



# Finance Act 1973

## 1973 CHAPTER 51

### PART III

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

#### **10 Surtax rates for 1972-73**

- (1) Subject to subsection (2) below, income tax for the year 1972-73 shall be charged, in the case of an individual whose total income exceeded £3,000, at the same higher rates in respect of the excess of that income over £2,000 as were charged for the year 1971-72.
- (2) An individual whose total income for the year 1972-73 did not exceed £3,500 shall be entitled to have the surtax chargeable by virtue of subsection (1) above reduced to an amount equal to 40 per cent, of the difference between his total income and £3,000.

#### **11 Charge of corporation tax for financial year 1972**

Corporation tax shall be charged for the financial year 1972 at the rate of 40 per cent.

#### **12 Alteration of personal reliefs**

- (1) In section 7 of the Taxes Act (relief for persons over sixty-five with small incomes)—
  - (a) for the references to £634 and £929 (income limits for exemption) there shall be substituted references to £700 and £1,000 ; and
  - (b) for the reference to £245 (excess over those limits beyond which relief by reduction of tax is excluded) there shall be substituted a reference to £340.
- (2) Section 16 of the Taxes Act (relief in respect of dependent relative) shall have effect subject to the following modifications :—
  - (a) in subsection (1) (relief limited by reference to total income of dependent relative) for the words "does not exceed £412 a year" there shall be substituted the words " does not in a year exceed by more than £100 a sum equal to the basic retirement pension for that year " and for the words from " deduction "

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to the end of the subsection there shall be substituted the words " deduction from his total income of £100 reduced, if the total income of the person so maintained exceeds the basic retirement pension, by the amount of the excess ";

- (b) in subsection (2) (modifications of subsection (1) where claimant is a woman) for paragraph (b) there shall be substituted the following paragraph:—

“(b) unless she is a married woman living with her husband, for each reference in that subsection to £100 there shall be substituted a reference to £145”;

- (c) at the end of subsection (2) there shall be inserted the following subsections:—

“(2A) Subject to subsection (2B) below, for the purposes of this section ' the basic retirement pension ' for any year means the aggregate of the payments to which a person is entitled in that year on account of a Category A retirement pension under subsection (1) of section 24 of the Social Security Act 1973 if, throughout that year.—

(a) he fulfils the conditions in paragraphs (a) and (b) of that subsection; and

(b) none of those payments is reduced under section 26(1) of that Act (by reference to his earnings) or increased under any provision of subsections (4) to (7) of the said section 24 or under any other provision of that Act.

(2B) In relation to any time before the coming into force of section 24 of the Social Security Act 1973, subsection (2A) above shall have effect as if for the words from ' Category A retirement pension ' to ' 1973 ' there were substituted the words ' retirement pension under subsection (1) of section 30 of the National Insurance Act 1965 where the pension is payable by virtue of his own insurance' and as if for paragraph (b) there were substituted the following paragraph:—

“(b) none of those payments is reduced under subsection (7) of that section (by reference to his earnings) or increased under any other provision of that Act”;

- (d) in subsection (3) (apportionment of relief where two or more persons jointly maintain a dependent relative) for the words from " the £100 mentioned " to " proviso to that subsection " there shall be substituted the words " the deduction of £100 or less mentioned in that subsection in respect of the person so maintained ".

### **13 Increase in relief for savings bank interest**

Section 414(1) of the Taxes Act (relief from income tax on the first £21 of certain savings bank interest) shall, for the year 1974-75 and subsequent years of assessment, have effect with the substitution of a reference to £40 for each reference to £21.

### **14 Lump sum benefits on retirement**

- (1) A lump sum paid to a person on his retirement from an office or employment shall not be chargeable to income tax under Schedule E if—

(a) it is paid in pursuance of any such scheme or fund as is described in subsections (1) and (2) of section 221 of the Taxes Act or in section 24(1)

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of the Finance Act 1970 and is neither a payment of compensation to which section 73 of the Finance Act 1972 applies nor a payment chargeable to tax under paragraph 9 of Schedule 3 to the Finance Act 1971; or

- (b) it is a benefit paid in pursuance of any such scheme or agreement as is referred to in section 220 of the Taxes Act or in pursuance of a retirement benefits scheme within the meaning of section 25 of the Finance Act 1970 and the person to whom it is paid was chargeable to tax under section 220 of the Taxes Act or section 23 of the Finance Act 1970 in respect of sums paid, or treated as paid, with a view to the provision of the benefit.

- (2) This section shall be deemed always to have had effect.

## **15 Pensions and payments on retirement etc.–controlling directors**

The following provisions relating to service of a controlling director shall cease to have effect, namely—

- (a) section 19(2)(f) of the Finance Act 1970 (which excludes approval of a retirement benefits scheme if such service is taken into account); and
- (b) the proviso to paragraph 4 of Schedule 8 to the Taxes Act (which requires such service to be left out of account for the purposes of relief under that Schedule from tax in respect of payments on retirement, etc.).

