act duly made or done nor, where the time has passed for making or doing it for income tax, to extend the time in relation to corporation tax ; but nothing in this paragraph shall take away any right of revocation or variation.

- (3) This paragraph shall in particular apply— SCH. 15
- (a) to any election under section 125 of the Income Tax Act 1952 c. 10. 1952 to be assessed in respect of woodlands under Schedule D ;
  - (b) to any election for the herd basis under Schedule 20 to that Act ;
  - (c) to any election under paragraph 4 of Schedule 14 to that Act about capital allowances and charges after certain sales ;
  - (d) to any election under paragraph 7 of Schedule 4 to the Finance Act 1963 for land to be treated as a single estate 1963 c. 25. for the purpose of deductions under Case VIII of Schedule D.

## SCHEDULE 16

Section 64.

DOUBLE TAXATION RELIEF,  
AND OVERSEAS TRADE CORPORATIONS

## PART I

## DOUBLE TAXATION RELIEF

*Income Tax*

1. As from such year of assessment as Parliament may hereafter determine, paragraphs 2 and 3 below shall have effect in the case of persons resident in the United Kingdom in place of paragraphs 5, 6 and 8 of Schedule 16 to the Income Tax Act 1952, and shall be construed and have effect as if contained in that Schedule.

2.—(1) Where credit for foreign tax falls to be allowed in respect of any income, and income tax is payable by reference to the amount received in the United Kingdom, the amount received shall be treated for purposes of income tax as increased by the amount of the foreign tax in respect of the income, including in the case of a dividend underlying tax.

(2) Where credit for foreign tax falls to be allowed in respect of any income, and sub-paragraph (1) above does not apply, then in computing the amount of the income for purposes of income tax—

- (a) no deduction shall be made for foreign tax (whether in respect of the same or any other income) ; and
- (b) the amount of the income shall, in the case of a dividend, be treated as increased by any underlying tax.

(3) The amount of any income shall not be treated as increased under this paragraph by reference to any foreign tax not payable but falling to be taken into account for purposes of credit by virtue of section 17 of the Finance Act 1961 (foreign tax reliefs to promote 1961 c. 36. development).



SCH. 16

(4) In this paragraph “underlying tax” means in relation to a dividend tax which is not chargeable directly or by deduction in respect of the dividend but is to be taken into account in considering whether any, and if so what, credit is to be allowed against income tax in respect of the dividend.

3.—(1) The amount of the credit for foreign tax to be allowed to a person against income tax for any year of assessment shall not exceed the difference between the amounts of income tax which would be borne by him for the year (no credit being allowed for foreign tax)—

- (a) if he were charged to tax on his total income for the year, computed in accordance with paragraph 2 above; and
- (b) if he were charged to tax on the same income, computed in the same way, but excluding the income in respect of which the credit is to be allowed.

(2) Where credit for foreign tax is to be allowed in respect of income from more than one source sub-paragraph (1) above shall be applied successively to the income from each source, but so that on each successive application paragraph (a) shall apply to the total income exclusive of the income to which the sub-paragraph has already been applied.

(3) Without prejudice to sub-paragraphs (1) and (2) above the total credit to be allowed to a person against income tax for any year of assessment for foreign tax under all arrangements having effect by virtue of section 347 of the Income Tax Act 1952 shall not exceed the total income tax payable by him for that year of assessment, less any tax which he is entitled to charge against any other person.

1952 c. 10.

#### *Corporation Tax*

4.—(1) Where dividends are paid by a company resident in a territory outside the United Kingdom to a company resident in the United Kingdom which controls directly or indirectly not less than one-quarter of the voting power of the company paying the dividends, then for the purpose of allowing credit against corporation tax in respect of the dividends in accordance with Schedule 16 or 17 to the Income Tax Act 1952, any United Kingdom tax payable by the first-mentioned company in respect of its profits (whether income tax or corporation tax) and any tax so payable under the law of any territory outside the United Kingdom shall be taken into account as if it were tax payable under the law of the first-mentioned territory.

(2) For the purposes of this paragraph a company shall be deemed to control, directly or indirectly, not less than one-quarter of the voting power in another company if a third company having such control also controls directly or indirectly not less than one-half of the voting power in the first-mentioned company.

(3) In relation to dividends paid by a company resident in the Commonwealth territories, paragraph 3 of Schedule 17 to the Income Tax Act 1952 shall apply as if in that paragraph and (as they apply for purposes of that paragraph) in section 16 of the Finance Act 1964 and sub-paragraphs (1) and (2) above references to one-quarter of the voting power were references to one-tenth of the voting power. SCH. 16  
1952 c. 10.  
1964 c. 49.

5.—(1) Subject to sub-paragraph (2) below, where a company resident in the United Kingdom is charged to tax under Case I of Schedule D in respect of any insurance business carried on by it, and that business or any part of it is carried on through a branch or agency in a territory outside the United Kingdom, then in respect of dividends referable to that business which are paid to the company by companies resident in that territory any tax payable by those companies in respect of their profits under the law of that or any other territory outside the United Kingdom and any United Kingdom tax so payable (whether income tax or corporation tax) shall, in considering whether any, and if so what, credit is to be allowed under Schedule 16 or 17 to the Income Tax Act 1952, be taken into account as tax so payable under the law of the first-mentioned territory is taken into account in a case falling within paragraph 9 of Schedule 16.

(2) Credit shall not be allowed to a company by virtue of this paragraph for any financial year in respect of a greater amount of dividends paid by companies resident in any overseas territory than is equal to any excess of the relevant fraction of the company's total income in that year from investments (including franked investment income and group income) so far as referable to the said business over the amount of the dividends so referable which are paid to it in the year by companies resident in that territory and in respect of which credit may apart from this paragraph be allowed to it for tax not chargeable directly or by deduction.

(3) For purposes of sub-paragraph (2) above "the relevant fraction" is, in relation to any overseas territory, the fraction of which the numerator is the company's local, and the denominator the company's total, premium income in the financial year so far as referable to the said business, and premium income shall be deemed to be local premium income in so far as it consists of premiums under contracts entered into at or through a branch or agency in that territory by persons not resident in the United Kingdom.

6. As from such time as Parliament may hereafter determine, where, in the case of a company resident in the United Kingdom, credit for foreign tax falls to be allowed in respect of any income, then in computing the amount of the income for purposes of corporation tax paragraph 7 of Schedule 16 to the Income Tax Act 1952 shall not apply, but instead paragraph 2(2) to (4) above shall apply as they apply for purposes of income tax.

## SCH. 16

## PART II

## OVERSEAS TRADE CORPORATIONS

7. A company ceasing to be an overseas trade corporation by the operation of Part IV of this Act shall be treated for corporation tax as having at the beginning of the year 1966-67 ceased to carry on its trade and begun to carry on a new trade.

1957 c. 49.

8. Notwithstanding anything in Part IV of this Act, paragraph 4 of Schedule 4 to the Finance Act 1957 (under which an overseas trade corporation is to be treated as having received capital allowances) shall continue to have effect, whether for corporation tax or for income tax, in relation to a company ceasing by the operation of Part IV of this Act or otherwise to be an overseas trade corporation.

9.—(1) Where in the year 1965-66 dividends become due on shares in a company which is an overseas trade corporation, those dividends shall not by virtue of paragraph 7(1) of Schedule 5 to the Finance Act 1957 be related to any period ending after that year, in so far as so treating them would result in a greater amount being apportioned to the part of the period falling after that year than the amount which by virtue of section 83 of this Act is to be taken into account under sections 47(3) and 48.

(2) Where sub-paragraph (1) above applies to any dividends, so much of those dividends as would otherwise be, but cannot be, related to a period ending after the year 1965-66 shall be related in the first instance to the period of account in which they become due or, if that period ends after the year 1965-66, to the part of it falling within that year (the dividends, if any, which are to be taken into account under sections 47(3) and 48 of this Act being for this purpose taken as those becoming due later rather than those becoming due earlier).

Section 65.

## SCHEDULE 17

## SUPPLEMENTARY PROVISIONS ABOUT DIVIDEND STRIPPING

*Application of Schedule*

1. This Schedule has effect for the interpretation of section 65 of this Act ("the principal section") and for its modification in particular cases, and for transitional purposes relating to that section or section 4 of the Finance (No. 2) Act 1955.

1955 c. 17.  
(4 & 5 Eliz. 2).*Construction of references to holdings*

2.—(1) Subject to sub-paragraph (3) below, references to a holding in a company refer to a holding of shares, securities or rights by virtue of which the holder may receive distributions made by the company, but so that a person's holdings of different classes, and a person's holdings of the same class acquired at different times, shall be treated as separate holdings.

(2) Holdings of shares, securities or rights which differ in the entitlements or obligations they confer or impose shall be regarded as holdings of different classes.

(3) References to a holding in a company shall not apply, unless the contrary intention appears, to a holding consisting of shares which satisfy the following conditions:—

- (a) that they are fully paid and do not carry any right to dividends other than dividends at a rate per cent. of the nominal value of the shares which is fixed or fluctuates only with the standard rate of income tax; and
- (b) that the rights which they carry in respect of dividends and capital are comparable with those general for fixed-dividend shares quoted on stock exchanges in the United Kingdom; and
- (c) that no part of the share capital represented by the shares has at any time been treated as paid up otherwise than by the receipt by the company of new consideration.

