



# Income and Corporation Taxes Act 1970

## 1970 CHAPTER 10

### PART XII

#### SPECIAL CLASSES OF COMPANIES AND BUSINESSES

### CHAPTER I

#### INVESTMENT AND INSURANCE COMPANIES : EXPENSES OF MANAGEMENT AND CAPITAL ALLOWANCES

#### **304 Expenses of management of investment companies (including savings banks)**

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

Provided that 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.

- (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 the 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 306 below, in so far as effect cannot be given to them under subsection (2) of that section.

- (4) Where an appeal against an assessment to corporation tax or against a decision on a claim under section 254 of this Act (set off of losses etc. against franked investment income) relates exclusively to the relief to be given under subsection (1) above, the appeal shall lie to the Special Commissioners, and if and so far as the question in dispute on any such appeal which does not lie to the Special Commissioners relates to that relief, that question shall, instead of being determined on the appeal, be referred to and determined by the Special Commissioners, and the Taxes Management Act 1970 shall apply as if that reference were an appeal.
- (5) In this section " 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.

### **305 Expenses of management of insurance companies**

- (1) Subject to the provisions of this section and of section 307 below, section 304 above 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 the proviso to subsection (1) of section 304 above.
- (2) Relief in respect of management expenses shall not be given to any such company, whether under section 254 of this Act or under subsection (1) above, so far as it would, if given in addition to all other reliefs to which the company is entitled, reduce the income tax and corporation tax borne by the company on the income and gains of its life assurance business for any accounting period to less than would have been paid if the company had been charged to tax in respect of that business under Case I of Schedule D; and where relief has been withheld in respect of any accounting period by virtue of this subsection, the excess to be carried forward by virtue of section 304(2) above shall be increased accordingly.

The reference in paragraph 2(1) of Schedule 6 to the Finance Act 1965 (computation of chargeable gains: exclusion of sums taken into account in computing income) to computing income or profits or gains or losses shall not be taken as applying to a computation of a company's income for the purposes of this subsection.

- (3) In subsection (2) above " life assurance business " includes the business of granting annuities on human life.

### **306 Capital allowances for machinery and plant**

- (1) Subject to the provisions of this section, Chapter II of Part I of the Capital Allowances Act 1968, and such other provisions of the Corporation Tax Acts as relate to allowances or charges under that Chapter, shall apply with any necessary adaptations in relation to machinery or plant provided for use or used for the purposes of the management of the business—

- (a) of an investment company (as defined in section 304(5) above), or
  - (b) of a company carrying on the business of life assurance,

as they apply in relation to machinery or plant provided for use or used for the purposes of a trade ; and, except as provided by subsection (2) below, in relation to any allowances and balancing charges which fall to be made by virtue of this section the Corporation Tax Acts shall apply as if they were to be made in taxing a trade.
- (2) As respects allowances or charges falling to be made by virtue of this section in relation to any business—
  - (a) allowances for any accounting period shall, as far as may be, be given effect by deducting the amount of the allowance from any income for the period of the business, and in so far as effect cannot be so given section 304(3) above shall apply ; and
  - (b) effect shall be given to any charge by treating the amount on which the charge is to be made as income of the business;

and section 46 of the Capital Allowances Act 1968 (manner of making allowances and charges under Chapter II) shall not apply.
- (3) No allowance, other than an investment allowance, and no balancing charge shall be made by virtue of this section for any accounting period in respect of expenditure incurred by any person on machinery or plant, except in pursuance of an election made by him for that accounting period; but an election for any chargeable period shall have effect as an election for that and all subsequent chargeable periods.
- (4) An election under subsection (3) above shall be made by notice in writing to the inspector either for all machinery or plant provided for use or used for the purposes of the management of the relevant business, or for any class of machinery or plant so provided or used; but an election for machinery or plant of any class shall not be made for any accounting period after an assessment in respect of the business for that or a subsequent accounting period has been finally determined without such an election.
- (5) Corresponding allowances or charges in the case of the same machinery or plant shall not be made under Chapter II of Part I of the Capital Allowances Act 1968 (whether for the same chargeable period or for different chargeable periods) both under subsection (2) above and in some other way; and, on any assessment to tax, expenditure to which an election under this section applies shall not be taken into account otherwise than under the said Chapter II (and except as provided by section 304(3) above).
- (6) In this section references to the purposes of the management of a business are to be taken as referring to those purposes expenditure on which would, apart from this section, be treated as expenses of management within the meaning of section 304 above.
- (7) The Tax Acts shall have effect as if this section were contained in Chapter II of Part I of the Capital Allowances Act 1968.

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## CHAPTER II

### INSURANCE COMPANIES, ETC

#### *Insurance companies*

#### **307 Separation of different classes of business**

- (1) Where an insurance company carries on life assurance business in conjunction with insurance business of any other class, the life assurance business shall, for the purposes of the Corporation Tax Acts, be treated as a separate business from any other class of business carried on by the company.
- (2) Where an insurance company carries on both ordinary life assurance business and industrial life assurance business, the business of each such class shall, for the purposes of the Corporation Tax Acts, be treated as though it were a separate business, and section 305 of this Act shall apply separately to each such class of business.

#### **308 Case I computation: investment income, etc.**

- (1) Section 239 of this Act shall not prevent franked investment income of a company resident in the United Kingdom which carries on life assurance business from being taken into account as part of the profits in computing trading income in accordance with the provisions applicable to Case I of Schedule D.
- (2) In ascertaining for the purposes of section 177 or section 178 of this Act (relief for losses) 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.

#### **309 Case I computation: profits reserved for policy holders and annuitants**

Where the profits of an insurance company in respect of its life assurance business are, for the purposes of this Act, computed in accordance with the provisions thereof applicable to Case I of Schedule D, such part of those profits as belongs or is allocated to, or is reserved for, or expended on behalf of, policy holders or annuitants shall be excluded in making the computation, but if any profits so excluded as being reserved for policy holders or annuitants cease at any time to be so reserved and are not allocated to or expended on behalf of policy holders or annuitants, those profits shall be treated as profits of the company for the accounting period in which they ceased to be so reserved.

#### **310 Rate relief: investment income reserved for policy holders**

- (1) A claim may be made under this section by an insurance company carrying on life assurance business in respect of unrelieved income from investments held in connection with that business.
- (2) If on the claim the company proves to the satisfaction of the Board that it has, for any year for which the rate of corporation tax exceeds 375 per cent., borne corporation tax in respect of any of the said unrelieved income, the company shall be entitled to

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repayment of so much of that tax borne by it for that year as is equal to the amount by which—

(a) the corporation tax borne by the company for that year in respect of the part specified in subsection (6) below of the said unrelieved income,

exceeds—

(b) the corporation tax which would have been so borne in respect of that part of that income if the rate of corporation tax for that year had been 37-5 per cent.

(3) If on the claim the company proves to the satisfaction of the Board that it has, for any year for which the standard rate of income tax exceeds 37-5 per cent., borne income tax in respect of any of the said unrelieved income, the company shall be entitled to repayment of so much of that tax borne by it for that year as is equal to the amount by which—

(a) the income tax borne by the company for that year in respect of the part specified in subsection (6) below of the said unrelieved income,

exceeds—

(b) the income tax which would have been so borne in respect of that part of that income if the standard rate of income tax for that year had been 37-5 per cent.

(4) Subsection (3) above shall apply to franked investment income as if income tax deducted (or treated under paragraph 2 of Schedule F as deducted) from it were income tax borne by the company, and for the purposes of the preceding provisions of this section—

(a) " unrelieved income " means income which has not been excluded from charge to tax by virtue of any provision and against which no relief has been allowed by deduction or set-off;

(b) the amount of tax which has been or would be borne by a company shall be taken to be the amount of tax which has been or would be so borne after the allowance of any relief to which the company is or would be entitled otherwise than under the preceding provisions of this section.

(5) Except as provided by the preceding provisions of this section, a company resident in the United Kingdom shall not be entitled to repayment of income tax deducted (or treated under paragraph 2 of Schedule F as deducted) from such part of the franked investment income from investments held in connection with its life assurance business as is specified in subsection (6) below.

The reference in this subsection to repayment of income tax includes a reference to the setting off of income tax against tax which the company is liable to pay in respect of its own distributions, and this subsection shall not be taken to apply to repayments of income tax under section 254 of this Act.

(6) The said part shall be, in the case of any unrelieved income, the same fraction of it as the fraction which, on a computation of the profits of the company in respect of its life assurance business in accordance with the provisions applicable to Case I of Schedule D (whether or not the company is in fact charged to tax under that Case for the relevant accounting period or periods), would be connoted by the words in section 309 above " such part of those profits as belongs or is allocated to, or is reserved for, or expended on behalf of, policy holders or annuitants ":

Provided that, if the income exceeds the profits as computed in accordance with those provisions other than section 309 above, the said part shall be that fraction of the income so far as not exceeding the profits, together with the amount of the excess.

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### **311 Rate relief: chargeable gains reserved for policy holders**

- (1) Where an insurance company carrying on life assurance business proves on a claim to the satisfaction of the Board that it has, for any year for which the rate of corporation tax exceeds the rate set out in subsection (2) below, borne corporation tax in respect of chargeable gains from investments held in connection with its life assurance business, the company shall be entitled to repayment of so much of that tax borne by it for that year as is equal to the amount by which—
- (a) the corporation tax borne by the company for that year in respect of such part of those gains as, in the opinion of the Board, belongs or is allocated to, or is reserved for, or expended on behalf of, policy holders, exceeds—
  - (b) the corporation tax which would have been so borne in respect of that part of those gains if the rate of corporation tax on the gains had been the rate set out below.
- (2) The said rate of corporation tax is 37.5 per cent., or the rate at which capital gains tax is for the time being chargeable under section 20(3) of the Finance Act 1965, whichever is the lower rate.

In relation to corporation tax for any accounting period the relevant rate of capital gains tax under the said section 20(3) shall be that for the year of assessment in which that accounting period ends.

- (3) For the purposes of this section, the amount of corporation tax which has been or would be borne by a company (in respect of chargeable gains from investments held in connection with its life assurance business) shall be taken to be the amount of corporation tax which has been or would be so borne after the allowance of any relief to which the company is or would be entitled otherwise than under this section.