## **16 Charge to additional rate of certain income of discretionary trusts**

- (1) So far as income arising to trustees is income to which this section applies it shall, in addition to being chargeable to income tax at the basic rate, be chargeable at the additional rate.
- (2) This section applies to income arising to trustees in any year of assessment so far as it—
  - (a) is income which is to be accumulated or which is payable at the discretion of the trustees or any other person (whether or not the trustees have power to accumulate it); and
  - (b) is neither (before being distributed) the income of any person other than the trustees nor treated for any of the purposes of the Income Tax Acts as the income of a settlor; and
  - (c) is not income arising under a trust established for charitable purposes only or income from investments, deposits or other property held for the purposes of a fund or scheme established for the sole purpose of providing relevant benefits within the meaning of section 26 of the Finance Act 1970; and
  - (d) exceeds the income applied in defraying the expenses of the trustees in that year which are properly chargeable to income (or would be so chargeable but for any express provisions of the trust).
- (3) This section also applies to sums apportioned to the trustees under paragraph 1 of Schedule 16 to the Finance Act 1972 and treated, under paragraph 5(2) of that Schedule as applied by subsection (4) below, as income received by the trustees.
- (4) Sub-paragraphs (2) and (4) to (8) of paragraph 5 of Schedule 16 to the Finance Act 1972 shall, with the omission in sub-paragraph (2)(a) of the words following " the apportionment relates ", the substitution of " income " for " total income " and all other necessary modifications, apply to a sum apportioned to trustees as they apply to sums apportioned to an individual; and paragraph 6 of that Schedule shall apply accordingly.

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- (5) For the purposes of this section amounts paid or credited to trustees in any year of assessment in respect of dividends or interest payable in respect of shares in or deposits with or loans to a building society with which arrangements under section 343 of the Taxes Act are in force for that year shall be treated as income for that year received by the trustees after deduction of income tax from a corresponding gross amount.

In this subsection expressions used in section 343 of the Taxes Act have the same meanings as in that section.

- (6) In this section " trustees" does not include personal representatives ; but where personal representatives, on or before the completion of the administration of the estate, pay to trustees any sum representing income which, if personal representatives were trustees within the meaning of this section, would be income to which this section applies, that sum shall be deemed to be paid to the trustees as income and to have borne income tax (at the basic rate).

This subsection shall be construed as if it were contained in Part XV of the Taxes Act.

- (7) In relation to the year 1973-74 and subsequent years of assessment there shall be substituted in section 451 of the Taxes Act—
- (a) in subsection (2)(e), for the words " tax at the basic rate " the words " the sum of tax at the basic rate and tax at the additional rate " ; and
  - (b) in subsection (5), for the words " of income tax for that year " the words " of both tax at the basic rate and tax at the additional rate for that year ".
- (8) A notice given to trustees under section 8 of the Taxes Management Act 1970 may require a return of the income arising to them to include particulars of the manner in which the income has been applied, including particulars as to the exercise of any discretion and of the persons in whose favour it has been exercised.

## **17 Payments under discretionary trusts**

- (1) Where, in any year of assessment, trustees make a payment to any person in the exercise of a discretion exercisable by them or any person other than the trustees, then, if the sum paid is for all the purposes of the Income Tax Acts income of the person to whom it is paid (but would not be his income apart from the payment), the following provisions of this section shall apply with respect to the payment in lieu of section 52 or 53 of the Taxes Act.
- (2) The payment shall be treated as a net amount corresponding to a gross amount from which tax has been deducted at a rate equal to the sum of the basic rate and the additional rate in force for the year in which the payment is made; and the sum treated as so deducted shall be treated—
- (a) as income tax paid by the person to whom the payment is made; and
  - (b) so far as not set off under the following provisions of this section, as income tax assessable on the trustees.
- (3) The following amounts, so far as not previously allowed, shall be set against the amount assessable (apart from this subsection) on the trustees in pursuance of subsection (2)(b) above:
- (a) the amount of any tax on income arising to the trustees and charged at the additional as well as at the basic rate in pursuance of section 16 of this Act; and

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- (b) the amount of tax at the additional rate on any sum treated, under paragraph 5(2) of Schedule 16 to the Finance Act 1972 as applied by section 16(4) above, as income of the trustees; and
- (c) the amount of tax at the basic rate on any amount taken for the purposes of paragraph 5 of Schedule 16 to the Finance Act 1972 as applied by section 16(4) above to be the amount to be excluded from the income of the trustees in accordance with sub-paragraph (b) of that paragraph; and
- (d) an amount of tax in respect of income found on a claim made by the trustees to have been available to them for distribution at the end of the year 1972-73, which shall be taken to be two-thirds of the net amount of that income;

but tax on any income represented by amounts paid or credited as mentioned in section 16(5) of this Act after the end of the year 1973-74 shall be taken into account under paragraph (a) above only on production of a certificate from the building society concerned specifying those amounts and stating that an amount representing income tax on that income calculated at the basic rate has been or will be accounted for.