(4) Sub-paragraph (3) above shall not operate in relation to any acquisition of such a holding as is there mentioned if either—

- (a) at the time of that acquisition dividends on the shares were more than twelve months in arrear and would or might become payable thereafter; or
- (b) as a sequel to or in contemplation of that acquisition or any related acquisition of a holding in the company (but before the making of the distribution which is in question under the principal section) there has been any alteration of the rights attached to the shares or, so as materially to affect those rights or the operation of those rights, any alteration of the rights attached to or comprised in holdings of any other class in the company.

For purposes of this sub-paragraph “related acquisitions” are acquisitions by the same person or by persons acting in concert and acquisitions together comprised in arrangements made by any person.

3.—(1) In the application of subsection (1)(a) of the principal section all the recipient’s holdings of the same class in the company are to be treated as ingredients constituting a single holding, together with such holdings of other persons as are mentioned below, except that no account shall be taken under any provision of this paragraph of a person’s holdings acquired before the year 1960-61.

(2) A person’s holding in a company shall be treated as an ingredient in the same holding as the recipient’s if the holdings are of the same class, and either—

- (a) the transaction in pursuance of which he acquired the holding in question and the transaction in pursuance of which the recipient acquired any holding of that class were entered into by them in concert or were together comprised in arrangements made by any person; or
- (b) he and the recipient are both dealers, and his trade as dealer is under the same control as that of the recipient.

SCH. 17  
1952 c. 10. For purposes of this sub-paragraph two trades shall be regarded as under the same control if they are carried on by persons one of whom is a body of persons over whom the other has control (within the meaning assigned to that expression by section 333 of the Income Tax Act 1952), or both of whom are bodies of persons under the control (as so defined) of a third person ; and for this purpose “ body of persons ” includes a partnership.

(3) A holding acquired in right of another holding shall be included under sub-paragraph (2)(a) above where that other holding would be so included ; and for this purpose holdings acquired in pursuance of an offer or invitation made in respect of any holdings in the company and restricted to the holders thereof shall be treated as acquired in right of their holdings.

#### *Time of acquisition*

4.—(1) A person having more than one holding of the same class in a company and selling or otherwise disposing of a part only shall be regarded as selling or disposing of a holding or part of a holding acquired earlier rather than one acquired later.

(2) Where at the time when a dealer’s trade is set up and commenced (or is to be treated in computing the trading income for corporation tax or income tax as set up and commenced) a holding is included in the trading stock, or profits from a sale of it would otherwise form part of the trading profits, the holding shall be regarded as having been acquired at that time ; but where there is a change in the persons engaged in carrying on a trade, and a new trade is not on that change to be so treated as set up and commenced, the principal section shall apply to the person so engaged after the change as if there had been done to or by him anything done to or by his predecessor since the time when the trade was set up and commenced (or is to be so treated as having been set up and commenced).

(3) A company acquiring from another company (neither of them being a dealer) a holding in a third company at a time when the three companies are associated shall, for the purpose of determining how far, if at all, a distribution made in respect of the holding is made out of profits arising to the third company since the acquisition, be treated as having acquired the holding at the time when that other company acquired it (or, if this sub-paragraph applies also to that acquisition, is to be treated as having acquired it) or at the time, if it is later, when the said three companies became associated.

For this purpose “ associated ” means as regards two companies, that one is a subsidiary of the other or both are subsidiaries of a third company and, as regards three or more companies, that one is associated with each of the others ; and a company shall be deemed to be a subsidiary of another if (within the meaning of section 42 of the Finance Act 1938) more than one-half of its ordinary share capital is owned by that other, whether directly or through one or more bodies corporate or partly directly and partly through one or more bodies corporate.

*Relation of distribution to profits*

SCH. 17

5.—(1) Subject to paragraph 7 below, the question how far a distribution made in respect of a holding of any class is to be treated as made out of profits arising to the company since the time when the holding was acquired shall be determined by taking the profits arising to the company since that time and seeing what proportion of that distribution and the distributions made with it on other holdings of the same class can be met out of those profits, after allowing for previous distributions made since that time on holdings of that class and for distributions made or not yet made on holdings not of that class (including any such holdings as are described in paragraph 2(3) above); and for this purpose there shall be treated as included in any distribution or part of a distribution the income tax thereon for which the company is liable to account under this Act.

(2) The allowance to be made under sub-paragraph (1) above for previous distributions made since the time there referred to on holdings of the same class is the amount which, in the case of those distributions, is treated under that sub-paragraph as made out of the profits arising to the company since that time.

(3) The allowance to be made under sub-paragraph (1) above for distributions on holdings not of the class in question shall be such amount, whether fixed or proportionate to the amount of the profits, as ought justly and reasonably to be set aside for making such distributions, having regard to the respective rights comprised in or attaching to holdings in the company, and on the assumption that the total amount available for distributions by the company over any period will be proportionately greater or less than the profits taken into account under sub-paragraph (1) above, according as that period is longer or shorter than the period so taken into account; and regard may be had to the fact (if it is so) that distributions for which allowance is to be made under this sub-paragraph have been treated for purposes of the principal section as paid wholly or partly out of profits arising before the period so taken into account.

6.—(1) For purposes of paragraph 5 above, the profits arising to a company in the period between a person's acquisition of a holding and the making of a distribution on the holding shall be arrived at by ascertaining in accordance with the following sub-paragraphs the profits or loss for any accounting period wholly or partly comprised in that period and, where necessary, by the division and aggregation or apportionment of the profits or losses so ascertained.

(2) Except as provided by sub-paragraph (3) below, the profits for any accounting period shall be ascertained according to the rules applicable under Part IV of this Act to the computation for corporation tax of the total profits of the company (losses of any description except those related to chargeable gains being deducted from profits of any description), except that—

(a) franked investment income and group income shall be included; and

(b) no regard shall be had—

(i) to any investment allowances, initial allowances or balancing charges, to any scientific research allowance in

SCH. 17

respect of expenditure incurred after 5th November 1962 or to so much of any writing down 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 ; or

(ii) to any deduction falling to be made in respect of losses, allowances or expenses of management of any other period, except any deduction falling to be made against chargeable gains in respect of losses incurred before the accounting period ; or

(iii) to any restriction on the deduction that may be made for directors' remuneration ;

(c) there shall be deducted—

(i) any charges on income ; and

(ii) the corporation tax payable by the company in respect of the accounting period and any surtax paid by it in that period under section 249 of the Income Tax Act 1952 as applied by the provisions of Part IV of this Act about close companies.

This sub-paragraph shall apply for ascertaining a loss sustained by a company in an accounting period as it applies for ascertaining the profits of a company for an accounting period.

(3) Where a company has a holding in another body corporate resident in the United Kingdom, and—

(a) that holding was acquired by it before the recipient acquired his holding in the company ; and

(b) on the assumption that the company's holding and any other relevant holdings in the body corporate were acquired when the recipient acquired his holding in the company, the company's holding in the body corporate would be treated for purposes of the principal section as amounting to, or being an ingredient in a holding amounting to, ten per cent. of all holdings of the same class in the body corporate ;

then any distribution made to the company in respect of that holding shall be brought into account under sub-paragraph (2) above only to the extent to which it would, on the said assumption, be treated under this Schedule as made out of profits arising to the body corporate since the time when the holding was acquired :

Provided that this sub-paragraph shall not apply to a distribution which, on the said assumption, would fall within subsection (8) of the principal section.

#### *Transitional*

7.—(1) For the application of section 4 of the Finance (No. 2) Act 1955 to dividends paid before the year 1966-67 the profits or gains arising in any period from a trade shall, notwithstanding that those profits or gains are within the charge to corporation tax, be computed in accordance with paragraph 5(2)(a) of Schedule 3 to that Act as if they were within the charge to income tax.

1963 c. 25.

1952 c. 10.

1955 c. 17  
(4 & 5 Eliz. 2).

(2) As regards distributions made in or after the year 1966-67 in respect of holdings acquired before that year,— SCH. 17

- (a) paragraphs 5 and 6(1) and (2) above shall be applied in relation to the period beginning with that year, as if the acquisition had been made at the beginning of that year, and paragraph 6(3) shall not apply ; but
- (b) as regards the period before the beginning of that year there shall be ascertained, as if for purposes of section 4 of the Finance (No. 2) Act 1955, whether there were profits of the company arising since the date of the acquisition and available at the beginning of that year for payment of the distribution or, if not, whether the company had incurred a loss between the date of the acquisition and the beginning of that year, and any such profits or loss shall be brought into account under paragraph 6(2) above by adding the amount of the profits or deducting the amount of the loss in the computation for the accounting period or part of an accounting period ending first after the beginning of that year. 1955 c. 17  
(4 & 5 Eliz. 2).

8.—(1) As respects dividends paid before the year 1966-67 section 4 of the Finance (No. 2) Act 1955 shall have effect for corporation tax notwithstanding the exclusion from the charge to corporation tax of distributions received from companies resident in the United Kingdom ; and any other enactment operating by reference to the said section 4 shall apply accordingly.

(2) Where—

- (a) a company carries on a trade other than such a trade as is mentioned in subsection (1) of section 4 of the Finance (No. 2) Act 1955 ; or
- (b) the business of a company consists wholly or mainly in the making of investments ;

and in the year 1965-66 the company receives a dividend the net amount of which would, if the company carried on such a trade as is mentioned in the said subsection (1), be required to any extent to be brought into account for tax purposes as a trading receipt which has not borne tax, then so much of the said net amount as would have been required to be brought into account as aforesaid shall for the purpose of corporation tax in respect of chargeable gains be treated as if it were a capital distribution (within the meaning of Part III of this Act) received in respect of the stock or shares on which the dividend is paid, and to that extent paragraph 2(1) of Schedule 6 to this Act shall not apply thereto.