### **312 Annuity business: separate charge on profits**

- (1) Subject to the provisions of this section, profits arising to an insurance company from general annuity business or pension annuity business shall be treated as income within Schedule D, and be chargeable under Case VI of that Schedule, and for that purpose—
- (a) the business of each such class shall be treated separately, and
  - (b) subject to paragraph (a) above, and to subsection (2) below, the profits therefrom shall be computed in accordance with the provisions of this Act applicable to Case I of Schedule D:

Provided that this subsection shall not apply to an insurance company charged to corporation tax in accordance with the provisions applicable to Case I of Schedule D in respect of the profits of its ordinary life assurance business.

- (2) In making the said computation—
- (a) section 309 of this Act shall apply with the necessary modifications and in particular with the omission therefrom of all references to policy holders, and
  - (b) no deduction shall be allowed in respect of any expenses of management deductible under section 305 of this Act, and
  - (c) there may be set off against the profits any loss, to be computed on the same basis as the profits, which has arisen in connection with the granting of annuities on human life in any previous accounting period or year of assessment not earlier than the year 1923-24.

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- (3) Section 179 of this Act (Case VI losses) shall not be taken to apply to a loss incurred by a company on its general annuity business or pension annuity business.
- (4) For the purposes of subsection (2) of this section, losses for years of assessment earlier than 1956-57 shall be computed by reference to the annuity business as a whole, and by apportioning any losses which arose on that business (and in respect of which relief has not been given) between the general annuity business and the pension annuity business in such manner as may be appropriate.

### **313 General annuity business**

- (1) 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 taxed income of the part of the annuity fund so referable, shall be treated as charges on income.
- (2) In computing under section 312 above the profits arising to an insurance company from general annuity business—
  - (a) taxed income and group income shall not be taken into account as part of those profits, and
  - (b) of the annuities paid by the company and referable to general annuity business—
    - (i) those which under subsection (1) above are treated as charges on income shall not be deductible, and
    - (ii) those which are not so treated shall (notwithstanding section 251(2) of this Act) be deductible.
- (3) In subsections (1) and (2) above "taxed income " means income charged to corporation tax otherwise than under section 312 above, and franked investment income.
- (4) Subject to subsection (5) below, tax on any franked investment income which is taken into account under subsection (2) above to enable annuities referable to general annuity business to be treated as charges on income shall not be available for setoff against income tax which the company is liable to pay in respect of its own distributions.
- (5) For the purposes of subsection (4) above there shall be deducted from the amount of the franked investment income of the company arising in any accounting period and taken into account under subsection (1) above—
  - (a) the amount of any profit arising in that accounting period to the company from general annuity business and computed under section 312 above, and
  - (b) the amount of any group income arising in that accounting period to the company and referable to its general annuity business.
- (6) A company which is not resident in the United Kingdom but carries on through a branch or agency there any general annuity business shall not be entitled to treat any part of the annuities paid by it which are referable to that business as paid out of profits or gains brought into charge to income tax.

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### **314 Pension annuity business**

- (1) Exemption from income tax and corporation tax shall be allowed in respect of income from, and chargeable gains in respect of, investments and deposits of so much of an insurance company's annuity fund as is referable to pension annuity business.
- (2) The exemption from tax conferred by subsection (1) above shall not exclude any sums from being taken into account as receipts in computing profits or losses for any purpose of the Corporation Tax Acts.
- (3) Subject to subsection (4) below—
  - (a) the exclusion by section 239 of this Act from the charge to corporation tax of franked investment income shall not prevent such income being taken into account as part of the profits in computing under section 312 of this Act income from pension annuity business,
  - (b) notwithstanding anything in section 240 of this Act a company resident in the United Kingdom and 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 so far as it is referable to pension annuity business, and
  - (c) any franked investment income on which income tax is so repayable shall be left out of account under the said section 240.
- (4) If for any accounting period there is, apart from this subsection, a profit arising to an insurance company from pension annuity business and computed under section 312 of this Act, and the company so elects as respects all or any part of its franked investment income arising in that period, being an amount of franked investment income not exceeding the amount of the said profit, subsection (3) above shall not apply to the franked investment income to which the election relates.

If an accounting period falls partly in one income tax year of assessment, and partly in another such year, the power of making elections under this subsection may be exercised separately for the respective parts of the accounting period as if they were separate accounting periods, and an election under this subsection shall be made by notice in writing given to the inspector not later than two years after the end of the accounting period, or part of an accounting period, to which the election relates, or within such longer period as the Board may by notice in writing allow.

- (5) In computing under section 312 of this Act profits from pension annuity business—
  - (a) group income shall not be taken into account as part of those profits,
  - (b) annuities shall be deductible notwithstanding section 251(2) of this Act,
 and a company shall not be entitled to treat as paid out of profits or gains brought into charge to income tax any part of the annuities paid by the company which is referable to pension annuity business.

### **315 Foreign life assurance funds**

- (1) Corporation tax under Cases IV and V on income arising from investments of the foreign life assurance fund of an insurance company shall be computed as in the cases mentioned in section 122(2) of this Act, that is to say, by reference to the amount of income received in the United Kingdom; and this subsection shall apply notwithstanding that the said section relates only to income tax.
- (2) Where any of the following securities, namely—



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- (a) securities issued by the Treasury with the condition that the interest thereon shall not be liable to income tax so long as it is shown, in manner directed by the Treasury, that the securities are in the beneficial ownership of persons who are not ordinarily resident in the United Kingdom, or
  - (b) securities issued by the Treasury with the condition that—
    - (i) so long as the securities are in the beneficial ownership of persons who are not ordinarily resident in the United Kingdom, the interest thereon shall be exempt from income tax, and
    - (ii) so long as the securities are in the beneficial ownership of persons who are neither domiciled nor ordinarily resident in the United Kingdom, neither the capital thereof nor the interest thereon shall be liable to any taxation present or future, or
  - (c) securities to which section 416 of this Act (local authority securities expressed in foreign currencies) applies,  
for the time being form part of the investments of the foreign life assurance fund of an insurance company, the income arising from those securities, if applied for the purposes of that fund or reinvested so as to form part of that fund, shall not be liable to tax.
- (3) Where any income arising abroad from the investments of the foreign life assurance fund of an insurance company has been remitted to the United Kingdom and invested, as part of the investments of that fund, in any such securities as are mentioned in subsection (2) above, that income shall not be liable to tax and any tax paid thereon shall, if necessary, be repaid to the company on the making of a claim.
- (4) Any securities issued by the Treasury, in pursuance of the power conferred by section 60(1) of the Finance Act 1940, with a modified form of the condition specified in subsection (2)(b) above shall, save in so far as the terms of the issue otherwise provide, be deemed for the purposes of subsections (2) and (3) above to be such securities as are mentioned in the said subsection (2).
- (5) Where income arising from the investments of the foreign life assurance fund of an insurance company has been relieved from tax in pursuance of the provisions of this section, a corresponding reduction shall be made—
- (a) in the relief granted under section 305 of this Act in respect of expenses of management, and
  - (b) in any amount on which the company is chargeable to tax by virtue of section 312 of this Act.
- (6) In this section " foreign life assurance fund "—
- (a) means any fund representing the amount of the liability of an insurance company in respect of its life assurance business with policy holders and annuitants residing outside the United Kingdom whose proposals were made to, or whose annuity contracts were granted by, the company at or through a branch or agency outside the United Kingdom, and
  - (b) where such a fund is not kept separately from the life assurance fund, means such part of the life assurance fund as represents the liability of the company under such policies and contracts, such liability being estimated in the same manner as it is estimated for the purpose of the company's periodical return.
- (7) Subject to subsection (8) below, for any year for which the agreements set out in Part I of Schedule 12 to this Act are in force, subsection (6) above shall have effect as if the expression " the United Kingdom " included the Republic of Ireland.

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- (8) Where—
- (a) an insurance company having its head office in the United Kingdom carries on business in the Republic of Ireland, and
  - (b) under provisions of the law of that country corresponding with section 314(1) above exemption from income tax is allowable in respect of income corresponding to the income from investments and deposits referable to pension annuity business to which the said section 314(1) applies,
- this section shall have effect in relation to the income so exempt in the Republic of Ireland with the omission of subsection (7) above.
- (9) Where this section has effect in relation to income arising from investments of any part of an insurance company's life assurance fund, it shall 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.

### **316 Overseas life insurance companies: charge on investment income**

- (1) Any income of an overseas life insurance company from the investments of its life assurance fund (excluding the annuity fund, if any), wherever received, shall, to the extent provided in this section, be deemed to be profits comprised in Schedule D and shall be charged to corporation tax under Case III of Schedule D.
- (2) Distributions received from companies resident in the United Kingdom shall be brought into account under this section notwithstanding their exclusion from the charge to corporation tax.
- (3) A portion only of the income from the investments of the life assurance fund (excluding the annuity fund, if any) shall be charged in accordance with subsection (1) above, and for any accounting period that portion shall be determined by the formula

$$\frac{A \times B}{C}$$

where—

A is the total income from those investments for that period,

B is the average of the liabilities for that period to policy holders resident in the United Kingdom and to policy holders resident abroad whose proposals were made to the company at or through its branch or agency in the United Kingdom, and

C is the average of the liabilities for that period to all the company's policy holders,

but any reference in this subsection to liabilities does not include liabilities in respect of annuity business.

- (4) For the purposes of subsection (3) above, the average of any liabilities for an accounting period shall be taken as one half of the aggregate of the liabilities at the beginning and end of the valuation period which coincides with that accounting period or in which that accounting period falls.
- (5) For the purposes of this section the liabilities of an insurance company attributable to any business at any time shall be ascertained by reference to the net liabilities of the company as valued by an actuary for the purposes of the relevant periodical return.

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- (6) Section 129(3) of this Act (income assessable and chargeable in one sum) shall not apply to tax in respect of income to which subsection (1) of this section applies.

**317 Management expenses of overseas life insurance companies**

The relief under section 305 above available to an overseas life insurance company in respect of its expenses of management shall be limited to expenses attributable to the life assurance business carried on by the company at or through its branch or agency in the United Kingdom.

**318 Overseas life insurance companies: annuity business**

- (1) Nothing in the Corporation Tax Acts shall prevent the distributions of companies resident in the United Kingdom from being taken into account as part of the profits in computing, under section 312 above, the profits arising from pension annuity business and general annuity business to an overseas life insurance company.
- (2) Any charge to tax under section 312 above for any accounting period on profits arising to an overseas life insurance company from general annuity business shall extend only to a portion of the profits arising from that business and that portion shall be determined by the formula

where—

A is the total amount of those profits,

B is the average of the liabilities attributable to that business for the relevant accounting period in respect of contracts with persons resident in the United Kingdom or contracts with persons resident abroad whose proposals were made to the company at or through its branch or agency in the United Kingdom, and

C is the average of the liabilities attributable to that business for that accounting period in respect of all contracts.