- (4) In section 55 of the Taxes Act (certificates of deduction) after the words " section 52, 53 or 54 above " there shall be inserted the words " or section 17 of the Finance Act 1973 ".
- (5) In this section " trustees" does not include personal representatives within the meaning of section 432(4) of the Taxes Act.

## **18 Discretionary trusts-relief for overseas tax**

- (1) Subsection (2) of this section shall apply if a payment made by trustees falls to be treated as a net amount in accordance with section 17(2) of this Act and the income arising under the trust includes income in respect of which the trustees are entitled to credit for overseas tax under Part XVIII of the Taxes Act (in that subsection referred to as " taxed overseas income ").
- (2) If the trustees certify—
  - (a) that the income out of which the payment was made was or included taxed overseas income of an amount and from a source stated in the certificate ; and
  - (b) that that amount arose to them not earlier than in the year 1973-74 and not earlier than six years before the end of the year of assessment in which the payment was made;

the person to whom the payment was made may claim that the payment, up to the amount so certified, shall be treated for the purposes of the said Part XVIII as income received by him from that source and so received in the year in which the payment was made.

## **19 Share option and share incentive schemes**

Sections 78 and 79 of and Schedule 12 to the Finance Act 1972 shall have effect subject to the provisions of Schedule 8 to this Act.

## **20 Close companies: loans for purposes of approved share incentive scheme**

- (1) Section 286 of the Taxes Act (loans to participators) shall not apply to a loan which, or so much of a loan as.—

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- (a) is made after 5th April 1973 to a person satisfying the conditions specified in paragraph 2 of Part V of Schedule 12 to the Finance Act 1972 and used by him for the purpose of acquiring shares or interests in shares under an approved share incentive scheme; or
- (b) is made after 5th April 1973 to trustees appointed under such a scheme and used by them for the purpose of acquiring shares or interests in shares under the scheme or of enabling persons satisfying those conditions to do so;

unless the shares or interests are acquired from, or under arrangements made with, a participator in the company who acquired them neither under an approved share incentive scheme nor, without consideration, as the holder of shares acquired under such a scheme.

- (2) Where by virtue of paragraph (a) or (b) of subsection (1) above the application of section 286 of the Taxes Act is excluded in relation to an amount lent by a close company and used by a person satisfying the conditions mentioned therein to acquire shares or interests in shares, then if, at a time when the whole or part of his debt to the company or the trustees is outstanding, he—
  - (a) ceases to satisfy those conditions ; or
  - (b) disposes of the whole or part of the shares or interests without applying the proceeds (so far as may be) in or towards the satisfaction of his debt;

the company shall be regarded, for the purposes of that section, as making to him at that time a loan of an amount equal, subject to subsection (3) below, to so much of the debt as remains outstanding.

- (3) Where, in a case falling within paragraph (b) of subsection (2) above, the proceeds mentioned therein are less than the amount of the debt that was outstanding immediately before the disposal, the loan which the company is to be regarded as making to the participator shall be of an amount equal to the proceeds less so much thereof as was applied towards the satisfaction of the debt.
- (4) Without prejudice to the proviso to subsection (3) of section 303 of the Taxes Act, paragraph (c) of that subsection shall not apply so as to make an individual an associate of a participator as being entitled to benefit under a trust established for the purpose of an approved share incentive scheme.
- (5) In this section " approved share incentive scheme " means a share incentive scheme approved under Schedule 12 to the Finance Act 1972 and expressions used in that Schedule have the same meanings as they have there.

## **21 Amendments relating to close companies**

- (1) Schedule 16 to the Finance Act 1972 (apportionment of income, etc. of close companies for accounting periods ending after 5th April 1973) shall have effect and, except in so far as any provision of Part I of Schedule 9 to this Act otherwise provides, shall be deemed always to have had effect subject to the amendments in that Part of that Schedule, and the transitional provisions in Part II of that Schedule shall have effect with respect to accounting periods of close companies beginning before 6th April 1973.
- (2) Schedule 17 to the Finance Act 1972 (amendments relating to close companies) shall have effect and be deemed always to have had effect as if at the end of paragraph 8 (commencement) there were added the words " but does not affect the operation of any enactment in relation to any previous time ".