## SCHEDULE 18

Section 79.

### SUPPLEMENTARY PROVISIONS ABOUT CLOSE COMPANIES

#### PART I

#### INTERPRETATION GENERALLY

#### *“Close company” and “associated company”*

1.—(1) For purposes of Part IV a “close company” is one which is under the control of five or fewer participators or of



SCH. 18 participators who are directors, except that the expression does not apply—

1952 c. 10.

- (a) to a company not resident in the United Kingdom ; or
- (b) to a registered industrial and provident society within the meaning of section 442 of the Income Tax Act 1952, or to a building society within the meaning of section 445 of that Act or any other company to which section 445 applies ; or
- (c) to a company controlled by or on behalf of the Crown, and not otherwise a close company ; or
- (d) to a company falling within sub-paragraph (4) below.

(2) Subject to sub-paragraph (4) below, a company resident in the United Kingdom (but not falling within sub-paragraph (1)(b) above) is also a close company if, on the assumption that it is so or on the assumption that it and any other such company or companies are so, more than half of any amount falling under Part IV of this Act to be apportioned for purposes of surtax in the case of the company could be apportioned among five or fewer participators or among participators who are directors.

(3) A company is not to be treated as being at any time a close company if shares in the company carrying not less than thirty-five per cent. of the voting power in the company (and not being shares entitled to a fixed rate of dividend, whether with or without a further right to participate in profits) have been allotted unconditionally to, or acquired unconditionally by, and are at that time beneficially held by, the public, and any such shares have within the preceding twelve months been the subject of dealings on a recognised stock exchange, and the shares have within those twelve months been quoted in the official list of a recognised stock exchange ; but for this purpose shares shall not be deemed to be allotted to, or acquired or held by, the public if they are allotted to, or acquired or held by—

- (a) any director or associate of a director of the company ; or
- (b) any company which is under the control of any such director or associate or of two or more persons each of whom is such a director or associate ; or
- (c) any associated company of the company.

In this sub-paragraph “ share ” includes “ stock ”.

(4) A company is not to be treated as a close company in any case where—

- (a) by reason of beneficial ownership of shares in the company the control of it is in the hands of a company which is not a close company or of two or more companies none of which is a close company ; and
- (b) it could only be treated as a close company as being under the control of five or fewer participators, and it cannot be so treated except by taking as one of the participators a company which is not a close company ;

but so that references in this sub-paragraph to a close company shall be construed as applying to any company which, if resident in the United Kingdom, would be a close company.

(5) For the purposes of this paragraph a company is to be treated as controlled by or on behalf of the Crown if, but only if, it is under the control of the Crown or of persons acting on behalf of the Crown, independently of any other person; and where a company is so controlled, it shall not be treated as being otherwise a close company, unless it can be treated as a close company as being under the control of persons acting independently of the Crown.

2. For purposes of the provisions of this Act relating to close companies, a company is to be treated as another's "associated company" at a given time if at that time, or at any time within one year previously, one of the two has control of the other or both are under the control of the same person or persons.

*"Control"*

3.—(1) For purposes of this Schedule a person shall be taken to have control of a company—

(a) if he exercises, or is able to exercise, or is entitled to acquire, control, whether direct or indirect, over the company's affairs, and in particular, but without prejudice to the generality of the preceding words, if he possesses or is entitled to acquire, the greater part of the share capital or voting power in the company; or

(b) if he possesses or is entitled to acquire, either—

(i) the greater part of the issued share capital of the company; or

(ii) such part of that capital as would, if the whole of the income of the company were in fact distributed to the members, entitle him to receive the greater part of the amount so distributed; or

(iii) such redeemable share capital as would entitle him to receive on its redemption the greater part of the assets which, in the event of a winding up, would be available for distribution among members; or

(c) if in the event of a winding up he would be entitled to the greater part of the assets available for distribution among members.

Where two or more persons together satisfy any of the conditions in paragraphs (a) to (c) above, they shall be taken to have control of the company.

(2) In sub-paragraph (1) above "member" includes any person having a share or interest in the capital or income of the company, and for purposes of that sub-paragraph a person shall be treated as entitled to acquire anything which he is entitled to acquire at a future date or will at a future date be entitled to acquire; but for the purposes of sub-paragraph (1)(b)(iii) and (c) any such loan creditor as is mentioned in paragraph 4(1)(b) below may be treated as a member (and the references to share capital as including loan capital).

SCH. 18

(3) For purposes of sub-paragraph (1) above there shall be attributed to any person any rights or powers of a nominee for him, that is to say, any rights or powers which another person possesses on his behalf or may be required to exercise on his direction or behalf.

(4) For purposes of sub-paragraph (1) above there may also be attributed to any person all the rights and powers of any company of which he has, or he and associates of his have, control or any two or more such companies, or of any associate of his or of any two or more associates of his, including those attributed to a company or associate under sub-paragraph (3) above but not those attributed to an associate under this sub-paragraph; and such attributions shall be made under this sub-paragraph as will result in the company being treated as under the control of five or fewer participators, if it can be so treated.

*“ Participator ” and “ associate ”*

4.—(1) For purposes of Part IV a “ participator ” is, in relation to any company, a person having a share or interest in the capital or income of the company and, without prejudice to the generality of the preceding words, includes—

- (a) any person who possesses or is entitled to acquire share capital or voting rights in the company;
- (b) any person who is a loan creditor of the company otherwise than in respect of any loan capital or debt issued or incurred by the company for money lent by him to the company in the ordinary course of a business of banking carried on by him;
- (c) any person who possesses or is entitled to acquire a right to receive or participate in distributions of the company (as defined in Part I of Schedule 11 to this Act) or any amounts payable by the company (in cash or in kind) to loan creditors by way of premium on redemption;
- (d) any person who is entitled to secure that income or assets (whether present or future) of the company will be applied directly or indirectly for his benefit.

(2) In sub-paragraph (1) above references to being entitled to do anything apply where a person is presently entitled to do it at a future date or will at a future date be entitled to do it; and “ loan creditor ” means a creditor in respect of any redeemable loan capital issued by the company or in respect of any debt incurred by the company, being a debt—

- (a) for money borrowed or capital assets acquired by the company; or
- (b) for any right to receive income created in favour of the company; or
- (c) for consideration the value of which to the company was (at the time when the debt was incurred) substantially less than the amount of the debt (including any premium thereon).

5. For purposes of the provisions of this Act relating to close companies, including this Schedule, “associate” means, in relation to a participator,—

SCH. 18

- (a) a person in any of the following relationships to the participator, that is to say, husband or wife, parent or remoter forebear, child or remoter issue, brother or sister, and partner ;
- (b) the trustee or trustees of any settlement in relation to which the participator is, or any such relative of his (living or dead) as is mentioned in sub-paragraph (a) above is or was, a settlor (“settlement” and “settlor” here having the same meaning as in Chapter III of Part XVIII of the Income Tax Act 1952, and “relative” including a husband or wife) ;
- (c) where the participator is interested in any shares or obligations of the company which are subject to any trust or are part of the estate of a deceased person, any other person interested therein ;

1952 c. 10.

and has a corresponding meaning in relation to a person other than a participator.

*“ Director ” and “ whole-time service director ”*

6.—(1) For purposes of the provisions of this Act relating to close companies, including this Schedule, “director” and “whole-time service director” have the meanings assigned to them by this paragraph.

(2) “Director” includes any person occupying the position of director by whatever name called, any person in accordance with whose directions or instructions the directors are accustomed to act and any person who—

- (a) is a manager of the company or otherwise concerned in the management of the company’s trade or business ; and
- (b) is remunerated out of the funds of that trade or business ; and
- (c) is, either on his own or with one or more associates, the beneficial owner of, or able, directly or through the medium of other companies or by any other indirect means, to control twenty per cent. or over of the ordinary share capital of the company (“ordinary share capital” here meaning all the issued share capital, by whatever name called, other than capital the holders whereof have a right to a dividend at a fixed rate or a rate fluctuating in accordance with the standard rate of income tax, but have no other right to share in the profits of the company).

(3) “Whole-time service director” means a director who is required to devote substantially the whole of his time to the service of the company in a managerial or technical capacity, and is not, either on his own or with one or more associates, the beneficial owner of, or able, directly or through the medium of other companies or by any other indirect means, to control, more than five per cent. of the ordinary share capital of the company (“ordinary share capital” here having the same meaning as in sub-paragraph (2)(c) above):

SCH. 18

Provided that a person is not to be treated as a whole-time service director if, on an amount equal to the whole distributable income of the company (computed without regard to the restriction on deductions for directors' remuneration) falling under Part IV of this Act to be apportioned for purposes of surtax, more than five per cent. of that amount could be apportioned to him together with his associates (if any).

## PART II

PROVISIONS SPECIALLY RELATED TO SHORTFALLS IN OR  
APPORTIONMENT OF DISTRIBUTIONS*Descriptions of profits or income*

7.—(1) The “distributable profits” of a company for an accounting period shall be the amount on which corporation tax falls finally to be borne, less the amount of that tax, but with additions equal to—

- (a) any deduction made by virtue of section 87 of this Act by way of allowance in respect of any source of income; and
- (b) any franked investment income, less the amount of any relief given against it for management expenses or charges on income;
- (c) any group income.