- (3) For the purposes of subsection (2) above, the average of any liabilities for an accounting period shall be taken as one half of the aggregate of the liabilities at the beginning and end of the valuation period which coincides with that accounting period or in which that accounting period falls.
- (4) For the purposes of this section the liabilities of an insurance company attributable to general annuity business at any time shall be ascertained by reference to the net liabilities of the company as valued by an actuary for the purposes of the relevant periodical return.

**319 Set-off of income tax against corporation tax by overseas life insurance companies**

- (1) For the purposes of subsection (3) of section 246 of this Act (set-off by non-resident companies of income tax deducted from payments received against corporation tax), as it applies to life insurance companies, the amount of the income tax referred to in that subsection which shall be available for set-off under that subsection in an accounting period shall be limited in accordance with subsections (2) and (3) below.

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- (2) If the company is chargeable to corporation tax for an accounting period in accordance with section 316 above in respect of the income from the investments of its life assurance fund, the amount of income tax available for set-off against any corporation tax assessed for that period on that income shall not exceed an amount equal to income tax at the standard rate on the portion of income from investments which is chargeable to corporation tax by virtue of subsection (3) of the said section 316.
- (3) If the company is chargeable to corporation tax for an accounting period in accordance with section 318 above on a proportion of the total amount of the profits arising from its general annuity business, the amount of income tax available for set-off against any corporation tax assessed for that period on those profits shall not exceed an amount equal to income tax at the standard rate on the like proportion of the income from investments included in computing those profits.

### **320 Overseas life insurance companies: double taxation agreements**

- (1) This section applies to an overseas life insurance company if, by virtue of arrangements specified in an Order in Council under section 497 of this Act (double taxation relief), no charge to corporation tax under Case III of Schedule D arises under section 316 of this Act in respect of any income of the company from the investments of its life assurance fund (excluding the annuity fund, if any).
- (2) For the purposes of section 254 of this Act (set-off of losses etc. against franked investment income), so much of any distributions received in any year of assessment from a company resident in the United Kingdom by an overseas life insurance company to which this section applies as is received in respect of the portion of the investments of its life assurance fund (excluding the annuity fund, if any) attributable to the business of its branch or agency in the United Kingdom shall be deemed to be franked investment income of that company, and accordingly the company may make a claim under subsection (1) of the said section 254 for any of the purposes specified in subsection (2) thereof.

### **321 Life policies carrying rights not in money**

- (1) Where any investments or other assets are, in accordance with a policy issued in the course of life assurance business carried on by an insurance company, transferred to the policy holder, the policy holder's acquisition of the assets, and the disposal of them to him, shall be deemed to be for a consideration equal to the market value of the assets—
  - (a) for the purposes of Part III of the Finance Act 1965 (chargeable gains), and
  - (b) for the purposes of computing income in accordance with Case I or Case VI of Schedule D, and
  - (c) for the purposes of Case VII of Schedule D.
- (2) This section has effect as respects investments or other assets transferred on or after 6th April 1967.

### **322 Benefits from life policies issued before 5th August 1965: deduction for tax on chargeable gains**

- (1) This section applies in relation to policies of life assurance issued before 5th August 1965 by a company carrying on life assurance business, being policies which—

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- (a) provide for benefits consisting 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
  - (b) do not provide for the deduction from those benefits of any amount by reference to tax chargeable in respect of chargeable gains.
- (2) Where—
- (a) 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
  - (b) 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 thereout a part thereof not exceeding in amount or value corporation tax, at the rate specified in subsection (3) below, in respect of the chargeable gain referred to in paragraph (b) above, computed without regard to any amount retained under this subsection.
- (3) The amount to be retained under subsection (2) above shall be computed by reference to the rate of corporation tax for the time being in force or, if no rate of corporation tax has yet been fixed for the financial year, the rate last in force:
- 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 to be retained shall be computed by reference to a rate of tax not exceeding 37.5 per cent.

### **323 Interpretation**

- (1) This section has effect for the interpretation of the preceding provisions of this Chapter, with this section.
- (2) Unless the context otherwise requires—
  - " annuity business " means the business of granting annuities on human life,
  - " annuity fund " means, where an annuity fund is not kept separately from the life assurance fund of an insurance company, such part of the life assurance fund as represents the liability of the company under its annuity contracts, as stated in its periodical returns,
  - " insurance company " means a company to which the Insurance Companies Act 1958 or the Insurance Companies Act (Northern Ireland) 1968 applies,
  - " life assurance business " includes annuity business,
  - " overseas life insurance company " means an insurance company having its head office outside the United Kingdom but carrying on life assurance business through a branch or agency in the United Kingdom,
  - " periodical return ", in relation to an insurance company, means a return deposited with the Board of Trade under the Insurance Companies Act 1958 or, as the case may be, with the Ministry of Commerce for Northern Ireland under the Insurance Companies Act (Northern Ireland) 1968.

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- (3) " General annuity business " means any annuity business which is not pension annuity business, and any division to be made between the two classes of business shall be made on the principle of referring to pension annuity business any premiums falling within subsection (4) below, together with the part resulting therefrom of the company's annuity fund and liability for annuities, and of dealing with other incomings and outgoings accordingly.
- (4) The premiums to be referred to pension annuity business are those payable under contracts falling (at the time when the premium is payable) within one or other of the following descriptions, that is to say—
- (a) any contract with an individual who is, or would but for an insufficiency of profits or gains be, chargeable to income tax in respect of relevant earnings (as defined in section 226(8) and (9) of this Act) from a trade, profession, vocation, office or employment carried on or held by him, being a contract approved by the Board under that section,
  - (b) any contract with the trustees or other persons having the management of a superannuation fund within the meaning of section 208 of this Act, or of a scheme approved under section 226 of this Act, being a contract which—
    - (i) was entered into for the purposes only of that fund or scheme, or, in the case of a fund part only of which is approved under the said section 208, then for the purposes only of that part of that fund, and
    - (ii) (in the case of a contract entered into or varied after 1st August 1956) is so framed that the liabilities undertaken by the insurance company under the contract correspond with liabilities against which the contract is intended to secure the fund (or the relevant part of it) or the scheme,
- and in this and the last preceding subsection " premium" includes any consideration for an annuity.

#### *Capital redemption business*

### **324 Capital redemption business**

- (1) Where any person carries on capital redemption business in conjunction with business of any other class, the capital redemption business shall, for the purposes of the Corporation Tax Acts (including the provisions about corporation tax on chargeable gains) and the Income Tax Acts, be treated as a separate business from any other class of business carried on by that person.
- (2) In ascertaining whether and to what extent any person has incurred a loss on his capital redemption business—
- (a) for the purposes of sections 177 and 178 of this Act (corporation tax losses), or
  - (b) for the purposes of section 168 of this Act (income tax losses against general income),

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, and in determining whether any, and if so what, relief can be given under section 171(3) of this Act (income tax loss carried forward and set off against investment income which has borne tax) in the case of capital redemption business, the loss which may be carried forward under subsection (1) of that section shall be similarly computed.

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- (3) In this section, " capital redemption business " means the business (not being life assurance business or industrial assurance business) of effecting and carrying out contracts of insurance, whether effected by the issue of policies, bonds or endowment certificates or otherwise, whereby, in return for one or more premiums paid to the insurer, a sum or a series of sums is to become payable to the insured in the future.
- (4) This section shall not apply to any capital redemption business in so far as it consists of carrying out such contracts as aforesaid effected before 1st January 1938.

*Dealers in securities: conversions*

**325    3½ per cent. war loan**

Where a war loan holding which was continued under Part III of the Finance (No. 2) Act 1931 beyond the redemption date as therein defined was, on that date, in the beneficial ownership of a person who was carrying on a trade consisting wholly or partly in dealing in securities, that person shall be treated for tax purposes as not having changed his investment on that date and the produce of any realisation of the whole or any part of the continued holding, together with any additional consideration, or the appropriate part of any additional consideration, received by him in connection with the continuance, shall be treated as the produce of the realisation of the whole or the appropriate part of the original holding:

Provided that where any such person, in pursuance of section 16 of the said Act, gave notice in writing to the inspector not later than the end of the year 1933-34 that he desired to be treated for the purposes of the Income Tax Acts as having changed his investment on the redemption date, the preceding provisions of this section shall not apply to him and he shall be treated for tax purposes as having changed his investment on the redemption date.

**326    Exchange of securities in connection with conversion operations, nationalisation, etc.**

- (1) If—
- (a) any securities to which a person who is carrying on a trade which consists wholly or partly in dealing in securities is beneficially entitled are exchanged for other securities; and
  - (b) the exchange is one to which this section applies,
- then (whether or not any additional consideration is given for the exchange) that person shall, unless he gives notice in writing to the inspector not later than two years after the end of the chargeable period in which the exchange takes place that he desires not to be so treated, be treated for tax purposes (except as regards any tax payable in respect of dividends or interest), both at the time of the exchange and thereafter, as if the exchange had not taken place, and in that case the produce of any subsequent realisation of any of the securities received by him under the exchange (together with any additional consideration or the appropriate part of any additional consideration received by him thereunder) shall be treated as the produce of the realisation of the corresponding securities surrendered by or transferred from him under the exchange, or of a corresponding part thereof, as the case may be.
- (2) The exchanges to which this section applies are—

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- (a) any exchange effected under any arrangement carried out under section 2 of the National Loans Act 1939 or section 14 of the National Loans Act 1968 if the Treasury direct, in pursuance of that arrangement, that this section shall apply to exchanges thereunder; and
  - (b) any exchange of securities effected by section 1 of the Bank of England Act 1946 ; and
  - (c) any exchange of securities effected in pursuance of any enactment passed after 5 th April 1946 which provides for the compulsory acquisition of any securities and the issue of other securities in lieu thereof, if the Treasury direct that this section shall apply to exchanges of securities effected in pursuance of that enactment.
- (3) In this section, " securities " includes shares, stock, bonds, debentures and debenture stock.

