



Income and Corporation Taxes Act 1970

1970 CHAPTER 10

PART VI

SCHEDULE D

CHAPTER II

CASES I TO VI: INCOME TAX: BASIS OF ASSESSMENT ETC.

Cases I and II

115 Assessment on preceding year basis

- (1) Subject to the provisions of this section and sections 116 to 118 below, income tax shall be charged under Cases I and II of Schedule D on the full amount of the profits or gains of the year preceding the year of assessment.
- (2) Where, in the case of the trade, profession or vocation, an account has, or accounts have, been made up to a date or dates within the period of three years immediately preceding the year of assessment, then—
 - (a) if an account was made up to a date within the year preceding the year of assessment, and that account was the only account made up to a date in that year, and was for a period of one year beginning either at the commencement of the trade, profession or vocation or at the end of the period on the profits or gains of which the assessment for the last preceding year of assessment was to be computed, the profits or gains of the year ending on that date shall be taken to be the profits or gains of the year preceding the year of assessment, and
 - (b) in any other case, the Board shall decide what period of twelve months ending on a date within the year preceding the year of assessment shall be deemed to be the year the profits or gains of which are to be taken to be the profits or gains of the year preceding the year of assessment.

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- (3) Where the Board have given a decision under subsection (2)(b) above and it appears to them that, in consequence thereof, income tax for the last preceding year of assessment in respect of the profits or gains from the same source should be computed on the profits or gains of a corresponding period, they may give a direction to that effect, and an assessment or, on a claim therefor, repayment of tax shall be made accordingly.
- (4) The decision whether or not to give a direction under subsection (3) above shall be subject to an appeal, which shall lie to the General Commissioners unless the appellant elects (in accordance with section 46(1) of the Taxes Management Act 1970) to bring it before the Special Commissioners, and the Commissioners hearing the appeal shall grant such relief, if any, as is just.
- (5) An appeal under subsection (4) above shall be brought within thirty days of receipt of notice of the decision, save that, if the decision is to give a direction and an assessment is made in accordance with the direction, the appeal against the decision shall be by way of an appeal against the assessment.
- (6) In the case of the death of a person who, if he had not died, would under the provisions of subsections (2) and (3) above have become chargeable to income tax for any year, the tax which would have been so chargeable shall be assessed and charged on his executors or administrators, and shall be a debt due from and payable out of his estate.

116 Special basis at commencement of trade, profession or vocation

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

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

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

117 Special basis for two years following commencement

- (1) In this section—
 - " charged " means charged to income tax in respect of the profits or gains of a trade, profession or vocation, and
 - " the second year of assessment " and " the third year of assessment " mean respectively the year next after, and the year next but one after, the year of assessment in which the trade, profession or vocation was set up and commenced.
- (2) The person charged, or liable to be charged, shall be entitled, on giving notice in writing to the inspector within seven years after the end of the second year of assessment, to require that tax shall be charged for both the second year of assessment

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and the third year of assessment (but not for one or other only of those years) on the amount of the profits or gains of each such year respectively:

Provided that he may by notice in writing given to the inspector within six years after the end of the third year of assessment revoke the notice, and, in that case, tax shall be charged for both the second year of assessment and the third year of assessment as if the first notice had never been given.

- (3) If, at any time during the second or third year of assessment, any such change as is hereinafter mentioned occurs in the persons engaged in the trade, profession or vocation, that is to say, if either—
- (a) a change occurs in a partnership of persons engaged therein, by reason of retirement or death, or the dissolution of the partnership as to one or more of the partners, or the admission of a new partner, in such circumstances that one or more of the persons who until that time were engaged in the trade, profession or vocation continue to be engaged therein, or
 - (b) a person who until that time was engaged in the trade, profession or vocation on his own account continues to be engaged in it, but as a partner in a partnership,

a notice for the purposes of subsection (2) above (including the proviso thereto) must, if given after the occurrence of the change and after notice has been given as respects the change under section 154(2) of this Act (election for change not to be treated as a discontinuance)—