(2) The “distributable income” of a company for an accounting period shall be the amount of the distributable profits exclusive of the part attributable to chargeable gains, which shall be taken to be the amount of the chargeable gains on which corporation tax is finally borne less the amount of that tax.

(3) The “distributable investment income” of a company for an accounting period shall be the amount of the distributable income exclusive of the part attributable to estate or trading income and less whichever is the smaller of—

- (a) ten per cent. of the estate or trading income; and
- (b) £200 or, if the accounting period is of less than twelve months, a proportionately reduced amount.

(4) The “estate or trading income” of a company means the income of the following descriptions:—

- (a) income which is not investment income for purposes of paragraph 8(1) below; and
- (b) income which is chargeable to tax under Schedule B or which is chargeable to tax under Schedule D and, not being yearly or other interest, arises from the ownership or occupation of land (including any interest in or right over land) or from the letting furnished of any building or part of a building.

(5) The amount for part of an accounting period of any description of income referred to in this paragraph shall be a proportionate part of the amount for the whole period, and, in determining the amount for any period of any description of income, any deduction from the company's profits for charges on income, expenses of management or other amount deductible from profits of more than one description shall be treated as made from such profits, and in such proportions from those profits, as is appropriate.

*“Trading company” and “trading group”*

SCH. 18

8.—(1) For purposes of the provisions of this Act relating to close companies, including this Schedule, a “trading company” is any company which exists wholly or mainly for the purpose of carrying on a trade and any other company whose income does not consist mainly of investment income, that is to say, income which, if the company were an individual, would not be earned income; but for this purpose any amount which is apportioned to a company under this Act, and any such amount as, in relation to a company to which section 245 of the Income Tax Act 1952 applied, is directed 1952 c. 10. by any enactment to be treated as investment income, shall be deemed to be income of the company and to be investment income.

(2) For the said purposes a company is to be treated as a “member of a trading group” if, but only if—

- (a) it exists wholly or mainly for the purpose of co-ordinating the administration of a group of two or more companies each of which is under its control and exists wholly or mainly for the purpose of carrying on a trade; or
- (b) it is under the control of another company resident in the United Kingdom and not itself under the control of a third company, and it exists wholly or mainly for the purpose of a trade or trades carried on by that other company or by a group which, consisting of that other company and a company or companies also under its control and resident in the United Kingdom, exists wholly or mainly for the purpose of carrying on the said trade or trades:

Provided that a company shall not be treated as a member of a trading group by reason of any company having the control of another, if that control is exercised through a company which is not resident in the United Kingdom or through a company whose control depends on a holding a profit on the sale of which would be treated as a trading receipt of the company.

*Amounts to be taken into account as distributions for accounting periods*

9.—(1) For the purpose of the provisions of this Act relating to shortfalls in the distributions of a close company the distributions for an accounting period shall be taken, subject to sub-paragraph (2) below, to consist of—

- (a) any dividends which are paid for the period and paid during or within twelve months after the period; and
- (b) any amount by which the directors’ remuneration paid for the period exceeds the deduction allowed for it in computing the income of the period; and
- (c) all distributions made in the period except dividends which in relation to any previous period would fall under paragraph (a) above.

(2) Where a period of account is not an accounting period, dividends which, if it were an accounting period, would be treated under sub-paragraph (1)(a) above as distributions for that accounting period shall be apportioned to any accounting period or part of an accounting period falling within the period of account in proportion to the distributable income of each such period or part.

SCH. 18

1952 c. 10.

*Procedure*

10. The following provisions of the Income Tax Act 1952 (which relate to appeals and to powers to obtain information) that is to say, section 248(2) and (3), section 250(3), (4) and (5) and section 264, shall apply in relation to section 78 of this Act with the necessary adaptations, references to a company to which section 245 of that Act applies or to an investment company being read as references to a close company and, in section 264(1), as extending to any company which appears to the Board to be a close company; and the powers conferred on the Board in relation to section 78 of this Act by the said sections 250(3) and 264 shall be exercisable by the inspector in relation to section 77 of this Act.

11.—(1) A close company may, at any time after the general meeting at which the accounts for any period of account are adopted, forward to the inspector a copy of those accounts, together with a copy of the report, if any, of the directors for that period, and such further information, if any, as it may think fit, and may request the inspector to proceed under this paragraph in relation to any accounting period comprised in that period of account:

Provided that this sub-paragraph shall not apply if the company is neither a trading company nor a member of a trading group and has no estate or trading income.

(2) Where the inspector receives a request made in accordance with sub-paragraph (1) above in relation to any accounting period, then subject to sub-paragraph (3) below he shall, within three months after receipt of the request, intimate to the company whether or not he proposes to make an assessment on the company in respect of the accounting period under section 77 of this Act.

(3) On receiving a request made in accordance with sub-paragraph (1) above the inspector may, not later than three months after receipt of the request, call on the company to furnish him with such further particulars as he may reasonably require; and if he does so, the time for giving the intimation required by sub-paragraph (2) above shall not expire before three months after he has been furnished with those particulars.

(4) Where the inspector receives a request made in accordance with sub-paragraph (1) above in relation to any accounting period, and does not within the time limited by sub-paragraphs (2) and (3) intimate his intention to make an assessment in respect of the period, no such assessment shall be made unless either—

- (a) the information accompanying the request, and any further particulars furnished to the inspector in connection therewith, are not such as to make full and accurate disclosure of all facts and considerations which are material to be known to the inspector; or
- (b) within twelve months of the end of the period paragraph 12 or 13 below has effect in relation to the company.

*Cessation of trade and liquidations*

12.—(1) Where a close company ceases to carry on the trade, or the business of holding investments, in which its activities wholly

or mainly consisted, then, subject to sub-paragraph (2) below but notwithstanding any other provision limiting the required standard of distributions, the required standard for any accounting period in which that event occurs, or which ends in or with the twelve months ending with that event, shall be calculated on the whole, instead of sixty per cent., of the estate or trading income (if any) taken into account and without any deduction in respect of the requirements of the business.

SCH. 18

(2) Where sub-paragraph (1) above applies to an accounting period and the company shows that the company could not make distributions up to the required standard without prejudice to the claims of creditors (excluding those mentioned in sub-paragraph (3) below), then for purposes of section 77 of this Act so much of the shortfall as the company shows could not be avoided without prejudice to those claims shall be disregarded.

Where this sub-paragraph applies a reference to it shall be substituted in section 78(3) of this Act for the reference to section 77(4).

(3) The creditors excluded for the purpose referred to in sub-paragraph (2) above are all participators and associates of participators, and all creditors in respect of debts originally created in favour of or due to a person who was then a participator or associate of a participator:

Provided that a creditor is not to be excluded in respect of any debt which either—

- (a) arose in the ordinary course of the company's trade or the company's business of holding investments and also in the ordinary course of a trade or profession of the creditor or, as the case may be, of the participator or associate who was the original creditor; or
- (b) is a debt for remuneration chargeable to income tax under Schedule E; or
- (c) is a debt for any rent or other payment due for the use of tangible property or of copyright in a literary, dramatic, musical or artistic work within the meaning of the Copyright Act 1956 (or any corresponding right under the law of a country to which that Act does not extend), and not representing more than a reasonable commercial consideration for that use. 1956 c. 74.

13.—(1) Paragraph 12 above shall apply where a resolution is passed or an order is made for the winding up of a close company, or where any other act is done for a like purpose in the case of a winding up otherwise than under the Companies Act 1948, as that paragraph applies in a case falling within sub-paragraph (1) of it. 1948 c. 38.

(2) Where an event mentioned in sub-paragraph (1) above occurs in the case of a close company, then any assessment on the company in respect of a shortfall in distributions for an accounting period which ends in or with the twelve months ending with that event, shall be an assessment as for a distribution made immediately before that event, and the amount due under the assessment shall be recoverable accordingly.



SCH. 18

(3) Where after any such event the company carries on a trade or a business of holding investments, then sections 77 and 78 of this Act shall, notwithstanding the winding up, continue to apply as if the company were not being wound up, and paragraph 12 above shall apply for any accounting period ending after the date of that event.

*Transitional and consequential*

14.—(1) Sections 77 and 78 of this Act shall not have effect as regards any accounting period or part of an accounting period falling before the beginning of the year 1966-67.

(2) As regards income arising to a company before the end of the year 1965-66 Chapter III of Part IX of the Income Tax Act 1952 shall continue to have effect, and the income of a company to be taken into account under that Chapter shall include income chargeable to corporation tax, subject to the following provisions:—

- (a) in deciding under section 245 whether a company has distributed a reasonable part of its actual income account may be taken of amounts treated under paragraph 9 above as distributions for a period after the end of the year 1965-66, but only to the extent to which they exceed the required standard; and
- (b) section 249(5) shall have effect subject to the like limitation as is imposed by section 78(7)(d) of this Act for purposes of section 78.