**327 Other provisions as to issues of securities in connection with nationalisation, etc.**

- (1) Where—
- (a) in pursuance of any enactment passed after 5th April 1946 any securities are issued to any body corporate as, or as part of, the consideration for the compulsory acquisition of any property under that enactment, and
  - (b) that body corporate is wound up or the capital thereof is reduced or any bonds, debentures or debenture stock thereof are redeemed, and, in or in connection with the winding up, reduction of capital or redemption, all or any of the securities issued as aforesaid to the body corporate are distributed to holders of securities of the body corporate, and
  - (c) the Treasury direct that this section shall apply in relation to the distribution, any person who is carrying on a trade which consists wholly or partly in dealing in securities and is beneficially entitled to any securities to the holders of which the distribution is made shall, in relation to that distribution, be treated for tax purposes in the manner specified in the following provisions of this section, unless he gives notice in writing to the inspector not later than two years after the end of the chargeable period in which the distribution takes place that he desires not to be so treated in relation to that distribution.
- (2) If the result of the winding up, reduction of capital or redemption of bonds, debentures or debenture stock is that the securities of the body corporate to which the person in question is entitled as aforesaid are wholly extinguished without his receiving anything in respect thereof except the securities distributed as aforesaid, he shall be treated for tax purposes (except as regards any tax payable in respect of dividends or interest), both then and thereafter, as if neither the extinction nor the distribution had taken place but as if the produce of any subsequent realisation of any of the distributed securities were the produce of the realisation of the extinguished securities or a corresponding part thereof, as the case may be.
- (3) In any other case—
- (a) the said person shall be treated as having acquired the distributed securities at a cost equal to such proportion of the cost to him of the securities in respect of which the distribution was made as may be specified in the direction of the Treasury referred to in subsection (1) of this section and the question whether he has made any, and if so what, profit or suffered any, and if so what, loss



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on any subsequent realisation of the distributed securities shall be determined accordingly, and

- (b) in considering whether he has, either as the result of the winding up, reduction of capital or redemption of bonds, debentures or debenture stock and the distribution of the securities, or on any subsequent realisation of any of the securities in respect of which the distribution was made, made any, and if so what, profit or suffered any, and if so what, loss in connection with the securities in respect of which the distribution was made, the distributed securities shall be left out of account and the cost to him of the securities in respect of which the distribution was made shall be deemed to be reduced by the amount of the cost at which, under paragraph (a) of this subsection, he is taken to have acquired the distributed securities.

- (4) In this section " securities " includes shares, stock, bonds, debentures and debenture stock.

*Non-resident banks, insurance companies and dealers in securities*

### **328 Treatment of tax-free income**

- (1) Where a banking business, an insurance business or a business consisting wholly or partly in dealing in securities is carried on in the United Kingdom by a person not resident therein, then—
  - (a) in computing for any of the purposes of the Tax Acts the profits arising from, or loss sustained in, the business, and
  - (b) in the case of an insurance business, also in computing the profits or loss from annuity business under section 312 of this Act,

all interest, dividends and other payments whatsoever to which section 100 or section 159(4) of this Act (which exempt certain dividends of non-residents) extends shall be included notwithstanding the exemption from tax conferred by those sections respectively.

In this subsection " securities " includes stocks and shares.

- (2) Where—
  - (a) any such business as aforesaid is carried on in the United Kingdom by a person not ordinarily resident therein, and
  - (b) in making any such computation as aforesaid with respect to that business, any interest on any securities issued by the Treasury is excluded by virtue of a condition of the issue thereof regulating the treatment of the interest thereon for tax purposes,

any expenses attributable to the acquisition or holding of, or to any transaction in, the securities (but not including in those expenses any interest on borrowed money), and any profits or losses so attributable, shall also be excluded in making that computation.

- (3) In the case of an overseas life insurance company as defined in section 323 of this Act—
  - (a) in computing for the purposes of section 316 of this Act the income from the investments of the life assurance fund of the company, any interest, dividends and other payments whatsoever to which section 100 or section 159(4) of this Act extends shall be included notwithstanding the exemption from tax conferred by those sections respectively, and

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- (b) where in computing the said income any interest on any securities issued by the Treasury is excluded by virtue of a condition of the issue thereof regulating the treatment of the interest thereon for tax purposes, the relief under section 305 of this Act shall be reduced so as to bear to the amount of relief which would be granted but for the provisions of this paragraph the same proportion as the amount of that income, excluding the said interest, bears to the amount of that income including that interest.

### **329 Tax-free Treasury securities: exclusion of interest on borrowed money**

- (1) This section has effect where paragraphs (a) and (b) of section 328(2) above apply to a business for any accounting period or year of assessment.
- (2) Up to the amount determined under this section (called the amount ineligible for relief) interest on money borrowed for the purposes of the business—
- (a) shall be excluded in any computation under the Tax Acts of the profits (or loss) arising from the business or, where subsection (5) below applies, arising from any annuity business forming part of the life assurance business, and
- (b) shall be excluded from the definition of "charges on income" in section 248 of this Act.
- (3) In determining the amount ineligible for relief, account shall be taken of all money borrowed for the purposes of the business which is outstanding in the accounting or basis period, up to the total cost of the tax-free Treasury securities held for the purpose of the business in that period:
- Provided that where the person carrying on the business is a company, account shall not be taken of any borrowed money carrying interest which, apart from subsection (2) above, does not fall to be included in the computations under paragraph (a) of that subsection, and is not to be treated as a charge on income for the purposes of the Corporation Tax Acts.
- (4) Subject to subsection (5) below, the amount ineligible for relief shall be equal to a year's interest on the amount of money borrowed which is to be taken into account under subsection (3) above at a rate equal to the average rate of interest in the accounting or basis period on money borrowed for the purposes of the business, except that in the case of a period of less than twelve months, interest shall be taken for that shorter period instead of for a year.
- (5) Where relief for expenses of management is to be granted to an insurance company for any accounting period, and that relief falls to be reduced under section 328(3)(b) above (by applying the fraction which is investment income of the life assurance fund other than income from tax-free Treasury securities divided by that total investment income) the amount ineligible for relief shall be a fraction of the amount of interest in the accounting period on money borrowed for the purposes of the business, and that fraction shall be the fraction which is income from tax-free Treasury securities divided by total investment income of the life assurance fund (that is to say one minus the fraction to be applied under the said subsection (3)(b)).
- (6) In this section "tax-free Treasury securities" means securities issued by the Treasury with a condition regulating the treatment of the interest thereon for income tax or corporation tax purposes such that interest on the securities is excluded in computing the income or profits.

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- (7) For the purposes of this section the cost of a holding of tax-free Treasury securities which has fluctuated in the accounting or basis period shall be the average cost of acquisition of the initial holding, and of any subsequent acquisitions in the accounting or basis period, applied to the average amount of the holding in the accounting or basis period, and this subsection shall be applied separately to securities of different classes.
- (8) In this section " accounting or basis period " means the company's accounting period or the period by reference to which the profits or gains arising in the year of assessment are to be computed.

### *Underwriters*

#### **330 Underwriters**

Schedule 10 to this Act shall have effect as respects underwriters.

## **CHAPTER III**

### **FRIENDLY SOCIETIES AND TRADE UNIONS**

#### *Unregistered friendly societies*

#### **331 Unregistered friendly societies**

An unregistered friendly society whose income does not exceed £160 a year shall, on making a claim, be entitled to exemption from income tax and corporation tax (whether on income or on chargeable gains).

#### *Registered friendly societies*

#### **332 Registered friendly societies**

- (1) Subject to subsection (2) below, a registered friendly society shall, on making a claim, be entitled to exemption from income tax and corporation tax (whether on income or on chargeable gains).
- (2) Subsection (1) above—
- (a) shall not apply to profits arising from life or endowment business consisting of the assurance of gross sums exceeding £500 or of the granting of annuities of annual amounts exceeding £104, and
  - (b) as respects other life or endowment business (in this Chapter referred to as " tax exempt life or endowment business ") has effect subject to the following provisions of this Chapter.
- (3) In applying the said limits of £500 and £104 any bonus or addition declared upon an assurance of a gross sum or annuity shall be disregarded.

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### **333 Life or endowment business: distinction between old and new societies**

- (1) So far as section 332 above relates to profits arising from life or endowment business it shall not exempt—
- (a) a friendly society registered after 31st December 1957 which at any time in the period of three months ending on 3rd May 1966 entered into any transaction in return for a single premium, being a transaction forming part of its life or endowment business, or
  - (b) subject to subsections (2) and (3) below, a friendly society registered after 3rd May 1966, or a friendly society which was registered in the period of three months ending on 3rd May 1966 but which at no time earlier than 3rd May 1966 carried on any life or endowment business.
- (2) Subsection (1)(b) above shall not apply to a friendly society if, by the rules of the society, the only life or endowment business which it may carry on is—
- (a) industrial assurance business,
  - (b) assurance affording provision for sickness or other infirmity, whether bodily or mental, which is also assurance for a gross sum independent of sickness or other infirmity, where not less than sixty per cent. of the amount of the premiums is attributable to the provision afforded during sickness or other infirmity, and no bonus or addition may be declared upon the assurance of the gross sum, or
  - (c) contracts exclusively for the assurance of a gross sum or annuity payable on death to or for the benefit of the deceased's widow or dependent child,
- or business which falls within any two or all three of paragraphs (a),(b) or (c) above taken together.
- (3) Subsection (1)(b) above shall not apply to any part of a friendly society's tax exempt life or endowment business which it acquires by way of transfer of engagements or amalgamation from another friendly society, and which consists of business relating to contracts made not later than the time of transfer or amalgamation.

### **334 Conditions for tax exempt business**

- (1) Section 332(1) above shall not apply to profits arising from tax exempt life or endowment business unless the following provisions of this section are satisfied in relation to that business.
- (2) The following conditions shall apply to every policy for the assurance of a gross sum, or of an annuity, which the friendly society issues, or has issued at any time since 3rd May 1966—
- (a) the period (in this section called " the term" of the policy) between the payment of the first premium and the time when the gross sum assured is payable (or as the case may be when the first instalment of the annuity is payable) shall be not less than ten years, and must not, on any contingency other than the death, or retirement on grounds of ill health, of the person liable to pay the premiums or whose life is insured, become less than ten years,
  - (b) the premiums payable under the policy shall be premiums of equal or rateable amounts payable at yearly or shorter intervals over the whole term of the policy of assurance, or over the whole term of the policy of assurance apart from any period after the person liable to pay the premiums or whose life is insured attains a specified age, being an age which he will attain at a time not less than ten years after the beginning of the term of the policy of assurance,

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- (c) until the expiration of three-quarters of the term of the policy of assurance, or of ten years from the beginning of the term, whichever is the shorter, the policy may not be surrendered to the friendly society for consideration exceeding the amount of the premiums paid, except that, if a surrender value is prescribed for the surrender by section 24 of the Industrial Assurance Act 1923 or section 3 of the Industrial Assurance and Friendly Societies Act 1929, or by the Industrial Assurance and Friendly Societies Act (Northern Ireland) 1929, the limit on the consideration shall be either that value or the amount of the premiums paid, whichever is the greater;

and the friendly society shall not be a party to any variation of the terms of a policy which infringes the conditions in this subsection.