- (3) Paragraph 19(1) of Schedule 23 to the Finance Act 1972 (for the purposes of making shortfall assessments for 1973-74 under section 289(1) of the Taxes Act, it is to be assumed that section 232(2) of that Act, which charges certain distributions to income tax, is in force) shall have effect and be deemed always to have had effect as if after the words " of that Act" there were inserted the words " as amended by paragraph 27 (b) of Schedule 6 to the Finance Act 1971 " (substitution of " basic rate " for " standard rate ").
- (4) The repeal by the Finance Act 1972 of the reference in section 98 of the Taxes Management Act 1970 to section 301 of the Taxes Act shall not be taken to have effect in relation to accounting periods in relation to which the repeal of section 301 does not have effect, that is to say accounting periods ending before 6th April 1973.

## **22 Distributions to exempt funds, etc.**

- (1) Where a person entitled to a tax credit in respect of a distribution to which this section applies is, by reason of any exemption from tax, entitled to recover tax and his holding (together with any associated holding) of any one class of the shares, securities or rights by virtue of which he is entitled to the distribution amounts to not less than 10 per cent, thereof, subsection (3) below shall apply to the income represented by any part of the distribution which is not a part—
  - (a) to which profits arising after the date of acquisition are attributable in accordance with Schedule 10 to this Act; or
  - (b) in relation to which the date of acquisition is earlier than 6th April 1965.
- (2) For the purposes of this section and of Schedule 10 to this Act the date of acquisition, in relation to any part of a distribution or profits attributable to it, is the date on which the shares, securities or rights by virtue of which a person is entitled to that part were acquired by him.
- (3) Where this subsection applies to any income.—
  - (a) the exemption from tax shall not extend to that income ; and
  - (b) it shall be treated for the purposes of sections 52 and 53 of the Taxes Act as not brought into charge to income tax; and
  - (c) no amount of interest shall be deducted from or set off against it under section 75 of the Finance Act 1972.
- (4) Where, by virtue of this section, an exemption from tax does not apply to any income represented by a distribution or part of a distribution, the person entitled to the income shall be liable to tax or, as the case may be, additional tax, on it at a rate equal to the additional rate in force at the time the distribution is made and shall be assessable to income tax or corporation tax accordingly.
- (5) This section applies to any qualifying distribution made after 5th April 1973 but does not apply to an amount which—
  - (a) in accordance with sections 234 and 235 of the Taxes Act, or
  - (b) by virtue of paragraph 3(3) of Schedule 22 to the Finance Act 1972,is treated as a qualifying distribution.
- (6) Schedule 10 to this Act shall have effect for supplementing this section.

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## **23 Disallowance of reliefs in respect of bonus issues**

- (1) This section has effect where, on or after 6th April 1973, any person (in this section referred to as "the recipient") receives an amount treated as a distribution by virtue of—
- (a) section 234 of the Taxes Act (bonus issues following repayment of share capital),
  - (b) subsection (1) of section 235 of that Act (matters not to be treated as repayments of share capital), or
  - (c) paragraph 3(3) of Schedule 22 to the Finance Act 1972 (distributions in excess of new consideration received),
- and in the following provisions of this section a distribution falling within any of paragraphs (a) to (c) above is referred to as a "bonus issue" and "relevant tax credit", in relation to a bonus issue, means the tax credit to which the recipient of the bonus issue becomes entitled under section 86 of the Finance Act 1972 in respect of the bonus issue.
- (2) Subject to subsection (6) below, if the recipient is entitled by reason of—
- (a) any exemption from tax, or
  - (b) the setting-off of losses against profits or income,
- to recover tax in respect of any distribution received by him, no account shall be taken for the purposes of any such exemption or set-off of any bonus issue or relevant tax credit received by him.
- (3) Subject to subsection (6) below, where, by virtue of this section, no account is to be taken for the purposes of any exemption from tax of any bonus issue and the relevant tax credit, the person entitled to that issue and that credit shall be liable to tax or, as the case may be, additional tax, on them at a rate equal to the additional rate in force at the time the bonus issue is made and shall be assessable to income tax or corporation tax accordingly.
- (4) Subject to subsection (6) below, a bonus issue and the relevant tax credit shall be treated for the purposes of sections 89 and 90 of the Finance Act 1972 and Schedule 23 to that Act as not being franked investment income.
- (5) Subject to subsection (6) below—
- (a) the relevant tax credit relating to a bonus issue shall not be available to set against any income tax which the recipient is entitled to deduct under section 52, or with which he is chargeable by virtue of section 53, of the Taxes Act (annual payments), and
  - (b) no interest may be deducted or set off under section 75 of the Finance Act 1972 (relief for payment of interest) from or against so much of a person's income as consists of bonus issues and relevant tax credits.
- (6) Nothing in subsections (2) to (5) above shall affect the proportion (if any) of any bonus issue made in respect of any shares or securities which, if it were declared as a dividend, would represent a normal return to the recipient on the consideration provided by him for the relevant shares or securities, that is to say, those in respect of which the bonus issue was made and, if those securities are derived from shares or securities previously acquired by the recipient, the shares or securities which were previously acquired; nor shall anything in those subsections affect the like proportion of the relevant tax credit relating to that bonus issue.