(3) Where a period of account or an accounting period of a company falls partly in the year 1965-66, and partly in the year 1966-67, the two parts shall for purposes of the said Chapter III or, as the case may be, the said sections of this Act be dealt with as separate accounting periods:

Provided that—

- (a) where under paragraph 9(2) above it is necessary to apportion any dividends treated as dividends for any such period of account, it shall be done according to the proportion which the income of the part falling in the year 1965-66, computed as for the said Chapter III (but less income tax at the standard rate), bears to the distributable income for the part falling in the year 1966-67; and
- (b) where the distributions for any such accounting period are to be treated as including any amount in respect of the directors' remuneration, then—
  - (i) in the case of a trading company, that amount shall be apportioned between the two parts of the period, and the amount apportioned to the earlier may be treated for purposes of the said Chapter III as income distributed by the company;
  - (ii) in the case of a company other than a trading company, the whole amount shall be taken into account in the part of the period falling in the year 1966-67.

15.—(1) In relation to income arising in or after the year 1966-67 section 411(1)(b) of the Income Tax Act 1952 (which defines "income arising under a settlement" for certain purposes relating to revocable

1952 c. 10.

settlements etc.) shall have effect with the substitution for the reference to Chapter III of Part IX of that Act of a reference to section 78 of this Act; and in relation to that and subsequent years of assessment there shall be substituted for subsection (4) of that section—

“(4) For the purposes of this Chapter, a body corporate shall be deemed to be connected with a settlement in any year of assessment if, within the meaning of Part IV of the Finance Act 1965, it is at any time in the year a close company (or only not a close company because it is not resident in the United Kingdom) and the participators then include the trustees of or a beneficiary under the settlement.”

(2) In relation to the year 1966-67 and later years of assessment—

(a) in section 412(8)(d) of the Income Tax Act 1952 (which provides for amounts apportioned to a person under Chapter III of Part IX of that Act to be treated as his income for certain purposes) for the words “Chapter III of Part IX of this Act” there shall be substituted the words “section 78 of the Finance Act 1965”; and 1952 c. 10.

(b) in section 414(4) of that Act (which relates to the information a solicitor may be required to furnish under that section about transactions resulting in transfers of income to persons abroad) for the words from “The bodies corporate” onwards there shall be substituted the words—

“The bodies corporate mentioned in the preceding provisions of this section are bodies corporate resident or incorporated outside the United Kingdom which are, or if resident in the United Kingdom would be, close companies, but not trading companies, within the meaning of Part IV of the Finance Act 1965.”

(3) Any amount apportioned under section 78 of this Act to the personal representatives of a deceased person shall be treated as included as regards surtax in the aggregate income of the estate for purposes of Part XIX of the Income Tax Act 1952.

## SCHEDULE 19

Section 83.

### SUPPLEMENTARY PROVISIONS ABOUT DIVIDEND INCREASES IN 1965-66

#### *Preliminary*

1.—(1) This Schedule has effect for the modification of section 83 of this Act (“the principal section”) in relation to companies, being bodies corporate, which are members of a group of companies.

(2) For purposes of this Schedule, save as otherwise provided therein,—

(a) two companies shall be deemed to be members of a group of companies if one is the subsidiary of the other or both are subsidiaries of a third company;

(b) “subsidiary” has the meaning assigned to it for certain purposes of the profits tax by section 42 of the Finance Act 1938 c. 46, 1938, and subsections (2) and (3) of that section shall apply as they applied for purposes of that section;

(c) “dividend” does not include a capital dividend.

## SCH. 19

(3) References in this Schedule to a company apply only to companies resident in the United Kingdom ; and in determining for purposes of this Schedule whether one company is a subsidiary of another, the other company shall be treated as not being the owner—

- (a) of any share capital which it owns directly in a body corporate if a profit on a sale of the shares would be treated as a trading receipt of its trade ; or
- (b) of any share capital which it owns indirectly, and which is owned directly by a body corporate for which a profit on the sale of the shares would be a trading receipt ; or
- (c) of any share capital which it owns directly or indirectly in a body corporate not resident in the United Kingdom.

*Company paying dividends within the group*

2. Where in the year 1965-66 a company pays a gross amount in dividends greater than the standard amount, but any of those dividends are paid to another member of the same group of companies, the amount to be treated under subsection (1) of the principal section as dividends paid in the year 1966-67 shall be such part only of the excess as is proportionate to the gross amount of the dividends (if any) paid otherwise than to members of the same group.

*Company receiving dividends from within the group*

3.—(1) Subject to paragraph 4 below, where a company's profits in the financial year 1965 (as ascertained for purposes of the principal section) include dividends paid in the year 1965-66 by a member of the same group of companies, and that member pays in the year 1965-66 a gross amount in dividends greater than its standard amount, then there shall, except as provided in sub-paragraph (2) below, be deducted from the said profits as so ascertained an amount equal to such part of the excess as bears to the whole the same proportion as the gross amount of the part of those dividends which is included in the profits bears to the gross amount of all the dividends paid by the said member in the year 1965-66.

(2) Sub-paragraph (1) above shall not apply to the computation of a company's profits in the financial year 1965 unless the profits include a gross amount of dividends received by it from members of the same group of companies in excess of 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 in computing a company's profits for the financial year 1965 a deduction would fall to be made under sub-paragraph (1) above, the company may elect that instead there shall be made a deduction equal to the excess referred to in this sub-paragraph.

(3) This paragraph shall apply where for purposes of the principal section a company's profits in the financial year 1965 are ascertained by reference to some period ending in that year, but not where its profits for another period are substituted for its profits in the financial year 1965.

(4) Any election under this paragraph shall be made by notice in writing given to the inspector before the end of the year 1966-67.

SCH. 19

*Alternative treatment of company receiving dividends from within the group*

4.—(1) Where in the year 1965-66 a company has one or more subsidiaries and is not itself the subsidiary of another company, the company may elect that the following provisions of this paragraph shall apply to it, and if it does so, paragraph 3 above shall not apply.

(2) Where this paragraph applies to a company, the company's standard amount of dividends for purposes of the principal section shall be arrived at—

- (a) by aggregating the dividends paid by the company in its standard period with those then paid by the companies which are from time to time its subsidiaries in that period, but excluding such of those dividends as are paid by one of the companies concerned to another ; and
- (b) by aggregating the share capital of the company in any period with that of the companies which are from time to time its subsidiaries in that period, but excluding any share capital which is directly owned by any of the companies concerned (and disregarding any share capital so owned in the application of subsection (8)(a) and (b) of the principal section) ; and
- (c) by treating as profits or losses of the company in any period the profits or losses of the companies which are from time to time its subsidiaries in that period, but disregarding in the computation of any such profits or losses franked investment income (within the meaning of the profits tax) received from any of the companies concerned.

For purposes of paragraph (b) above the initial capital of a subsidiary in relation to any period, if it became a subsidiary during the period, shall be ascertained as at the time when it did so.

(3) There shall be aggregated the gross amount of the dividends paid in the year 1965-66 by a company to which this paragraph applies and by any companies which are its subsidiaries, but so that—

- (a) there shall be excluded dividends paid by one of the companies concerned to another ; and
- (b) from the aggregate dividends paid by the subsidiaries otherwise than to any of the companies concerned there shall be deducted the amounts (if any) which under the principal section the subsidiaries are treated as paying in the year 1966-67 ;

and for purposes of the principal section the amount so arrived at shall be treated as the gross amount of the dividends paid in the year 1965-66 by the company to which this paragraph applies.

(4) Any election under this paragraph shall be made by notice in writing given to the inspector before the end of the year 1966-67.

## SCH. 19

*Adjustments in respect of dividends received from overseas trade corporations*

5.—(1) Where paragraph 3 or 4 above has effect in determining for purposes of the principal section whether in the year 1965-66 a company pays a gross amount in dividends greater than the standard amount, and the company's profits in the financial year 1965 include dividends paid out of exempt trading income by overseas trade corporations which are members of the same group of companies, then the gross amount of dividends which the company is apart from this paragraph to be treated under the principal section as paying in the year 1966-67 shall be reduced by the amount on which income tax at the standard rate for the year 1966-67 is equal to the income tax payable by those overseas trade corporations on exempt trading income in respect of dividends paid thereout to the company in the year 1965-66, subject, however, to the limitation imposed by sub-paragraph (2) below on the amount of the exempt trading income to be taken into account under this paragraph.

(2) The exempt trading income to be taken into account under this paragraph shall not exceed the following fraction of the gross amount of dividends which the company is apart from this paragraph to be treated under the principal section as paying in the year 1966-67, that is to say,—

- (a) where paragraph 3 has effect in relation to the company, the fraction obtained by dividing by the amount of the company's profits in the financial year 1965 (as ascertained for purposes of the principal section) the gross amount of the dividends included therein which are paid by any such overseas trade corporations as aforesaid out of exempt trading income ; and
- (b) where paragraph 4 above has effect in relation to the company, the fraction obtained by dividing by the amount taken under paragraph 4(2)(c) above as the profits of the company in the financial year 1965 the amount included therein of exempt trading income of such overseas trade corporations as aforesaid.

(3) Where sub-paragraph (2) above has effect in the case of the company to exclude part of the exempt trading income of other members of the same group, the part to be taken into account shall be such as that company may select.

(4) In relation to a dividend paid partly out of exempt trading income and partly not, this paragraph shall apply as if the two parts were separate dividends, and any question how far a dividend is paid out of exempt trading income, or out of what exempt trading income a dividend is paid, shall be determined for purposes of this paragraph as it is determined for purposes of Part IV of the Finance Act 1957.

(5) Where for purposes of the principal section the company's profits in the financial year 1965 are ascertained by reference to some period ending in that year, references in this paragraph to the

financial year 1965 shall be construed as referring to that period ; but where the company's profits for another period are substituted for its profits in the financial year 1965, this paragraph shall not apply.