- (3) Notwithstanding subsection (2)(a) above, the policy—
  - (a) may provide for a payment to a person of an age not exceeding 18 years at any time not less than five years from the beginning of the term of the policy if the premium or premiums payable in any period of twelve months in the term of the policy do not exceed £13,
  - (b) may provide for a payment at any time not less than five years from the beginning of the term of the policy, if it is one of a series of payments falling due at intervals of not less than five years, and the amount of any payment, other than the final payment, does not exceed four-fifths of the premiums paid in the interval before its payment.
- (4) Notwithstanding subsection (2)(b) above, the policy—
  - (a) may allow a payment at any time after the expiration of one-half of the term of the policy of assurance, or of ten years from the beginning of the term, whichever is the earlier, being a payment in commutation of the liability to pay premiums falling due after that time,
  - (b) may allow the person liable to pay the premiums to commute any liability for premiums where he ceases to reside in the United Kingdom or gives satisfactory proof of intention to emigrate, and
  - (c) may allow any liability for premiums to be discharged in consideration of surrendering a sum which has become payable on the maturity of any other policy of assurance issued by the same friendly society to the person liable to pay the premiums, or to his parent, where that other policy of assurance is issued as part of the friendly society's tax exempt life or endowment business.

### **335 Life or endowment business: further provisions**

- (1) Subject to section 332(1) above, the Corporation Tax Acts shall apply to the life or endowment business carried on by registered friendly societies in the same way as they apply to mutual life assurance business carried on by insurance companies, so however that the Treasury may by regulations contained in a statutory instrument subject to annulment in pursuance of a resolution of the Commons House of Parliament provide that those Acts as so applied shall have effect subject to such modifications and exceptions as may be prescribed by the regulations, and those regulations may in particular require any part of any business to be treated as a separate business.
- (2) If a friendly society registered not later than 3rd May 1966 begins after that date to carry on tax exempt life or endowment business or, in the opinion of the Chief Registrar of Friendly Societies, begins to carry on tax exempt life or endowment business on an enlarged scale, or of a new character, and it appears to the Chief

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Registrar, having regard to the restrictions placed on friendly societies registered after the said date by subsection (1)(b) of section 333 above, that for the protection of the revenue it is expedient to do so, he may serve a notice on the friendly society referring to the provisions of this subsection and stating that he is considering the question whether, for the protection of the revenue, it is expedient to give a direction that, as from such date as may be specified in the notice, being the date when in the opinion of the Chief Registrar the relevant change in the society's activities took place, the society is to be treated as one within the said subsection (1)(b).

- (3) The Chief Registrar shall consider any representations or undertakings made or offered to him by the friendly society within the period of one month from service of the notice, and if the society so requests shall afford it an opportunity of being heard by him not later than three weeks after the end of that period of one month.
- (4) If after consideration of any such representations or undertakings, the Chief Registrar remains of opinion that it is expedient to do so, he shall direct that the society shall, subject to any further direction given by him cancelling that direction, be treated for the purposes of section 333 above as a friendly society registered after 3rd May 1966, but subject to the like right of appeal as is conferred by section 77(6) of the Friendly Societies Act 1896 on cancellation of registration.
- (5) In the application of this section to Scotland for references to the Chief Registrar of Friendly Societies there shall be substituted references to the assistant registrar for Scotland.

### **336 Saving for contracts made not later than 3rd May 1966**

Sections 333, 334 and 335 above shall not withdraw exemption under section 332(1) above for profits arising from any part of a life or endowment business relating to contracts made not later than 3rd May 1966.

### **337 Interpretation**

- (1) This section has effect for the interpretation of the preceding provisions of this Chapter, together with this section, but excluding section 331 (unregistered friendly societies).
- (2) In the said provisions " life or endowment business" means any business within section 8(1)(b) or (d) or (dd) of the Friendly Societies Act 1896 (life insurance and endowments and insurance of money payable on the duration of a life for a specified period) and any other life assurance business, but—
  - (a) shall include business within section 8(1) (a) of the Friendly Societies Act 1896 for the relief or maintenance of any person in old age (meaning any age after fifty),
  - (b) shall not include the granting of approved annuities (as defined in section 226(13) of this Act),
  - (c) shall not include the assurance of any annuity the consideration for which consists of sums obtainable on the maturity, or on the surrender, of any other policy of assurance issued by the friendly society, being a policy of assurance forming part of the tax exempt life or endowment business of the friendly society.
- (3) In the said provisions—

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" industrial assurance business " has the meaning given by section 1(2) of the Industrial Assurance Act 1923,

" life assurance business " means the issue of, or the undertaking of liability under, policies of assurance upon human life, or the granting of annuities upon human life, not being industrial assurance business,

" tax exempt life or endowment business " has the meaning given by subsection (2)(b) of section 332 above, that is to say, it means life or endowment business other than business profits arising from which are excluded from subsection (1) of that section by subsection (2)(a) of that section,

" policy ", in relation to life or endowment business, includes an instrument evidencing a contract to pay an annuity upon human life, and references in the said provisions to a friendly society include references to any branch of that friendly society.

- (4) It is hereby declared that for the purposes of the said provisions a registered friendly society formed on the amalgamation of two or more friendly societies is to be treated as different from the amalgamated societies:

Provided that—

- (a) the society shall be treated as registered not later than 3rd May 1966 if at the time of the amalgamation all the friendly societies amalgamated were societies which, subject to satisfying the conditions of section 334 above, were eligible for the exemption conferred by section 332(1) above in respect of life or endowment business and at least one of them was a society not within section 333(1)(b) above,
  - (b) in determining, as respects a society resulting from an amalgamation and coming within section 335(2) above by virtue of proviso (a) above, the questions in that subsection in the period immediately following the amalgamation, the activities of the amalgamated societies in the period immediately preceding the amalgamation shall be treated as if they were the activities then being carried on by the society resulting from the amalgamation.
- (5) In the application of the said provisions to a friendly society which is for the time being registered or deemed to be registered in Northern Ireland under the enactments relating to friendly societies in Northern Ireland—
- (a) for references to section 1(2) and section 24 of the Industrial Assurance Act 1923 there shall be substituted references to section 1(2) and section 24 respectively of the Industrial Assurance Act (Northern Ireland) 1924,
  - (b) for references to the Friendly Societies Act 1896 or to any provision of that Act there shall be substituted references to that Act or provision as it applies in Northern Ireland,
  - (c) for references to the Chief Registrar of Friendly Societies there shall be substituted references to the registrar having corresponding functions under the law of Northern Ireland.

### *Trade unions*

#### **338 Exemption for trade unions**

- (1) A registered trade union which is precluded by Act of Parliament, or by its rules, from assuring to any person a sum exceeding £500 by way of gross sum or £104 a year by way of annuity shall, on the making of a claim, be entitled—
  - (a) to exemption from income tax and corporation tax in respect of its income which is not trading income and which is applicable and applied for the purpose of provident benefits,
  - (b) to exemption from tax in respect of chargeable gains which are applicable and applied for the purpose of provident benefits.
- (2) In this section " provident benefits " includes any payment, expressly authorised by the registered rules of the trade union, which is made to a member during sickness or incapacity from personal injury or while out of work, or to an aged member by way of superannuation, or to a member who has met with an accident, or has lost his tools by fire or theft, and includes a payment in discharge or aid of funeral expenses on the death of a member or the wife of a member or as provision for the children of a deceased member.
- (3) In determining for the purposes of this section whether a registered trade union is by Act of Parliament or by its rules precluded from assuring to any person a sum exceeding £104 a year by way of annuity, there shall be disregarded any approved annuities (as defined in section 226(13) of this Act).

## **CHAPTER IV**

### SAVINGS BANKS, INDUSTRIAL AND PROVIDENT SOCIETIES, BUILDING SOCIETIES AND MUTUAL BUSINESS

#### **339 Savings banks**

- (1) Any trustee savings bank within the meaning of section 95(1) of the Trustees Saving Banks Act 1969 shall, on making a claim, be entitled to exemption from income tax and corporation tax in respect of its income arising from investments with the National Debt Commissioners.
- (2) Any savings bank, including any such trustee savings bank, shall, on making a claim, be entitled to exemption from income tax and corporation tax in respect of the income of its funds, to the extent that such income is applied in the payment or credit of interest to any depositor:

Provided that, subject to section 414 of this Act (relief for first £15 of deposits), any such interest shall be chargeable under Case III of Schedule D.

#### **340 Industrial and provident societies, etc.**

- (1) Notwithstanding anything in the Corporation Tax Acts, share interest or loan interest paid by a registered industrial and provident society shall not be treated as a distribution; and, subject to subsection (6) below, any share or loan interest paid in an accounting period of the society—



- (a) shall be deductible in computing, for the 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 for the said purposes as a charge on the income of the society.
- (2) Notwithstanding anything in Part II of this Act, any share interest or loan interest paid by a registered industrial and provident society shall be paid without deduction of income tax:

Provided that this subsection shall not apply to any share interest or loan interest payable to a person whose usual place of abode is not within the United Kingdom, and in any such case section 54 of this Act shall apply to the payment as it applies to a payment of yearly interest, and income tax shall be deducted accordingly.
- (3) Any share interest or loan interest paid by a registered industrial and provident society shall be chargeable under Case III of Schedule D.
- (4) Where at any time, by virtue of this section, the income of a person from any source, not having previously been chargeable by direct assessment on that person, becomes so chargeable, section 120(3) of this Act shall apply as if the source of that income were a new source of income acquired by that person at that time.
- (5) Every registered industrial and provident society shall, within three months after the end of any accounting period of the society, deliver to the inspector a return 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 £15 in that period, and
  - (b) the amount so paid in that period to each of those persons.
- (6) If for any accounting period a return under subsection (5) above is not duly made by a registered industrial and provident society, share and loan interest paid by the society in that period shall not be deductible in computing its income, or be treated as a charge on income.
- (7) If in the course of, or as part of, a union or amalgamation of two or more registered industrial and provident societies, or a transfer of engagements from one registered industrial and provident society to another, there is a disposal of an asset by one society to another, both shall be treated for the purposes of corporation tax in respect of chargeable gains as if the asset were acquired from the society making the disposal for a consideration of such amount as would secure that neither a gain nor a loss would accrue to that society on the disposal.
- (8) 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.
- (9) In this section—
  - " co-operative association " means a body of persons having a written constitution from which the Minister 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,

" the Minister " means—

the Minister of Agriculture, Fisheries and Food, as regards England or Wales,

the Secretary of State, as regards Scotland, and

the Ministry of Agriculture for Northern Ireland, as regards Northern Ireland,

" registered industrial and provident society " means a society registered or deemed to be registered under the Industrial and Provident Societies Act 1965 or under the Industrial and Provident Societies Act (Northern Ireland) 1969,

" share interest " means any interest, dividend, bonus or other sum payable to a shareholder of the society by reference to the amount of his holding in the share capital of the society,

" loan interest " means any interest payable by the society in respect of any mortgage, loan, loan stock or deposit, and

references to the payment of share interest or loan interest include references to the crediting of such interest.