- (7) For the purposes of subsection (6) above.—
- (a) if the consideration provided by the recipient for any of the relevant shares or securities was in excess of their market value at the time he acquired them, or if no consideration was provided by him for any of the relevant shares or securities, the recipient shall be taken to have provided for those shares or securities consideration equal to their market value at the time he acquired them; and
  - (b) in determining whether an amount received by way of dividend exceeds a normal return, regard shall be had to the length of time previous to the receipt of that amount that the recipient first acquired any of the relevant shares or securities and to any dividends and other distributions made in respect of them during that time.

## **24 Group income**

At the end of subsection (3) of section 256 of the Taxes Act (which excludes the application of subsections (1) and (2) of that section to certain dividends and other payments) there shall be added the words " and shall not apply to a dividend in any case where, if those subsections do not apply to it, the company receiving the dividend will, or would but for section 22 or 23 of the Finance Act 1973, be entitled by virtue of any exemption to claim payment of the tax credit to which it is entitled in respect of the dividend ".

## **25 Tax avoidance: transactions in securities**

- (1) Chapters I and II of Part XVII of the Taxes Act (tax avoidance: transactions in securities) shall be amended in accordance with Schedule 11 to this Act.
- (2) Except in so far as any provision of that Schedule otherwise provides, Schedule 11 to this Act shall have effect with respect to distributions made after 5th April 1973.

## **26 Transactions in certificates of deposit**

- (1) Where a person, after 6th March 1973, acquires the right to receive the amount (with or without interest) stated in a certificate of deposit issued to him or any other person, any profits or gains arising to him from the disposal of that right or, except so far as it is a right to receive interest, from its exercise shall, if not falling to be taken into account as a trading receipt, be treated as annual profits or gains chargeable to tax under Case VI of Schedule D.
- (2) Where a person sustains a loss in a transaction which, if a profit had arisen from it, would be chargeable to tax by virtue of subsection (1) above, then, if he is chargeable to tax under Schedule C or D in respect of the interest payable on the amount stated in the certificate concerned, the amount of that interest shall be included in the amounts against which he may claim to set off the amount of his loss under section 176 or, as the case may be, section 179 of the Taxes Act (Case VI losses).
- (3) For the purposes of this section profits or gains shall not be treated as falling to be taken into account as a trading receipt by reason only that they are included in the computation required by section 305(2) of the Taxes Act (insurance companies).
- (4) In this section " certificate of deposit " has the same meaning as in section 55 of the Finance Act 1968.

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## **27 Treasury securities issued at a discount**

- (1) Where a security to which this section applies is issued at a discount tax shall not be charged in respect of the discount under Case III of Schedule D; but the discount shall not for that reason be regarded as annual profits or gains chargeable to tax under Case VI of Schedule D.
- (2) This section applies to all securities issued by the Treasury after 6th March 1973, except Treasury bills.

## **28 Group relief: qualifications for entitlement**

- (1) The provisions of this section shall have effect on and after 6th March 1973 for the purposes of section 258 and the following sections of Chapter I of Part XI of the Taxes Act (group relief).
- (2) Notwithstanding that at any time a company (in this subsection referred to as "the subsidiary company") is a 75 per cent, subsidiary or a 90 per cent, subsidiary, within the meaning of section 532 of the Taxes Act, of another company (in this subsection referred to as "the parent company") it shall not be treated at that time as such a subsidiary for the purposes of the enactments relating to group relief unless, additionally, at that time—
  - (a) the parent company is beneficially entitled to not less than 75 per cent, or, as the case may be, 90 per cent, of any profits available for distribution to equity holders of the subsidiary company ; and
  - (b) the parent company would be beneficially entitled to not less than 75 per cent, or, as the case may be, 90 per cent, of any assets of the subsidiary company available for distribution to its equity holders on a winding-up.
- (3) Subject to subsection (4) below, for the purposes of the enactments relating to group relief, a member's share in a consortium, in relation to an accounting period of the surrendering company, shall be whichever is the lowest in that period of the following percentages, namely—
  - (a) the percentage of the ordinary share capital of the surrendering company which is beneficially owned by that member;
  - (b) the percentage to which that member is beneficially entitled of any profits available for distribution to equity holders of the surrendering company; and
  - (c) the percentage to which that member would be beneficially entitled of any assets of the surrendering company available for distribution to its equity holders on a winding-up;and if any of those percentages have fluctuated in that accounting period, the average percentage over the period shall be taken for the purposes of this subsection.
- (4) In any case where the surrendering company is a subsidiary of a holding company which is owned by a consortium, for references in subsection (3) above to the surrendering company there shall be substituted references to the holding company.
- (5) Part I of Schedule 12 to this Act shall have effect for supplementing this section, and the transitional provisions in Part II of that Schedule shall have effect in relation to this section and section 29 below.
- (6) In consequence of the provisions of this section and of Part I of Schedule 12 to this Act, section 258 of the Taxes Act shall have effect subject to the following modifications:—