- (i) in the case of a notice given within twelve months after the end of the second year of assessment, be signed by each of the individuals who were engaged in the trade, profession or vocation at any time between the commencement of the second year of assessment and the giving of the notice, or, in the case of a deceased person, by his legal representatives, and
 - (ii) in the case of a notice given after the end of the third year of assessment, be signed by each of the individuals who were engaged in the trade, profession or vocation at any time during the second or third year of assessment, or, in the case of a deceased person, by his legal representatives.
- (4) In the case of the death of a person who, if he had not died, would under the provisions of this section have become chargeable to income tax for any year, the tax which would have been so chargeable shall be assessed and charged on his executors or administrators, and shall be a debt due from and payable out of his estate.
- (5) There shall be made such assessments, reductions of assessments or, on a claim in that behalf, repayments of tax as may in any case be required in order to give effect to the preceding provisions of this section.

118 Special basis on discontinuance

- (1) Where in any year of assessment a trade, profession or vocation is permanently discontinued, then, notwithstanding anything in sections 115 to 117 above—
- (a) the person charged or chargeable with income tax in respect thereof shall be charged for that year on the amount of the profits or gains of the period beginning on the 6th April in that year and ending on the date of the discontinuance, but subject to any deduction or setoff to which he may be entitled under section 171 of this Act (carry-forward) in respect of any loss, and

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- (b) if the aggregate of the profits or gains (if any) of the years ending on the 5th April in each of the two years preceding the year of assessment in which the discontinuance occurs exceeds the aggregate of the amounts on which that person has been charged for each of the said two preceding years, or the aggregate of the amounts on which he would have been so charged if no such deduction or set-off as aforesaid had been allowed, he may be charged instead, for each of the said two preceding years, but subject to any such deduction or set-off, on the amount of the profits or gains of the year ending on the 5th April in that year.
- (2) Where a person has been charged with income tax otherwise than in accordance with paragraph (a) or (b) of subsection (1) above, any such assessment to tax, reduction or discharge of an assessment to tax, or, on a claim therefor, repayment of tax, shall be made as may be necessary to give effect to those paragraphs.
- (3) In the case of the death of a person who, if he had not died, would under the provisions of this section have become chargeable to income tax for any year, the tax which would have been so chargeable shall be assessed and charged on his executors or administrators, and shall be a debt due from and payable out of his estate.
- (4) Subsection (1)(b) above shall not apply where a trade is permanently discontinued in consequence of the nationalisation of any property constituting the assets of the trade.

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

Case III

119 Assessment on preceding year basis

Subject to sections 120 and 121 below, income tax under Case III of Schedule D shall be computed on the full amount of the income arising within the year preceding the year of assessment, and shall be paid on the actual amount of the said income, without any deduction.

120 Special rules for fresh income

- (1) Income tax under Case III of Schedule D shall, in the following cases, be computed on the following amounts, and paid on those actual amounts without any deduction—
- (a) as respects the year of assessment in which the income first arises, on the full amount of the income arising within that year,
 - (b) where the income first arose on some day in the year preceding the year of assessment other than the 6th April, on the amount of the income of the year of assessment, and
 - (c) where the income first arose on the 6th April in the year preceding the year of assessment, or on some day in the year next before the year preceding the year of assessment other than the 6th April, and the person charged so requires by

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notice in writing given to the inspector at any time within six years after the end of the year of assessment, on the amount of the income of that year.

- (2) Where subsection (1)(c) above applies, and income tax charged otherwise than in accordance with that provision has been paid, any amount overpaid shall be repaid.
- (3) If at any time a person acquires a new source of any income in respect of which he is chargeable under Case III of Schedule D, or an addition to any source of any such income, then, for the year of assessment in which income first arises from the source or addition and the two following years of assessment, income tax in respect of the income from the source or addition shall, notwithstanding section 128 below (assessment of Case III income in one sum), be computed separately, and subsection (1) above shall apply to the computation thereof.
- (4) If at any time interest on a debt ceases to be payable subject to deduction of income tax, subsection (3) above shall apply as if the debt were a new source of income acquired by the creditor at that time.