SCH. 19

## SCHEDULE 20

Section 84.

SUPPLEMENTARY PROVISIONS ABOUT TRANSITIONAL RELIEF FOR  
EXISTING COMPANIES WITH OVERSEAS TRADING INCOME*Application and interpretation of Schedule*

1.—(1) This Schedule has effect for the modification of section 84 of this Act (" the principal section ") in its application to companies which have been overseas trade corporations, and to companies (being bodies corporate) which are members of a group of companies or are otherwise associated with other companies ; and in this Schedule " relief " (unless the context otherwise requires) means relief under the principal section.

(2) For purposes of this Schedule, save as otherwise provided therein,—

- (a) two companies shall be deemed to be members of a group of companies if one is the subsidiary of the other or both are subsidiaries of a third company ;
- (b) a company shall be deemed to be a subsidiary of another if and so long as more than one-half of its ordinary share capital is owned by that other company, whether directly or through another body corporate or other bodies corporate, or partly directly and partly through another body corporate or other bodies corporate ;
- (c) the interest of one company in another shall be deemed to be proportionate to the part of the ordinary share capital of the other owned as aforesaid by that company.

(3) References in this Schedule to a company apply (unless otherwise stated) only to companies resident in the United Kingdom, and in determining for purposes of this Schedule whether one company is a subsidiary of another, or what interest in a company another company has, the other company shall be treated as not being the owner—

- (a) of any share capital which it owns directly or indirectly in a body corporate not resident in the United Kingdom ; or
- (b) of any share capital which it owns indirectly, and which is owned directly by a body corporate for which a profit on the sale of the shares would be a trading receipt.

(4) References to ownership and to ordinary share capital in this Schedule shall be construed in accordance with section 42(3) of the Finance Act 1938 ; and, except in so far as sub-paragraph (3) provides otherwise, section 42(2) of that Act together with Part I of Schedule 4, shall apply for purposes of this Schedule as they applied for purposes of that section. 1938 c. 46.

## SCH. 20

*Overseas trade corporations*

2.—(1) For purposes of the principal section a company which has at any time been an overseas trade corporation shall be treated as if it had never been an overseas trade corporation and, subject to sub-paragraph (2) below, as if it had been charged to income tax and profits tax, or corporation tax, and been given credit for foreign tax accordingly.

(2) Where a company is an overseas trade corporation in the year 1965-66, then—

- (a) in respect of any amount taken into account by virtue of sub-paragraph (1) above as income in the base year there shall be treated as allowed credit for foreign tax equal to the income tax and profits tax treated by virtue of that sub-paragraph as charged in respect of it; and
- (b) in arriving for any year of assessment at the adjusted aggregate amount in the related period of the unused credit for foreign tax, the unused credit for foreign tax in respect of the income from each overseas source of trading income shall be computed as if the foreign tax were  $56\frac{1}{2}$  per cent.

*Groups of companies and associated companies*

3.—(1) Where a company claiming relief for any year of assessment is a member of a group of companies, and in claiming the relief elects that this paragraph shall have effect in relation to a member of the group specified in the claim, then for the purposes of that claim the provisions of the principal section shall be modified in accordance with this paragraph.

(2) There shall be added to the relief (before abatement) that may be given to the company—

- (a) the appropriate fraction of the difference, if any, between—
  - (i) the amount of the relief (before abatement) available to the other member of the group; and
  - (ii) the amount of the relief falling to be given to the other member, before abatement in respect of dividends paid without deduction of income tax; and
- (b) if in the year of assessment the other member has paid to the company any dividends without deduction of income tax, such fraction of the amount at (a)(ii) above as the amount of those dividends is of the total amount of the dividends paid by the other member in the year.

(3) There shall be added to the adjusted aggregate amount in the company's related period of the unused credit for foreign tax the appropriate fraction of the amount, if any, by which the corresponding amount for the other member exceeds the amount of the relief (before abatement) falling to be given to the other member.

(4) The provisions of the principal section for reducing the relief by reference to the income tax deducted or deductible from dividends

paid by the company claiming relief shall have effect subject to the following provisions:—

SCH. 20

(a) there shall be treated as an amount of income tax so deducted or deductible any amount by which the income tax deducted from dividends paid to it by the other member of the group (and not repaid to the company by virtue of section 62 of this Act) exceeds the appropriate fraction of the relief falling to be given to the other member in that year, before abatement in respect of dividends paid without deduction of income tax; and

(b) there shall be taken into account in the case of the company as if it were its income charged to corporation tax, and as if it were its income so charged from overseas sources of trading income having an unused credit for foreign tax, the appropriate fraction of the amounts respectively falling to be taken into account as such in the case of the other member of the group, and there shall on the like principles be set against income of the company the appropriate fraction of any loss incurred by the other member of the group in a trade carried on by it so far as that loss is not taken into account as reducing the income of the other member.

(5) In applying this paragraph to a company and another member of a group of companies, account shall be taken of the operation of sub-paragraphs (2) to (4) above in relation to the other member in determining what, if any, relief might be given to the other member (or, if the other member does not claim relief for the year of assessment, then of the operation which this sub-paragraph would have on a claim by it containing an election duly made under this paragraph in relation to such companies as may be specified in this behalf in the company's claim); and for this purpose any amount falling by virtue of sub-paragraph (4)(a) above to be treated as income tax deducted or deductible from dividends paid by the other member shall be apportioned rateably between those dividends.

(6) For the purposes of this paragraph "the appropriate fraction" in relation to a company and to another member of the same group of companies is the fraction proportionate to the interest of the company in that other member, but for this purpose the company shall be treated as not being the owner of any share capital which it owns directly or indirectly in a third company if the other member and the third company are also members together of any group of companies; and, subject to sub-paragraph (5) above, "relief (before abatement)" means the full amount of the relief calculated in accordance with subsection (1) of the principal section apart from any reduction under the proviso to that subsection or under any later subsection, but references to relief before abatement in respect of dividends paid without deduction of income tax are references to the relief calculated apart only from any reduction under that proviso or in respect of dividends so paid.

4.—(1) Where arrangements entered into between any companies make provision for relating to one another the amounts of the



SCH. 20

dividends paid to them respectively by companies under their joint control, relief shall not be given for any year of assessment to a company paying dividends regulated by that provision or to a subsidiary of it, except on condition that for the purposes of that provision the dividends are treated as not exceeding the amount (before deduction of income tax) of those dividends less the relief given to the company paying them and less the appropriate fraction of the relief given to any company of which that company owns ordinary share capital, whether directly or through another body corporate or other bodies corporate.

(2) In this paragraph "company" includes a company not resident in the United Kingdom, and "appropriate fraction" in relation to a company paying dividends regulated by any such arrangements and to another company means the fraction proportionate to the interest of the company paying the dividends in that other company.

Section 87.

## SCHEDULE 21

## TRANSITIONAL CESSATION RELIEF (SPECIAL RULES FOR TRADES)

1.—(1) Except in so far as the context otherwise requires, references in section 87 of this Act ("the principal section") and in this Schedule to a company ceasing to possess a source of income shall, in relation to a trade, include the company ceasing in respect of the trade to be within the charge to corporation tax under Case I or II of Schedule D; and references to a company carrying on a trade or any part or activities of a trade are references to its doing so in such circumstances as to be within that charge to tax.

(2) For purposes of the principal section the cessation period in relation to a trade shall be taken to be three years, notwithstanding that the trade has been carried on for less than three years before the year 1966-67; but where the appropriate fraction (that is to say in this Schedule, the appropriate fraction under subsection (2)(b) of the principal section) is to be applied to income from a trade which has been carried on by the company for a period less than three years, the appropriate fraction shall be increased in the proportion which a period of three years bears to that less period.

(3) For purposes of the principal section, section 80(8) of this Act shall apply in relation to the whole period after the trade was set up and commenced (or is to be treated under section 19 of the Finance Act 1953 as having been set up and commenced) as, for other purposes of corporation tax, it applies from the end of the basis period for the year 1965-66, but (notwithstanding anything in section 80(8)) any allowance to the company in respect of the trade, in so far as it cannot be given to the company, shall be given to the company's predecessors.

1953 c. 34.

2.—(1) The following sub-paragraphs shall apply to the computation of a company's income from a trade for the purposes of the principal section.

(2) No regard shall be had—

- (a) to any allowance or charge falling to be made in taxing the trade (within the meaning of Schedule 14 to this Act); or
- (b) to any restriction on the deductions that may be made for directors' remuneration.

(3) In determining what the taxed income from the trade would have been if the company had ceased to possess the trade as a source of income at the end of the year 1965-66 the computation shall be made, if need be, by division and apportionment or aggregation of income for accounting periods, including any period extending beyond the end of that year, and without regard to the operation of any enactment which would affect the computation on an actual discontinuance of the trade except section 130(1) of the Income Tax Act 1952, with any enactment amending it, and (when a subvention payment is in question) section 20(7) of the Finance Act 1953. 1952 c. 10. 1953 c. 34.

(4) Where the taxed income referred to in subsection (1) of the principal section (whether the actual income or the income as on a cessation) falls to be ascertained partly by reference to a period in which the company incurred a loss in the trade, that income shall be ascertained as if there had been no such loss (nor any income) in that period; but in ascertaining for purposes of subsection (2)(b) the taxed income for any period losses incurred in that period and any part of a loss apportionable to that period shall be deducted from income.