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- (a) at the end of the proviso to subsection (2) (which provides that no claim may be made by a member of a consortium in particular circumstances) there shall be added the words " nor if the member's share in the consortium in the relevant accounting period of the surrendering company or holding company is nil "; and
  - (b) paragraph (b) of subsection (8) shall be omitted.
- (7) In this section, section 29 below and Schedule 12 to this Act—
- (a) " the enactments relating to group relief " means the provisions of the Taxes Act specified in subsection (1) above, and
  - (b) any expression to which a meaning is assigned for the purposes of the enactments relating to group relief has the same meaning.

**29 Group relief: effect of arrangements for transfer of company to another group, etc.**

- (1) If, apart from this section, two companies (in this subsection referred to as " the first company " and " the second company ") would be treated as members of the same group of companies and—
- (a) in an accounting period which ends on or after 6th March 1973, one of the two companies has trading losses or other amounts eligible for relief from corporation tax which it would, apart from this section, be entitled to surrender as mentioned in subsection (1) of section 258 of the Taxes Act, and
  - (b) arrangements are in existence by virtue of which, at some time during or after the expiry of that accounting period.—
    - (i) the first company or any successor of it could cease to be a member of the same group of companies as the second company and could become a member of the same group of companies as a third company, or
    - (ii) any person has or could obtain, or any persons together have or could obtain, control of the first company but not of the second, or
    - (iii) a third company could begin to carry on the whole or any part of a trade which, at any time in that accounting period, is carried on by the first company and could do so either as a successor of the first company or as a successor of another company which is not a third company but which, at some time during or after the expiry of that accounting period, has begun to carry on the whole or any part of that trade,
- then, for the purposes of the enactments relating to group relief, the first company shall be treated on and after 6th March 1973 as not being a member of the same group of companies as the second company.
- (2) If a trading company is owned by a consortium or is a 90 per cent, subsidiary of a holding company which is owned by a consortium and—
- (a) in any accounting period ending on or after 6th March 1973 the trading company has trading losses or other amounts eligible for relief from corporation tax which it would, apart from this section, be entitled to surrender as mentioned in subsection (1) of section 258 of the Taxes Act, and
  - (b) arrangements are in existence by virtue of which—

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- (i) the trading company or any successor of it could, at some time during or after the expiry of that accounting period, become a 75 per cent, subsidiary of a third company, or
- (ii) any person who owns, or any persons who together own, less than 50 per cent, of the ordinary share capital of the trading company has or together have, or could at some time during or after the expiry of that accounting period obtain, control of the trading company, or
- (iii) any person, other than a holding company of which the trading company is a 90 per cent, subsidiary, either alone or together with connected persons, holds or could obtain, or controls or could control the exercise of not less than 75 per cent, of the votes which may be cast on a poll taken at a general meeting of the trading company in that accounting period or in any subsequent accounting period, or
- (iv) a third company could begin to carry on, at some time during or after the expiry of that accounting period, the whole or any part of a trade which, at any time in that accounting period, is carried on by the trading company and could do so either as a successor of the trading company or as a successor of another company which is not a third company but which, at some time during or after the expiry of that accounting period, has begun to carry on the whole or any part of that trade,

then, for the purposes of the enactments relating to group relief, the trading company shall be treated on and after 6th March 1973 as though it did not (as the surrendering company) fall within any of paragraphs (a) to (c) of subsection (2) of section 258 of the Taxes Act (the cases where group relief is allowed to members of a consortium).

- (3) In any case where a trading company is a 90 per cent, subsidiary of a holding company which is owned by a consortium, any reference in subsection (2) above to the trading company, other than a reference in paragraph (b)(iv) thereof, shall be construed as including a reference to the holding company.
- (4) In this section " third company " means a company which, apart from any provision made by or under any such arrangements as are specified in paragraph (b) of either subsection (1) or subsection (2) above, is not a member of the same group of companies as the first company, within the meaning of subsection (1) above, or, as the case may be, the trading company or holding company to which subsection (2) above applies.
- (5) In subsections (1) and (2) above—
  - " connected persons " shall be construed in accordance with section 533 of the Taxes Act; and
  - " control " has the meaning assigned to it by section 534 of the Taxes Act.
- (6) For the purposes of subsections (1) and (2) above a company is a successor of another if it carries on a trade which, in whole or in part, the other company has ceased to carry on and the circumstances are such that—
  - (a) section 252 of the Taxes Act (company reconstructions without change of ownership) applies in relation to the two companies as the predecessor and the successor within the meaning of that section, or
  - (b) the two companies are connected with each other within the terms of section 533 of the Taxes Act.