### **341 Co-operative housing associations**

- (1) Where a housing association makes a claim in that behalf for any year or part of a year of assessment during which the association was approved for the purposes of this section.—
  - (a) rent to which the association was entitled from its members for the year or part shall be disregarded for tax purposes, and
  - (b) any yearly interest payable by the association for the year or part shall be treated for tax purposes as payable not by the association but severally by the members of the association who during the year or part were tenants of property of the association, in the proportion which the rents payable by those members for the year or part bear to the aggregate of the rents to which the association was entitled for the year or part from the properties to which the interest relates, and
  - (c) each member of the association shall be treated for the purposes of section 57 of this Act (relief for interest on loans for purchase or improvement of land) as if he were the owner of the association's estate or interest in the property of which he is the tenant.
- (2) Where the property, or any of the properties, to which any such interest as aforesaid relates is for any period not subject to a tenancy, subsection (1)(b) above shall not apply in relation to so much of the interest as is attributable to the property not subject to a tenancy, but for the purposes of the said subsection (1)(b) as it applies in relation to a tenant of any other property to which the interest relates the association shall be deemed to have received, in respect of the property not subject to a tenancy, rent at the rate payable therefor when it was last let by the association.
- (3) In computing the income of the association no payments shall be deductible under subsections (2), (3) or (4) of section 72 of this Act in so far as attributable to a period as respects which a claim under subsection (1) of this section had effect.
- (4) Where a claim under subsection (1) of this section has effect, any adjustment of the liability to tax of a member or of the association which is required in consequence of the claim may be made by an assessment or by repayment or otherwise, as the case may require.

- (5) Where a housing association makes a claim in that behalf for an accounting period or part of an accounting period during which it was approved for the purposes of this section, the housing association shall be exempt from corporation tax on chargeable gains accruing to it in the accounting period or part thereof on the disposal by way of sale of any property which has been or is being occupied by a tenant of the housing association.
- (6) References in this section to the approval of an association shall be construed as references to approval—
- (a) by the Minister of Housing and Local Government, in the case of an association in England (excluding Monmouthshire),
  - (b) by the Secretary of State in the case of an association in Scotland, Wales or Monmouthshire,
  - (c) by the Minister of Development for Northern Ireland, in the case of an association in Northern Ireland ;
- and an association shall not be approved unless the approving authority is satisfied—
- (i) that the association is, or is deemed to be, duly registered under the Industrial and Provident Societies Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969, and is a housing association within the meaning of the Housing Act 1957, the Housing (Scotland) Act 1950 or section 12 of the Housing and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1946,
  - (ii) that the rules of the association restrict membership to persons who are tenants or prospective tenants of the association, and preclude the granting or assignment (or in Scotland the granting or assignation) of tenancies to persons other than members, and
  - (iii) that the association satisfies such other requirements as may be prescribed by the approving authority, and will comply with such conditions as may for the time being be so prescribed.
- (7) An approval given for the purposes of this section shall have effect as from such date (whether before or after the giving of the approval) as may be specified by the approving authority, and shall cease to have effect if revoked by him.
- (8) The Minister of Housing and Local Government and the Secretary of State as respects England and Wales and Scotland, or the Minister of Development for Northern Ireland as respects Northern Ireland, may make regulations for the purpose of carrying out the provisions of this section ; and from the coming into operation of regulations under this subsection prescribing requirements or conditions for the purposes of subsection (6) (iii) above, " prescribed " in the said subsection (6)(iii) shall mean prescribed by or under such regulations.

The power to make regulations conferred by this subsection on the Minister of Housing and Local Government and the Secretary of State shall be exercisable by statutory instrument.

- (9) A claim under this section shall be made to the inspector, and shall be made not later than two years after the end of the year of assessment or accounting period to which, or to a part of which, it relates.

Section 42 of the Taxes Management Act 1970 shall not apply to a claim under this section.

- (10) No claim under this section shall have effect unless it is proved that during the year or accounting period, or part thereof, to which the claim relates—
- (a) no property belonging to the association making the claim was let otherwise than to a member of the association;
  - (b) no property let by the association, and no part of such property, was occupied, whether solely or as joint occupier, by a person not being a member of the association;
  - (c) the association making the claim satisfies the conditions specified in subsection (6)(i) and (ii) above and has complied with the conditions prescribed under subsection (6)(iii) above for the time being in force; and
  - (d) any covenants required to be included in grants of tenancies by those conditions have been observed :

Provided that where the Board are satisfied that the requirements of paragraphs (a) to (d) of this subsection are substantially complied with they may direct that the claim shall have effect, but if subsequently information comes to the knowledge of the Board which satisfies them that the direction was not justified they may revoke the direction and thereupon the liability of all persons concerned to tax for all relevant years or accounting periods shall be adjusted by the making of assessments or otherwise.

For the purposes of paragraph (b) above occupation by any other person in accordance with the will, or the provisions applicable on the intestacy, of a deceased member, shall be treated during the first six months after the death as if it were occupation by a member.

- (11) A claim under this section shall be in such form and contain such particulars as may be prescribed by the Board, and, without prejudice to the generality of this provision, the required particulars may include an authority granted by all members of the association for any relevant information contained in any return made by a member under the provisions of the Income Tax Acts to be used by the Board in such manner as the Board may think fit for determining whether the claim ought to be allowed.

### **342 Disposals of land between the Housing Corporation and housing societies**

Where—

- (a) 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
- (b) 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 to the disposal of the land to or, as the case may be, by the Housing Corporation shall be treated for the 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 party making the disposal for a consideration of such an amount as would secure that on the disposal neither a gain nor a loss accrued to that party.

In this section, " 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 the purposes of the same scheme as that land.

### 343 Building societies

(1) The Board and any building society may, as respects any year of assessment, enter into arrangements whereby—

- (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
- (b) provision is made for any incidental or consequential matters,

and any such arrangements shall have effect notwithstanding anything in this Act:

Provided that in exercising their powers of entering into arrangements under this section, the Board shall at all times aim at securing that (if the amount so payable by the society under the arrangements is regarded as income tax for the year of assessment) the total income tax becoming payable to, and not becoming repayable by, the Crown is, when regard is had to the operation of the subsequent provisions of this section, as nearly as may be the same in the aggregate as it would have been if those powers had never been exercised.

(2) Where for any year of assessment a building society enters into arrangements under this section, 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 9 to this Act (method by which companies are to account for income tax due from them),
- (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 any arrangements under this section are in force in the case of any society as respects any year of assessment—

- (a) notwithstanding anything in Part II of this Act, income tax shall not be deducted from any dividends or interest payable in that year in respect of shares in or deposits with or loans to that society,
- (b) no assessment to income tax or (subject to subsection (2)(b) above) repayment of income tax shall be made in respect of any such dividends or interest on or to the person receiving or entitled to the dividends or interest,

- (c) subject to subsection (2)(b) above, the amounts actually paid or credited in respect of any such dividends or interest (and no more) shall be treated as income for that year of the person entitled thereto, and
- (d) subject to section 240(4) of this Act (payments by companies not to be treated as paid out of profits or gains brought into charge to income tax), the said amounts (and no more) shall, in applying section 52 and section 53 of this Act to other payments, be treated as profits or gains which have been brought into charge to income tax:

Provided that—

- (i) any such dividends or interest shall be taken into account for the purposes of assessment to surtax; and
  - (ii) the amount actually paid or credited in respect of any such dividends or interest shall be deemed for surtax purposes to be a net amount corresponding to a gross amount from which tax at the standard rate for that year has been duly deducted, and the amount on which surtax is to be charged in the case of any person shall be calculated accordingly ; and
  - (iii) the provisions of this subsection shall not apply in relation to interest on any bank loan; and
  - (iv) the provisions of this subsection shall not apply in relation to any interest which is payable in respect of a loan to the society under a contract made before the beginning of the first year of assessment as respects which the society enters into arrangements under subsection (1) of this section, if and to the extent that, both at the time of the making of the contract and at the time when the interest becomes payable, it is contemplated by the parties that tax shall be deducted on payment of the interest.
- (4) Where any arrangements under this section are in force in the case of any society as respects any year of assessment then, notwithstanding anything in Part II of this Act, income tax shall not be deducted upon payment to the society of any interest on advances, being interest payable in that year.
  - (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.
  - (6) Any arrangements made under this section as respects any year of assessment shall, if made after the beginning of that year, be deemed to have come into force at the beginning thereof, and any necessary adjustments shall be made in relation to any sums paid or credited before the date of the making of the arrangements.
  - (7) In this section "dividend" includes any distribution as defined for the purposes of the Corporation Tax Acts, whether described as a dividend or otherwise.
  - (8) In this section "building society" means a building society within the meaning of the Building Societies Act 1962 or the Building Societies Act (Northern Ireland) 1967.
  - (9) This section shall apply in relation to a company within the meaning of the Companies Act 1948, or the corresponding enactments in force in Northern Ireland, which carries on a business which in the opinion of the Board is similar to that carried on by a

building society as it applies in relation to a building society, except that in subsections (2) and (3) the references to dividends and shares shall be deemed to be omitted.

#### **344 Building societies: time for payment of corporation tax**

- (1) Where a building society which had for the year 1965-66 entered into arrangements under section 445 of the Income Tax Act 1952 (which is re-enacted in section 343 above) would but for the arrangements have been assessed for that year by reference to a period ending before that year, but under the arrangements (and without any election thereunder by the society) was so assessed by reference to a period ending in that year, then this section shall apply to the society in place of the provisions of Chapter I of Part XI of this Act as to the time for payment of corporation tax.
- (2) Where this section 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 did 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 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 was assessed to income tax for that year under the arrangements referred to in subsection (1) above.