121 Special rules where source of income ceases

- (1) Subject to the provisions of this section, if in any year of assessment a person charged or chargeable to income tax in respect of any income chargeable under Case III of Schedule D ceases to possess any particular source of any such income, or any part of any such source, the following provisions shall apply to the tax in respect of the income from that source or part—
 - (a) notwithstanding section 128 below (assessment of Case III income in one sum), the tax shall for that year, and (if necessary) for the preceding year, be computed separately,
 - (b) subject to paragraph (c) below, the tax shall for that year be computed on the amount of the income arising within the year (instead of the income arising within the preceding year), and shall for that preceding year also be computed on the amount of the income arising within it if greater than the amount on which tax is to be computed for that preceding year apart from this provision, and
 - (c) if no income arose within those two years, and the person charged or chargeable makes a claim under this section not later than two years after the end of them, then, subject to subsection (3) below—
 - (i) paragraphs (a) and (b) above shall apply to the year of assessment in which income did last arise and the year preceding it as, apart from this paragraph, they would apply to the year in which he ceases to possess the source or part and the year preceding it, and
 - (ii) tax shall not for the year of assessment following that in which income did last arise be chargeable on the amount of the income so arising.
- (2) If at any time interest on a debt begins to be payable subject to deduction of income tax, subsection (1) above shall apply as if the debt were a source of income which the creditor ceased to possess at that time.
- (3) A person shall not be entitled by virtue of subsection (1)(c) above to make a claim under this section in respect of any source of income, or any part of such a source, more than eight years after the end of the year of assessment in which income last arose from that source; but a person possessing a source of income chargeable to income tax under Case III of Schedule D, and having possessed it for six consecutive years of

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assessment without any income arising from it, shall be entitled, if income did arise from it in the year preceding those six years, to make a claim under this section not later than two years after the end of those six years, and, if he does so—

- (a) subsection (1) above shall apply as if he had ceased to possess the source of income immediately before the end of those six years, and
 - (b) section 120(3) above shall apply (in relation to later years of assessment) as if he had acquired the source as a new source immediately after the end of those six years.
- (4) There shall be made all such adjustments, whether by way of repayment of tax, assessment or otherwise, as may be necessary to give effect to this section.
- (5) A person's executors or administrators may make any claim under this section which he might have made, if he had not died, in respect of any source of income, or part of such a source, which he ceased to possess before his death, and may also make a claim under this section in respect of sources of income which he ceased to possess by dying ; and after a person's death—
- (a) any tax paid by him and repayable by virtue of a claim under this section (whether made by him or by his executors or administrators) shall be repaid to his executors or administrators, and
 - (b) any additional tax chargeable by virtue of such a claim shall be assessed and charged on his executors or administrators, and shall be a debt due from and payable out of his estate.

Cases IV and V

122 Assessment on preceding year basis, but, in certain cases, only on sums received in United Kingdom

- (1) Subject to the provisions of this section and sections 123 and 124 below, income tax chargeable under Case IV or Case V of Schedule D shall be computed on the full amount of the income arising in the year preceding the year of assessment, whether the income has been or will be received in the United Kingdom or not, subject in the case of income not received in the United Kingdom—
- (a) to the same deductions and allowances as if it had been so received, and
 - (b) to a deduction on account of any annuity or other annual payment (not being interest) payable out of the income to a person not resident in the United Kingdom, and
 - (c) to a deduction on account of any annual interest payable out of the income to a person not resident in the United Kingdom, being interest paid before 6th April 1975 on a debt incurred on or before 15th April 1969.
- (2) Subsection (1) above shall not apply—
- (a) to any person who satisfies the Board that he is not domiciled in the United Kingdom, or that, being a British subject or a citizen of the Republic of Ireland, he is not ordinarily resident in the United Kingdom, or
 - (b) to any income which is immediately derived by a person from the carrying on by him of any trade, profession or vocation, either solely or in partnership, or
 - (c) to any income which arises from any pension.