### **30 Leasing contracts: effect on claims for losses of company reconstructions**

- (1) Subject to the provisions of this section, if—
- (a) under a contract entered into on or after 6th March 1973 a company (in this section referred to as "the first company ") incurs capital expenditure on the provision of machinery or plant which the first company lets to another person by another contract (in this section referred to as a " leasing contract"), and
  - (b) apart from this subsection, the first company would be entitled to claim relief under subsection (1) or subsection (2) of section 177 of the Taxes Act in respect of losses incurred on the leasing contract, and
  - (c) in the accounting period for which a first-year allowance, within the meaning of Chapter I of Part III of the Finance Act 1971, in respect of the expenditure referred to in paragraph (a) above is made to the first company, arrangements are in existence by virtue of which, at some time during or after the expiry of that accounting period, a successor company will be able to carry on any part of the first company's trade which consists of or includes the performance of all or any of the obligations which, apart from the arrangements, would be the first company's obligations under the leasing contract,
- then, in the accounting period specified in paragraph (c) above and in any subsequent accounting period, the first company shall not be entitled to claim relief as mentioned in paragraph (b) above except in computing its profits (if any) arising under the leasing contract.
- (2) For the purposes of this section a company is a successor of the first company if the circumstances are such that—
- (a) section 252 of the Taxes Act (company reconstructions without change of ownership) applies in relation to the first company and the other company as the predecessor and the successor within the meaning of that section, or
  - (b) the two companies are connected with each other within the terms of section 533 of the Taxes Act.
- (3) For the purposes of this section losses incurred on a leasing contract and profits arising under such a contract shall be computed as if the performance of the leasing contract were a trade begun to be carried on by the first company, separately from any other trade which it may carry on, at the commencement of the letting under the leasing contract.
- (4) In determining whether the first company would be entitled to claim relief as mentioned in subsection (1)(b) above, any losses incurred on the leasing contract shall be treated as incurred in a trade carried on by that company separately from any other trade which it may carry on.

### **31 Partnerships involving companies: effect of arrangements for transferring relief**

- (1) The provisions of subsection (2) below shall apply in relation to a company (in this section referred to as " the partner company ") which is a member of a partnership carrying on a trade if arrangements are in existence (whether as part of the terms of the partnership or otherwise) whereby—
- (a) in respect of the whole or any part of the value of, or of any portion of, the partner company's share in the profits or loss of any accounting period of the partnership, another member of the partnership or any person connected with another member of the partnership receives any payment or acquires or enjoys, directly or indirectly, any other benefit in money's worth; or

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- (b) in respect of the whole or any part of the cost of, or of any portion of, the partner company's share in the loss of any accounting period of the partnership, the partner company, or any person connected with that company, receives any payment or acquires or enjoys, directly or indirectly, any other benefit in money's worth, other than a payment in respect of group relief to the partner company by a company which is a member of the same group as the partner company for the purposes of group relief.
- (2) In any case where the provisions of this subsection apply in relation to the partner company—
- (a) the company's share in the loss of the relevant accounting period of the partnership and its share in any charges on income, within the meaning of section 248 of the Taxes Act, paid by the partnership in that accounting period shall not be available for set-off for the purposes of corporation tax except against its share in the profits of the trade carried on by the partnership; and
  - (b) except in accordance with paragraph (a) above, no trading losses shall be available for set-off for the purposes of corporation tax against the company's share in the profits of the relevant accounting period of the partnership; and
  - (c) except in accordance with paragraphs (a) and (b) above, no amount which, apart from this subsection, would be available for relief against profits shall be available for set-off for the purposes of corporation tax against so much of the company's total profits as consists of its share in the profits of the relevant accounting period of the partnership ; and
  - (d) notwithstanding anything in section 85 of the Finance Act 1972, no advance corporation tax may be set against the company's liability to corporation tax on its share in the profits of the relevant accounting period of the partnership.
- (3) In subsection (2) above " relevant accounting period of the partnership " means any accounting period of the partnership ending on or after 6th March 1973 in which any such arrangements as are specified in subsection (1) above are in existence or to which any such arrangements apply; but, in relation to any such accounting period which begins before that date, any reference in subsection (2) above to the company's share in the profits or loss of the accounting period or in any such charges on income as are referred to in subsection (2)(a) above shall be construed as a reference to such proportion only of that share as the part of that period beginning on 6th March 1973 bears to the whole of that period.
- (4) If a company is a member of a partnership and tax in respect of any profits of the partnership is chargeable under Case VI of Schedule D, this section shall apply in relation to the company's share in the profits or loss of the partnership as if—
- (a) the profits or loss to which the company's share is attributable were the profits of, or the loss incurred in, a trade carried on by the partnership, and
  - (b) any allowance which falls to be made under section 46(1) of the Finance Act 1971 (machinery and plant on lease) were an allowance made in taxing that trade.
- (5) For the purposes of this section, subsection (2) of section 155 of the Taxes Act (special rules for partnerships involving companies) shall have effect for determining a company's share in the profits or loss of any accounting period of a partnership as if, in the proviso to subsection (1) of that section, in paragraph (b), the words " or for capital allowances and charges " were omitted.