3.—(1) If a company on ceasing at any time to possess a trade as a source of income continues to carry on any of the activities of the trade as activities of another trade, the company shall be disentitled as at that time to such part of the allowance in respect of the first-mentioned trade as is referable to those activities.

(2) Where within two years after the time when a company ceases to possess a trade as a source of income—

- (a) the trade or any part of it is carried on by the company or by an associated company; or
- (b) the activities of the trade or part of them are carried on by an associated company as activities of another trade;

the company shall be disentitled as from that time to the allowance in respect of the first-mentioned trade:

Provided that where this sub-paragraph applies by reason only of part of the trade or part of its activities being carried on by an associated company the company shall be so disentitled only to such part of the allowance as is referable to that part of the trade or activities.

(3) Where a company ceases at any time to carry on part of a trade, and within two years after that time that part of the trade or the activities of it are carried on by an associated company as its trade or part of its trade, the company shall be treated as having been, as from that time, disentitled to such part of any allowance in respect of the trade as is referable to that part of the trade or those activities.

## SCH. 21

(4) Where by reason of a company carrying on a trade or part of a trade, or carrying on any activities in the course of a trade, that company or another company becomes disentitled to an allowance or part of an allowance, the allowance shall attach or remain attached to that trade (whether or not in the year 1965-66 that trade was being carried on by that company or at all).

(5) Where under sub-paragraph (4) above an allowance or part of an allowance in respect of a trade attaches to another trade, the allowance or that part of it shall, except as regards amount, be treated for all purposes as an allowance in respect of the trade, but the amount shall not be affected except as follows:—

- (a) the appropriate fraction shall be applied to the taxed income from that other trade, and subsection (2) proviso of the principal section shall apply to the other trade; and
- (b) the aggregate amount of the allowances to be given in respect of the trade on a company ceasing to possess it as a source of income, if there are more than one such allowance, shall not exceed the amount specified by subsection (2)(b) of the principal section for that one of the allowances having the highest appropriate fraction.

(6) For purposes of this paragraph the part of an allowance referable to any part of a trade or to any activities of a trade shall be determined, in relation to an event occurring at any time, by taking the amount of the allowance (as if on the company ceasing at that time to possess the trade as a source of income) and by apportioning that amount between that part or those activities of the trade and the remainder, according to the proportions in which the taxed income of the company from the trade is attributable thereto during the period of three years ending with that event (or any less period during which the company has carried on the trade), or, if there is no such taxed income, then by apportioning it in such other manner as may in the circumstances be just; but for determining the part of the allowance which is attached to a trade after that event the amount of the allowance shall be taken without regard to paragraph (b) of or the proviso to subsection (2) of the principal section.

(7) Where under this paragraph a company becomes disentitled to an allowance or part of an allowance after the allowance or that part of it has been given to it or to another company, the allowance or part so given shall be withdrawn to the extent necessary to give effect to this paragraph.

(8) For purposes of this paragraph, a company is to be treated as another's "associated company" at a given time if at that time, or at any time within one year before or two years afterwards, one of the two has control of the other or both are under the control of the same person or persons ("control" having for this purpose the same meaning as in Schedule 18 to this Act).

## SCHEDULE 22

Section 97.

## REPEALS

## PART I

## CUSTOMS AND EXCISE REPEALS

Chapter	Short Title	Extent of repeal
6 & 7 Eliz. 2. c. 6.	The Import Duties Act 1958.	In section 7, in subsection (1)(b) the word "special", and in subsection (3), the words from the beginning to "control; and". In Schedule 5, paragraph 2(b).
8 & 9 Eliz. 2. c. 44.	The Finance Act 1960	Section 10(2).
10 & 11 Eliz. 2. c. 13.	The Vehicles (Excise) Act 1962.	In Schedule 1, in Part I, paragraph 1(b) together with the word "but" at the end of paragraph 1(a). In Schedule 4, in Part I, in paragraph 2(d) the words "of which the unladen weight exceeds twelve hundredweight and", paragraph 4(2) and in paragraph 7(1) the definitions of "local authority's watering vehicle" and of "showman's trailer".
1964 c. 49	The Finance Act 1964	Section 8(1).

The above repeal in Schedule 1 to the Vehicles (Excise) Act 1962 does not affect licences taken out before 7th April 1965; and the repeal in Schedule 4 to that Act of the definition of "local authority's watering vehicle" has effect as from 7th April 1965.

## PART II

## INCOME TAX REPEALS

Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 6 & 1 Eliz. 2. c. 10.	The Income Tax Act 1952	Section 220(5)(c) together with the word "and" at the end of paragraph (b). In section 377, subsection (2), in subsection (3) the words "contribution" and "employer's contribution" and subsection (4). In section 415(1), paragraphs (a), (b) and (c) and the proviso.
5 & 6 Eliz. 2. c. 49.	The Finance Act 1957	In section 14, subsection (1)(d) and subsection (2)(b)(ia).
8 & 9 Eliz. 2. c. 44.	The Finance Act 1960	Section 19. Schedule 3.
1963 c. 25.	The Finance Act 1963	In section 12, subsections (1) and (4), in subsection (6) the words from "and in the said subsection (2)" to the end, and subsection (8). In section 41, in subsection (1) the words "initial and", subsection (2), in subsection (4)(a) the words from "increased" to the end and in subsection (4)(b) the words from "unless" to the end, and in subsection (7) the words "initial and". Schedule 3.
1964 c. 49.	The Finance Act 1964	Section 14.

1. The above repeals shall have effect as respects tax for the year 1965-66 and subsequent years of assessment.

2. The above repeals in section 415(1) of the Income Tax Act 1952 shall not affect settlements made before 7th April 1965.

3. The above repeals in section 41 of the Finance Act 1963 shall not affect initial allowances in respect of expenditure incurred before 7th April 1965 or such expenditure as is mentioned in subsection (2) of section 13 of this Act, nor other allowances, or charges, in respect of vehicles the expenditure on the provision of which was incurred before that date or is such expenditure as is mentioned in that subsection.

## PART III

SCH. 22

## CASE VII OF SCHEDULE D

Session and Chapter	Short Title	Extent of Repeal
10 & 11 Eliz. 2. c. 44.	The Finance Act 1962	<p>In section 10(1) proviso, the words "except in so far as provision to the contrary is made by section 14 of this Act", and in section 10(2), the words "Except for the purposes of section 14 of this Act".</p> <p>In section 11(1), the words from "with the exception" to the end of the subsection, section 11(2)(4)(5) and in section 11(7), the words "(4) or (5)" and the words "or (4)".</p> <p>In section 12(8) the words "except as provided by section 14 of this Act".</p> <p>Section 14.</p> <p>In section 15(1), the words from "or to any such" to "1952" and section 15(4)(5)(7).</p> <p>In Schedule 9—</p> <p>paragraph 3(4), and in paragraph 3(5) the words "or Association" (twice),</p> <p>in paragraph 5(4) the words from "nor shall" to the end of the sub-paragraph,</p> <p>paragraph 6(2),</p> <p>in paragraph 6(3), the words "or a company disposes of an asset to a person having control of the company",</p> <p>paragraph 12(3)(4),</p> <p>in paragraph 14(3), the words "the foregoing provision shall not affect any charge under section 14 of this Act and",</p> <p>paragraph 17(4).</p>

The above repeals do not have effect in relation to an acquisition and disposal if the acquisition or disposal, whichever is the earlier, occurred before the beginning of the year 1965-66, and the repeal of section 14 of the Finance Act 1962, and of the references in that Act to that section, does not have effect where the relevant land of the land-owning company mentioned in that section was acquired by that company before 6th April 1965.

## REPEALS RELATED TO CORPORATION TAX ETC.

Session and Chapter	Short Title	Extent of Repeal
3 & 4 Geo. 6. c. 29.	The Finance Act 1940	Section 49, except as provided by section 88(1) of this Act.
7 & 8 Geo. 6. c. 23.	The Finance Act 1944	Sections 37 and 39, except as provided by section 88(1) of this Act.
15 & 16 Geo. 6. & 1 Eliz. 2. c. 10.	The Income Tax Act 1952.	<p>Section 153(3) and (4).            Section 171.            Sections 184 to 186.            Section 199(1)(d), together with "and" at the end of paragraph (c).            Section 201.            Section 245.            In section 246 subsection (1) and the proviso to subsection (2).            Section 247 (except as applied by section 28(8) of the Finance Act 1960).            Section 248(1).            Section 249(2)(c).            In section 250 subsection (1) and in subsection (3) the words "under this section".            Sections 251 to 257.            In section 258, in subsection (1) the words "in the case of an investment company", subsection (2), and subsection (3) from the beginning to the words "Provided that".            In section 259(1), in subsection (1) the words from the beginning to "investment company" and the words "under section 248 of this Act", and subsection (2).            Section 260(5).            Sections 261, 262 and 263.            In section 264 the word "investment" in both places.            Section 277(1).            Section 316(3).            Section 322(4).            In section 333(1) the words "Part I of the Eleventh Schedule to this Act and to".            Section 350.            In section 351(1) the words "and for carrying out the provisions of the last preceding section", and paragraph (b), together with the "and" at the end of paragraph (a).</p>