Any claim under paragraph (a) above shall be made to the Board.

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- (3) In the cases mentioned in subsection (2) above, the tax shall, subject to sections 123 and 124 below, be computed—
- (a) in the case of tax chargeable under Case IV, on the full amount, so far as the same can be computed, of the sums received in the United Kingdom in the year preceding the year of assessment, without any deduction or abatement, and
 - (b) in the case of tax chargeable under Case V, on the full amount of the actual sums received in the United Kingdom in the year preceding the year of assessment from remittances payable in the United Kingdom, or from property imported, or from money or value arising from property not imported, or from money or value so received on credit or on account in respect of any such remittances, property, money or value brought or to be brought into the United Kingdom, without any deduction or abatement other than is allowed under the provisions of the Income Tax Acts in respect of profits or gains charged under Case I of Schedule D.
- (4) For the purposes of subsection (3) above, any income arising from securities or possessions out of the United Kingdom which is applied outside the United Kingdom by a person ordinarily resident in the United Kingdom in or towards satisfaction of—
- (a) any debt for money lent to him in the United Kingdom, or for interest on money so lent, or
 - (b) any debt for money lent to him outside the United Kingdom and received in or brought to the United Kingdom, or
 - (c) any debt incurred for satisfying in whole or in part a debt falling within paragraph (a) or (b) above,
- shall be treated as received by him in the United Kingdom (and, for the purposes of paragraph (b) of the said subsection (3), as so received from remittances payable in the United Kingdom).
- (5) Where a person ordinarily resident in the United Kingdom receives in or brings to the United Kingdom money lent to him outside the United Kingdom, but the debt for that money is wholly or partly satisfied before he does so, subsection (4) above shall apply as if the money had been received in or brought to the United Kingdom before the debt was so satisfied, except that any sums treated by virtue of that subsection as received in the United Kingdom shall be treated as so received at the time when the money so lent is actually received in or brought to the United Kingdom.
- (6) Where a person is indebted for money lent to him, income applied by him in such a way that the money or property representing it is held by the lender on behalf of or to the account of the said person in such circumstances as to be available to the lender for the purpose of satisfying or reducing the debt by set-off or otherwise shall be treated as applied by the said person in or towards its satisfaction if, under any arrangement between the said person and the lender, the amount for the time being of the said person's indebtedness to the lender, or the time at which it is to be repaid in whole or in part, depends in any respect directly or indirectly on the amount or value held by the lender as aforesaid.
- (7) For the purposes of subsections (4) to (6) above—
- (a) a debt for money lent shall, to the extent to which that money is applied in or towards satisfying another debt, be deemed to be a debt incurred for satisfying that other debt, and a debt incurred for satisfying in whole or in part a debt falling within paragraph (c) of the said subsection (4) shall itself be treated as falling within that paragraph, and

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

123 Special rules for fresh income

- (1) Subject to subsection (5) below, income tax under Case IV or Case V of Schedule D shall be computed—
- (a) as respects the year of assessment in which the income first arises, on the full amount of the income arising within that year,
 - (b) where the income first arose on some day in the year preceding the year of assessment other than the 6th April, on the income of the year of assessment, and
 - (c) where the income first arose on the 6th April in the year preceding the year of assessment, or on some day in the year next before the year preceding the year of assessment other than the 6th April, and the person charged so requires by notice in writing given to the inspector within six years after the end of the year of assessment, on the amount of the income of that year.
- (2) Where subsection (1)(c) above applies, and income tax charged otherwise than in accordance with that provision has been paid, any amount overpaid shall be repaid.
- (3) If at any time any person acquires a new source of any income chargeable to income tax under Case IV or Case V of Schedule D, or an addition to any source of any such income, then, for the year of assessment in which income first arises from the source or addition and the two following years of assessment, income tax in respect of the income from the source or addition shall, notwithstanding section 128 below (assessment of Case IV or V income in one sum), be computed separately, and subsection (1) above shall apply.
- (4) Where income arising to any person from any security or possession in any place out of the United Kingdom ceases at any time to be chargeable to income tax by deduction under the provisions of section 159 below (foreign dividends etc.), subsection (3) above shall apply as if that security or possession were a new source of income acquired by that person at that time.
- (5) The preceding provisions of this section shall, in cases where tax is to be charged by reference to the amount of income received in the United Kingdom, have effect as if references to income which arises or arose were references to income which is or was so received.