#### **345 Companies trading with their members, and certain industrial and provident societies**

- (1) In the application to any company of any provision of the Tax Acts relating to profits or gains chargeable under Case I of Schedule D, any reference to profits or gains shall be deemed to include a reference to a profit or surplus arising from transactions of the company with its members which would be included in profits or gains for the purposes of that provision if those transactions were transactions with non-members, and the profit or surplus aforesaid shall be determined for the purposes of that provision on the same principles as those on which profits or gains arising from transactions with non-members would be so determined.
- (2) It is hereby declared that, in computing, for the purposes of any provision of the Tax Acts relating to profits or gains chargeable under Case I of Schedule D, any profits or gains of—
  - (a) any registered industrial and provident society which does not sell to persons not members thereof; or
  - (b) any registered industrial and provident society the number of the shares whereof is not limited by its rules or practice ; or

- (c) any other company, being a company the profits or gains whereof include any income which is chargeable to tax by virtue of subsection (1) of this section, there are to be deducted as expenses any sums which—
- (i) represent a discount, rebate, dividend or bonus granted by the company to members or other persons in respect of amounts paid or payable by or to them on account of their transactions with the company, being transactions which are taken into account in the said computation ; and
  - (ii) are calculated by reference to the said amounts or to the magnitude of the said transactions and not by reference to the amount of any share or interest in the capital of the company.
- (3) No dividends or bonus deductible in computing income as mentioned in subsection (2) above shall be regarded as a distribution.
- (4) In this section " registered industrial and provident society " means a society registered or deemed to be registered under the Industrial and Provident Societies Act 1965 or under the Industrial and Provident Societies Act (Northern Ireland) 1969.

#### **346 Companies carrying on mutual business, or not carrying on a business**

- (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 the Corporation Tax Acts 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).
- (2) In the case of a company carrying on any mutual life assurance business, the provisions of the Corporation Tax Acts 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 preceding 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 carry on, 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 the Corporation Tax Acts 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.

#### **347 Distribution of assets of body corporate carrying on mutual business**

- (1) Where any person receives any money or money's worth—



- (a) forming part of the assets of a body corporate, other than assets representing capital, or
- (b) forming part of the consideration for the transfer of the assets of a body corporate, other than assets representing capital, as part of a scheme of amalgamation or reconstruction which involves the winding up of the body corporate, or
- (c) consisting of the consideration for a transfer or surrender of a right to receive anything falling under paragraph (a) or (b) above, being a receipt not giving rise to any charge to tax on the recipient apart from this section,

and the body corporate has at any time carried on a trade which consists of or includes the conducting of any mutual business (whether confined to members of the body corporate or not), and is being or has been wound up or dissolved, the provisions of this section shall apply to the receipt.

- (2) If a transfer or surrender of a right under subsection (1)(c) of this section is not at arm's length, the person making the transfer or surrender shall, for the purposes of this section, be deemed then to have received consideration equal to the value of the right.
- (3) If in respect of a payment of any amount made to the body corporate for the purposes of its mutual business any deduction has been allowed for the purposes of tax in computing the profits or gains or losses of a trade, then—
  - (a) if at the time of the receipt the recipient is the person, or one of the persons, carrying on that trade, the amount or value of the receipt shall be treated for the purposes of tax as a trading receipt of that trade, and
  - (b) if at the time of the receipt the recipient is not the person, or one of the persons, carrying on that trade, but was the person, or one of the persons carrying on that trade when any payment was made to the body corporate for the purposes of its mutual business in respect of which a deduction was allowed for the purposes of tax in computing the profits or gains or losses of the trade, the recipient shall, subject to the provisions of subsection (5) of this section, be charged under Case VI of Schedule D for the chargeable period in which the receipt falls on an amount equal to the amount or value of the receipt.

Paragraph (a) of this subsection applies notwithstanding that, as a result of a change in the persons carrying on the trade, the profits or gains are under section 154 or section 251(1) of this Act (income tax and corporation tax rules for commencement or discontinuance of trade), determined as if it had been permanently discontinued and a new trade set up and commenced.

- (4) Where an individual is chargeable to tax by virtue of subsection (3)(b) of this section and the profits or gains of the trade there mentioned fell to be treated as earned income for the purposes of the Income Tax Acts, the sums in respect of which he is so chargeable shall also be treated for those purposes as earned income.
- (5) If the trade mentioned in subsection (3)(b) of this section was permanently discontinued before the time of the receipt, then in computing the charge to tax under the said subsection (3)(b) there shall be deducted from the amount or value of the receipt—
  - (a) any loss, expense or debit (not being a loss, expense or debit arising directly or indirectly from the discontinuance itself) which, if the trade had not been discontinued, would have been deducted in computing for tax purposes the profits or gains or losses of the person by whom it was carried on before the

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discontinuance, or would have been deducted from or set off against those profits as so computed, and

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

Relief shall not be given under this subsection or under section 145(1) of this Act (post-cessation receipts: allowable deductions) in respect of any loss, expense, debit or allowance if and so far as it has been so given by reference to another charge to tax under this section or under section 143 of this Act (post-cessation receipts).

- (6) For the purposes of subsection (1) of this section assets representing capital consist of—
  - (a) assets representing any loan or other capital subscribed, including income derived from any investment of any part of that capital, but not including profits from the employment of that capital for the purposes of the mutual business of the body corporate,
  - (b) assets representing any profits or gains charged to tax as being profits or gains of any part of the trade carried on by the body corporate which does not consist of the conducting of any mutual business,
  - (c) (so far as not comprised in the paragraphs above) assets representing taxed income from any investments.
- (7) In this section " mutual business " includes any business of mutual insurance or mutual trading.
- (8) Subsections (3), (4) and (5) of this section shall apply with any necessary modifications—
  - (a) to a profession or vocation, and
  - (b) to the occupation of woodlands the profits or gains of which are assessable under Schedule D,
 as they apply to a trade.
- (9) It is hereby declared that the description of trades in subsection (1) of this section does not include any trade all the profits or gains of which are chargeable to tax and, in particular, does not include such a trade carried on by any registered industrial and provident society.

## CHAPTER V

### STATUTORY BODIES

#### **348 Reserves of marketing boards**

- (1) Where a marketing board to which this section applies carries on a trade which includes the buying and selling of the board's commodity, and the board is required in connection with arrangements for maintaining guaranteed prices to producers of that commodity to pay the whole or part of any surplus derived from dealings in the commodity into a reserve fund satisfying the conditions of the next following subsection, then—
  - (a) in computing for the purposes of tax the profits or gains or losses of the said trade there shall be allowed as deductions any sums required to be paid by the

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board into the reserve fund out of the profits or gains of the trade, and there shall be taken into account as trading receipts any sums withdrawn by the board from the fund except in so far as the sums withdrawn are required to be paid to a Minister of the Crown or Government department or are distributed to producers of the board's commodity, and

- (b) in computing for the purposes of tax the profits or gains or losses of a trade carried on by any person there shall be taken into account as a trading receipt any payment made to him on a distribution by the board to producers of the board's commodity of sums withdrawn from the fund.

(2) The conditions to be satisfied by the reserve fund are—

- (a) that no sum may be withdrawn from it by the board without the authority or consent of a Minister of the Crown or Government department, and
- (b) that, where money has been paid to the board by a Minister of the Crown or Government department in connection with the arrangements for maintaining guaranteed prices to producers of the board's commodity, sums afterwards standing to the credit of the fund are required to be applied in whole or in part in repaying that money, and
- (c) that the sums standing to the credit of the fund and not otherwise applied become, at intervals fixed by or under any scheme or arrangements approved by or made with a Minister of the Crown or Government department, available for distribution to producers of the board's commodity.

(3) In this section—

- (a) " marketing board to which this section applies " means any body of persons established by or under any enactment and having for its object or one of its objects to regulate in the interests of producers in the United Kingdom or any class of them the marketing of a particular commodity, and " the board's commodity " refers to that commodity,
- (b) " required " means required by or under any scheme or arrangements approved by or made with a Minister of the Crown or Government department,
- (c) " Minister of the Crown or Government department " includes a Minister of the Crown or Government department in Northern Ireland,
- (d) " producer " includes a person who produces one type or quality of the commodity from another and (except in so far as the context otherwise requires) a person who has been a producer and the personal representatives of a producer who has died.

(4) For the purposes of subsection (1)(b) of this section, a payment made to a person in respect of a trade he has ceased to carry on, and a payment made to a person's personal representatives but referable to his having carried on the trade in respect of which it is made, shall be treated as if it had been made to him on the last day on which he was engaged in carrying on the trade.

### **349 Electricity Council and Boards**

(1) For the purposes of the Corporation Tax Acts the Electricity Council shall be treated as carrying on a trade, and those Acts shall have effect as if the trade carried on by the Central Electricity Authority at any time before 1st January 1958 had been the trade of the Electricity Council.

(2) For the purposes of the Corporation Tax Acts—

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- (a) any trade carried on by a Board shall be treated as if it were part of the trade carried on by the Electricity Council,
  - (b) subject to paragraph (c) below, any property, rights or liabilities of a Board shall be treated as property, rights or liabilities of the Electricity Council, and anything done by or to a Board shall be deemed to have been done by or to the Electricity Council,
  - (c) any rights, liabilities or things done—
    - (i) of, by or to the Electricity Council against, to or by a Board, or
    - (ii) of, by or to a Board against, to or by the Electricity Council or any other Board,
 shall be left out of account,
- and corporation tax shall be charged accordingly.
- (3) For the purposes of the operation of the Corporation Tax Acts in accordance with the preceding provisions of this section, the Electricity Council shall be deemed to have been in existence as from 1st April 1948, and anything done by, to or in relation to the Central Electricity Authority shall be treated as if it had been done by, to or in relation to the Electricity Council.
- (4) In this section " Board " means—
- (a) any Area Board established by or under the provisions of the Electricity Act 1947, and
  - (b) in relation to any time on or after 1st January 1958, the Central Electricity Generating Board.