SCH. 22

Session and Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 6. and 1 Eliz. 2. c. 10.— <i>cont.</i>	The Income Tax Act 1952.— <i>cont.</i>	<p>Section 425, except subsection (6).            Section 426(3).            Section 428.            Section 438.            Section 443.            Sections 454 and 455.            In section 468(1) the words from “(being classes” to “profits tax)”.</p> <p>In section 484, in subsection (1) the words from “of the person” to “assets and” and the word “respectively”, and in subsection (2) the words “of any such owner or”.</p> <p>Sections 493 and 494.            Section 508(2).            Schedule 11.            In Schedule 16, in paragraph 5(2) the words “otherwise than under section 184 of this Act”, and paragraph 11.            Schedule 22, Part II.</p>
15 & 16 Geo. 6. & 1 Eliz. 2. c. 33.	The Finance Act 1952	<p>Section 22(5).            Section 25(2).            Section 27(3).            Section 68.</p>
1 & 2 Eliz. 2. c. 34.	The Finance Act 1953	<p>Section 17(3).            In section 20, in subsection (2), the words “by deduction or otherwise”, and subsections (5), (7) and (11).</p>
2 & 3 Eliz. 2. c. 44.	The Finance Act 1954	<p>In section 17, subsections (1), (2), (3), (8) and (9), except as respects any relevant change occurring before the year 1966–67.            Section 19.            In section 30(3) the words from “and in their estimation” onwards.            Schedule 3, except as respects any relevant change occurring before the year 1966–67.</p>
4 & 5 Eliz. 2. c. 17.	The Finance (No. 2) Act 1955.	<p>Section 4.            Schedule 3.</p>
4 & 5 Eliz. 2. c. 54.	The Finance Act 1956	<p>In section 17(4), the words from “and” onwards.            Section 18.            In section 24, in subsection (2) the words from the beginning to “management; and”, and subsection (5) from “and” onwards.            Section 25.</p>



SCH. 22

Session and Chapter	Short Title	Extent of Repeal
5 & 6 Eliz. 2. c. 49.	The Finance Act 1957	Sections 23 to 37. Schedule 4 except paragraph 4. Schedules 5 to 8.
6 & 7 Eliz. 2. c. 56.	The Finance Act 1958	Sections 18 and 19. In Schedule 6 paragraph 2(e).
6 & 7 Eliz. 2. c. 58.	The Finance Act 1959	In section 23(5), the words from "or at the time" to "reconstructions)" and the words "and which is not such a relevant change as aforesaid". Section 24(4) and (5)(b). In section 26, in subsection (1), the words "or paragraph 3 of the Third Schedule to the Finance Act 1954", and subsections (2) to (4).
8 & 9 Eliz. 2. c. 44.	The Finance Act 1960	In section 20, in the proviso to subsection (1), the words from "a local authority" to "or by", and subsection (2). In section 25(4) proviso, paragraph (a) from "and" onwards. In section 72, in subsection (4), paragraph (a) and in paragraph (b) the words from the beginning of sub-paragraph (i) to the words "Schedule D" in sub-paragraph (ii), subsection (8) from "(except" onwards, subsection (9) and in subsection (11) the definition of "management expenses claim".
9 & 10 Eliz. 2. c. 36.	The Finance Act 1961	Section 29.
10 & 11 Eliz. 2. c. 44.	The Finance Act 1962	Section 19. Section 20.
1963 c. 25.	The Finance Act 1963	Section 45. In Schedule 12, paragraph 14, paragraph 18(3) and paragraph 18(5) from the beginning to "thereof".
1964 c. 37.	The Income Tax Management Act 1964	In Schedule 2 the entries relating to sections 201, 249(2)(c), 262(5), 425, 438, 443 and 455 of the Income Tax Act 1952 and to the Finance Act 1957. In Schedule 4, in Part I of the Table, the entries relating to the Finance (No. 2) Act 1955 and the Finance Act 1957.
1964 c. 49.	The Finance Act 1964	Section 15. Section 16(1)(b).

The above repeals shall not affect the operation of any enactment in relation to the year 1965-66 or earlier years of assessment.

## PART V

SCH. 22

## PROFITS TAX REPEALS

Chapter	Short Title	Extent of Repeal
1 Edw. 8. & 1 Geo. 6. c. 54.	The Finance Act 1937	Part III so far as unrepealed. Schedules 4 and 5.
1 & 2 Geo. 6. c. 46.	The Finance Act 1938	In section 42, subsections (4) to (6). Section 43. Schedule 4 Part II. Section 36.
2 & 3 Geo. 6. c. 41.	The Finance Act 1939	Section 36.
3 & 4 Geo. 6. c. 29.	The Finance Act 1940	Section 40(2).
3 & 4 Geo. 6. c. 48.	The Finance (No. 2) Act 1940.	In section 14(1), the words " or paragraph 4 of the Fourth Schedule to the Finance Act 1937 ", the words " or the national defence contribution " and the words " and subsection (1) of section 20 of the Finance Act 1937 ". Section 15(b), together with " and " at the end of para- graph (a). Section 43.
4 & 5 Geo. 6. c. 30.	The Finance Act 1941	Section 43.
5 & 6 Geo. 6. c. 21.	The Finance Act 1942	Section 36. In section 38, the words " nor the national defence contribution ". Schedule 9.
9 & 10 Geo. 6. c. 13.	The Finance (No. 2) Act 1945.	In section 35(2), the words " or to the national defence contribu- tion ". In section 36, the words " or the national defence contribution ". Section 37. In Schedule 5 the words " or to the national defence contribu- tion ". Section 44.
9 & 10 Geo. 6. c. 64.	The Finance Act 1946	Section 44.
10 & 11 Geo. 6. c. 35.	The Finance Act 1947	Part IV so far as unrepealed. Schedule 8.
11 & 12 Geo. 6. c. 49.	The Finance Act 1948	Section 79.
14 & 15 Geo. 6. c. 43.	The Finance Act 1951	Part III so far as unrepealed.
15 & 16 Geo. 6. & 1 Eliz. 2. c. 10.	The Income Tax Act 1952.	Section 348(7). Section 434(3). Section 435(4). In section 469(1) and (2), the words " and profits tax ". Section 473(2)(c) with the " and " at the end of paragraph (b).

## SCH. 22

Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 6. & 1 Eliz. 2. c. 10.— <i>cont.</i>	The Income Tax Act 1952.— <i>cont.</i>	In Schedule 16, in paragraph 1(1), the definition of "income", paragraph 2(2) and paragraph 14. In Schedule 20, paragraph 2(4), from "and for" onwards and paragraph 10(4). In Schedule 21, paragraph 10. Part IV, so far as unrepealed. Section 67(2).
15 & 16 Geo. 6. & 1 Eliz. 2. c. 33.	The Finance Act 1952	Section 25(4).
1 & 2 Eliz. 2. c. 34.	The Finance Act 1953	Section 16(12).
2 & 3 Eliz. 2. c. 44.	The Finance Act 1954	In Schedule 2, paragraph 3.
4 & 5 Eliz. 2. c. 17.	The Finance (No. 2) Act 1955.	Part IV, so far as unrepealed. In Schedule 4, paragraph 1.
4 & 5 Eliz. 2. c. 54.	The Finance Act 1956	Part IV. Schedule 7.
6 & 7 Eliz. 2. c. 56.	The Finance Act 1958	Section 33.
7 & 8 Eliz. 2. c. 58.	The Finance Act 1959	In Schedule 5, paragraph 2. Section 70.
8 & 9 Eliz. 2. c. 44.	The Finance Act 1960	Section 10(7). Section 23(7).
10 & 11 Eliz. 2. c. 44.	The Finance Act 1962	Section 24(11) from the words "where this section applies" onwards. In Schedule 9, paragraph 17(3) (a)(i).
1963 c. 25. 1964 c. 37.	The Finance Act 1963 The Income Tax Man- agement Act 1964.	Section 69. In section 3, in subsection (2) the words "and the enactments relating to the profits tax", and in subsection (3) the words "or the profits tax". Section 10. In section 11, in subsections (1), (2), (3) and (4) the words "or the enactments relating to the profits tax". In section 12, in subsection (1), (2), and (twice) subsection (4) the words "or the enactments relating to the profits tax". In section 13(1) the words "or paragraph 5 of Part II of Schedule 5 to the Finance Act 1937" and the words "or the said paragraph 5" (twice), and in subsection (5) the words "or the said paragraph 5".

SCH. 22

Chapter	Short Title	Extent of Repeal
1964 c. 37. —cont.	The Income Tax Management Act 1964 —cont.	In section 14, in subsection (1) the words “ and the enactments relating to the profits tax ”, in subsection (2) the words “ or the profits tax ” and the words “ and the enactments relating to the profits tax ”, in subsection (3) the words “ or the enactments relating to the profits tax ”. In section 15, in subsection (1)(a) the words “ or the enactments relating to the profits tax ” and in subsection (2) the words “ paragraph 5 of Part II of Schedule 5 to the Finance Act 1937 ”. In section 17(2) the words from “ and, so far ” to the end of the subsection. In Schedule 3, paragraph 7.
1964 c. 49.	The Finance Act 1964	In section 17, subsections (2) and (6).

The above repeals shall have effect only in relation to the profits tax, and shall not affect the liability to profits tax for chargeable accounting periods ending on or before 5th April 1966, or the assessment, collection or recovery of that tax or other proceedings relating thereto.

## PART VI

## OTHER REPEALS

Chapter	Short Title	Extent of Repeal
1964 c. 9.	The Public Works Loans Act 1964.	Section 7(1).

PRINTED BY SIR PERCY FAULKNER, K.B.E., C.B.

Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

(37438)