124 Special rules where source of income ceases

- (1) Subject to the provisions of this section, if in any year of assessment a person charged or chargeable to income tax in respect of any income chargeable under Case IV or Case V of Schedule D ceases to possess any particular source of any such income, or any part of any such source, the following provisions shall apply to the tax in respect of the income from that source or part—
- (a) notwithstanding section 128 below (assessment of Case IV or V income in one sum), the tax shall for that year, and (if necessary) for the preceding year, be computed separately,
 - (b) subject to paragraph (c) below, the tax shall for that year be computed on the amount of the income arising within the year (instead of the income arising within the preceding year), and shall for that preceding year also be computed

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- on the amount of the income arising within it if greater than the amount on which tax is to be computed for that preceding year apart from this provision, and
- (c) if no income arose within those two years, and the person charged or chargeable makes a claim under this section not later than two years after the end of them, then, subject to subsection (3) below—
- (i) paragraphs (a) and (b) above shall apply to the year of assessment in which income did last arise and the year preceding it as, apart from this paragraph, they would apply to the year in which he ceases to possess the source or part and the year preceding it, and
 - (ii) tax shall not for the year of assessment following that in which income did last arise be chargeable on the amount of the income so arising.
- (2) Where income in respect of which a person has previously been charged or chargeable to income tax under Case IV or V of Schedule D becomes at any time chargeable to income tax by deduction under the provisions of section 159 below (foreign dividends etc.), subsection (1) above shall apply as if the security or possession in question were a source of income which he ceased to possess at that time.
- (3) A person shall not be entitled by virtue of subsection (1)(c) above to make a claim under this section in respect of any source of income, or any part of such a source, more than eight years after the end of the year of assessment in which income last arose from that source; but a person possessing a source of income chargeable to income tax under Case IV or Case V of Schedule D, and having possessed it for six consecutive years of assessment without any income arising from it, shall be entitled, if income did arise from it in the year preceding those six years, to make a claim under this section not later than two years after the end of those six years, and, if he does so—
- (a) subsection (1) above shall apply as if he had ceased to possess the source of income immediately before the end of those six years, and
 - (b) section 123(3) above shall apply (in relation to later years of assessment) as if he had acquired the source as a new source immediately after the end of those six years.
- (4) References in this section to income arising shall, in cases where tax is to be computed by reference to the amount of income received in the United Kingdom, be construed as references to income being so received.
- (5) There shall be made all such adjustments, whether by way of repayment of tax, assessment or otherwise, as may be necessary to give effect to this section.
- (6) A person's executors or administrators may make any claim under this section which he might have made, if he had not died, in respect of any source of income, or part of such a source, which he ceased to possess before his death, and may also make a claim under this section in respect of sources of income which he ceased to possess by dying; and after a person's death—
- (a) any tax paid by him and repayable by virtue of a claim under this section (whether made by him or by his executors or administrators) shall be repaid to his executors or administrators, and
 - (b) any additional tax chargeable by virtue of such a claim shall be assessed and charged on his executors or administrators, and shall be a debt due from and payable out of his estate.

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Case VI

125 Assessment on current year basis unless otherwise directed

- (1) Income tax under Case VI of Schedule D shall be computed either on the full amount of the profits or gains arising in the year of assessment or according to an average of such period, not being greater than one year, as the case may require and as may be directed by the inspector.
- (2) On an appeal to the General or Special Commissioners, the Commissioners shall have jurisdiction to review the inspector's decision under this section.

Miscellaneous

126 Tax computed on profits of previous period to be charged though no profits in year of assessment

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

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

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

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

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