### **350 Gas Council and Area Boards**

- (1) Subject to the provisions of this section, for the purposes of the Corporation Tax Acts the Gas Council shall be treated as carrying on a trade from the beginning of April 1962, and from the beginning of that month—
- (a) any trade carried on by an Area Board within the meaning of the Gas Act 1948 shall be treated as part of the trade carried on by the Gas Council;
  - (b) subject to paragraph (c) below, any property, rights or liabilities of any such Board shall be treated as property, rights or liabilities of the Gas Council, and any thing done by or to any such Board shall be deemed to have been done by or to the Gas Council,
  - (c) any rights, liabilities or things done—
    - (i) of, by or to the Gas Council against, to or by any such Board, or
    - (ii) of, by or to any such Board against, to or by the Gas Council or any other such Board,
 shall be left out of account,
- and corporation tax shall be charged accordingly.
- (2) Any losses of the trade of an Area Board for any year of assessment earlier than the year 1962-63 may be carried forward and set off against the profits or gains of the trade of the Gas Council as if incurred by the Gas Council in carrying on that trade.
- (3) The Corporation Tax Acts shall apply in relation to the trade of the Gas Council as if before the beginning of April 1962 it had consisted of the trades of the Area Boards, and (without prejudice to the generality of the foregoing) allowances and balancing charges shall be made to or on the Gas Council accordingly by reference to the capital

expenditure of Area Boards and to the allowances made to Area Boards in respect of that expenditure.

### **351 Atomic Energy Authority and National Radiological Protection Board**

- (1) The United Kingdom Atomic Energy Authority and the National Radiological Protection Board shall be entitled to exemption from income tax and corporation tax—
  - (a) under Schedules A, B and C,
  - (b) under Schedule D in respect of any yearly interest or other annual payment received by the Authority or Board,
  - (c) under Schedule F in respect of distributions received by the Authority or Board, and
  - (d) in respect of chargeable gains.
- (2) Income arising from investments or deposits held for the purposes of any pension scheme provided and maintained by the said Atomic Energy Authority shall be treated for the purposes of this section as if that income and the source thereof belonged to the Authority, 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).

### **352 Harbour reorganisation schemes**

- (1) This section has effect where the trade of any body corporate other than a limited liability company is transferred to a harbour authority by or under a certified harbour reorganisation scheme which provides also for the dissolution of the transferor.
- (2) For the purposes of the Corporation Tax Acts, the trade shall not be treated as permanently discontinued, nor shall a new trade be treated as set up and commenced.
- (3) The transferee shall be entitled to relief from corporation tax under section 177(1) of this Act, as for a loss sustained by it in carrying on the transferred trade or any trade of which it comes to form part, for any amount which, if the transferor had continued to carry it on, would have been available to the transferor for carry forward against chargeable profits of succeeding accounting periods, but subject to any claim made by the transferor under subsection (2) of the said section 177.
- (4) There shall be made to or on the transferee in accordance with the Capital Allowances Act 1968 all such allowances and charges as would, if the transferor had continued to carry on the trade, have fallen to be made to or on it under that Act and the amount of any such allowance or charge shall be computed as if the transferee had been carrying on the trade since the transferor had begun to do so and as if everything done to or by the transferor had been done to or by the transferee.

No sale or transfer which on the transfer of the trade is made by the transferor to the transferee of any assets in use for the purposes of the trade shall be treated as giving rise to any such allowance or charge.

- (5) The transferor shall not be entitled to relief under section 178 of this Act or section 87 of the Finance Act 1965 (transitional relief for existing companies on cessation of trade) in respect of the trade.

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- (6) The transferee shall be entitled to relief from corporation tax in respect of chargeable gains for any amount for which the transferor would have been entitled to claim relief in respect of allowable losses if it had continued to carry on the trade.
- (7) For the purposes of Part III of the Finance Act 1965 any asset transferred on the transfer of the trade shall be deemed to be for a consideration such that no gain or loss accrues to the transferor on its transfer ; and for the purposes of Part II of Schedule 6 to that Act the transferee shall be treated as if the acquisition by the transferor of any asset so transferred had been the transferee's acquisition thereof.
- (8) Where a part only of such trade is transferred to a harbour authority by or under a certified harbour reorganisation scheme, and the transferor continues to carry on the remainder of the trade, or any such trade is, by or under a certified harbour reorganisation scheme which provides also for the dissolution of the transferor, transferred in parts to two or more harbour authorities, this section shall apply as if the transferred part, or each of the transferred parts, had been at all times a separate trade.
- (9) Where a part of any trade is to be treated by virtue of subsection (8) above as having been a separate trade over any period there shall be made any necessary adjustments of accounting periods, and such apportionments as may be just of receipts, expenses, allowances or charges.

Subsection (9) of section 252 of this Act shall apply to any apportionment under this subsection as it applies to an apportionment under subsection (8) of that section.

- (10) This section shall not apply to a transfer of a trade or part of a trade before 3rd August 1966 (the date of the passing of the Finance Act 1966) except that where the trade carried on by any body corporate was, by or under a certified harbour reorganisation scheme, transferred to a harbour authority in the year 1965-66—
  - (a) for all purposes of corporation tax the transferee and all other persons affected shall be treated as if the transferee had carried on the trade from the end of the basis period for that year of the trade as carried on by the transferor, and as if anything done to or by the transferor in carrying on the trade since the end of that period had been done to or by the transferee, and
  - (b) subsections (3), (4), (6) and (7) of this section shall apply.
- (11) In this section—

" harbour authority " has the same meaning as in the Harbours Act 1964,

" harbour reorganisation scheme " means any statutory provision providing for the management by a harbour authority of any harbour or group of harbours in the United Kingdom, and " certified ", in relation to any harbour reorganisation scheme, means certified by a Minister of the Crown or Government department as so providing with a view to securing, in the public interest, the efficient and economical development of the harbour or harbours in question,

" limited liability company " means a company having a limit on the liability of its members,

" statutory provision " means any enactment, or any scheme, order or other instrument having effect under an enactment, and includes an enactment confirming a provisional order,

" transferor ", in relation to any trade, means the body from whom the trade is transferred, whether or not the transfer is effected by that body.

### **353 Local authorities**

- (1) A local authority in the United Kingdom—
- (a) shall be exempt from all charge to income tax in respect of its income, and
  - (b) shall be exempt from corporation tax and capital gains tax,
- and so far as the exemption from income tax conferred by this subsection calls for repayment of tax, effect shall be given thereto by means of a claim.

This subsection shall apply to a local authority association as it applies to a local authority.

- (2) In this section " local authority " means—
- (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;
  - (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.

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## CHAPTER VI

### UNIT TRUSTS AND INVESTMENT TRUSTS

#### *Unit trusts*

#### **354 Authorised unit trusts**

- (1) In respect of income and chargeable gains arising to the trustees of an authorised unit trust, the Tax Acts shall have effect—
- (a) as if the trustees were a company, resident in the United Kingdom, whose business consists mainly in the making of investments and the principal part of whose income is derived therefrom, and
  - (b) as if the rights of the unit holders were shares in the company, and
  - (c) as if so much of the income arising to the trustees as is available for payment to unit holders or for investment were dividends on such shares paid to them in proportion to their rights, the date of payment, in the case of income not paid to unit holders, being taken to be—
    - (i) the date or latest date provided by the terms of the authorised unit trust for any distribution in respect of the distribution period in question,
    - (ii) if no date is so provided, the last day of the distribution period;
 and references in the Corporation Tax Acts to a body corporate shall be construed in accordance with this subsection.
- (2) Without prejudice to the generality of the preceding provisions—
- (a) sums periodically appropriated out of income or chargeable gains arising as aforesaid for managers' remuneration shall be treated for the purposes of section 304 of this Act as sums disbursed as expenses of management,
  - (b) the proportion of income attributable to any unit holder, being income not paid to unit holders but available for investment, shall be treated as an amount paid to the unit holder after such deduction of tax as is authorised by section 232(3) of this Act (Schedule F),
  - (c) section 242 of this Act (explanation of income tax deductions to be annexed to dividend warrants, etc.) shall apply with any necessary modifications.
- (3) In ascertaining the amount available for distribution to unit holders in respect of any distribution period the trustees of an authorised unit trust may make such adjustments as may be reasonably required to allow for liabilities to and reliefs from tax where the amount of the liability or relief is not yet ascertained.
- (4) In this section " distribution period " means a period over which income from the investments subject to the trusts is aggregated for the purposes of ascertaining the amount available for distribution to unit holders.

#### **355 Cancellation and creation of units**

Where in an accounting period of an authorised 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 section) of any chargeable gain or allowable loss accruing to the unit trust in that period shall be taken as reduced by the fraction of



$\frac{A}{B}$

it where—

A is the said excess,

B is 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;

and if A exceeds B no chargeable gain or allowable loss shall accrue to the unit trust in that period.

*Unit trusts and investment trusts*

**356 Rate of tax on chargeable gains**

The rate of tax payable by an authorised unit trust or by an investment trust on any chargeable gains accruing in any accounting period (as calculated in accordance with section 265 of this Act) shall not exceed that payable in that period by an individual under section 20(3) of the Finance Act 1965.

**357 Apportionment of chargeable gains**

(1) For the purposes of section 37 of the Finance Act 1965 (relief for unit holders in respect of chargeable gains of unit trust) the total net gains of an authorised 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.

(2) After carrying out an apportionment under subsection (1) 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—

- (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 (3) 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.

(3) The apportionment under subsection (1) 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

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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.

- (4) A notice under subsection (2) of this section may be combined with the statement in writing required to be given under section 242 of this Act (explanation of income tax deductions to be annexed to dividend warrants, etc.).
- (5) Before the notices under subsection (2) 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.

- (6) Anything required by this section to be done by a unit trust shall be done by the managers of the unit trust with the approval of the trustee.
- (7) Subsections (1) to (5) above shall apply to an investment trust as they apply in relation to a unit trust with the necessary adaptations of references to units and unit holders.

### *Interpretation*

#### **358 Definitions of authorised unit trust and unit holder**

In this Chapter—

" authorised unit trust " means, as respects any accounting period, a unit trust scheme in the case of which an order of the Board of Trade under section 17 of the Prevention of Fraud (Investments) Act 1958 or of the Ministry of Commerce for Northern Ireland under section 16 of the Prevention of Fraud (Investments) Act (Northern Ireland) 1940 is in force during the whole or some part of that accounting period,

" unit holder " means a person entitled to a share of the investments subject to the trusts of a unit trust scheme.

#### **359 Definition of investment trust**

- (1) For the purposes of this Chapter " investment trust " means, as respects any accounting period, a company which is not a close company 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 (2) 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 15 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

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- (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 15 per cent of the income it derives from shares and securities.
- (2) Subsection (1)(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 25 per cent. by value of the investing company's investments, or
  - (b) to a holding in a company which, when it was acquired, represented not more than 15 per cent. by value of the investing company's investments,
- so long as no addition is made to the holding.
- (3) For the purposes of subsection (2) 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 a second company in respect of and in proportion to (or as nearly as may be in proportion (a) 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.
- (4) In this section " company " and " shares " shall be construed in accordance with subsections (1) and (8) of section 45 of the Finance Act 1965.