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- (6) Subject to subsection (7) below, to the extent that the partner company's share in the loss of any accounting period of the partnership is attributable—
- (a) to first-year allowances, within the meaning of Chapter I of Part III of the Finance Act 1971, in respect of expenditure incurred by the partnership on the provision of machinery or plant, or
  - (b) to writing-down allowances, within the meaning of Chapter II of Part I of the Capital Allowances Act 1968, or, as the case may require, Chapter I of Part III of the Finance Act 1971, in respect of expenditure incurred by the partnership on the provision of machinery or plant, or
  - (c) to initial allowances under section 56 of the Capital Allowances Act 1968 (in respect of expenditure on works in connection with mines, etc.) in respect of expenditure incurred by the partnership and falling within section 52(1) of the Finance Act 1971 (expenditure incurred on or after 27th October 1970 on the construction of works in a development area or Northern Ireland), or
  - (d) to allowances under section 91 of the Capital Allowances Act 1968 in respect of expenditure incurred by the partnership on scientific research,
- the partner company's share shall be available, notwithstanding anything in subsection (2) above, for surrender by way of group relief or for set-off under section 177(2) of the Taxes Act against the company's profits of the corresponding accounting period or periods, as defined in section 155(2) of that Act.
- (7) Subsection (6) above shall not apply unless—
- (a) the partnership of which the partner company is a partner was in existence immediately before 6th March 1973 ; and
  - (b) after 5th March 1973 there is no change in the proportion of the profits or loss of any accounting period of the partnership which constitutes the partner company's share, other than a change in respect of which the partner company furnishes the inspector with evidence in writing showing that the change results from an agreement entered into before 6th March 1973 ; and
  - (c) the expenditure concerned is incurred under a contract entered into by the partnership before 6th March 1973.
- (8) For the purposes of subsection (6) above, the partner company's share in the loss of any accounting period of the partnership shall be treated as attributable to an allowance falling within any of paragraphs (a) to (d) of that subsection to the extent that it would not have been available for surrender by way of group relief or for set-off as mentioned in that subsection if no such allowance had been available to the partnership in respect of the expenditure concerned.
- (9) In this section " group relief " has the same meaning as in section 258 of the Taxes Act and any question whether one person is connected with another shall be determined in accordance with section 533 of that Act.

## **32 Information as to arrangements for transferring relief, etc.**

- (1) If a company—
- (a) makes a claim for group relief, or
  - (b) being a party to a leasing contract, as defined in section 30 above, claims relief as mentioned in subsection (1)(b) of that section, or
  - (c) being a member of a partnership, either claims any relief which, if subsection (2) of section 31 above applied in relation to it, it would not be

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entitled to claim, or makes a return which is treated as a claim by virtue of section 85(5) of the Finance Act 1972, or

- (d) makes a claim under section 92 of the Finance Act 1972 (surrender of advance corporation tax),

and the inspector has reason to believe that any relevant arrangements may exist, or may have existed at any time material to the claim, then at any time after the claim (or return) is made he may serve notice in writing on the company requiring it to furnish him, within such time being not less than thirty days from the giving of the notice as he may direct, with—

- (i) a declaration in writing stating whether or not any such arrangements exist or existed at any material time, or
- (ii) such information as he may reasonably require for the purpose of satisfying himself whether or not any such arrangements exist or existed at any material time, or
- (iii) both such a declaration and such information.

- (2) In this section " relevant arrangements ", in relation to a claim (including a return which is treated as a claim) falling within any of paragraphs (a) to (d) of subsection (1) above, means such arrangements as are referred to in that enactment which is specified in the corresponding paragraph below, that is to say.—

- (a) subsection (1) or subsection (2) of section 29 above or paragraph 5(3) of Schedule 12 to this Act,
- (b) subsection (1)(c) of section 30 above,
- (c) subsection (1) of section 31 above,
- (d) paragraph 5(3) of Schedule 12 to this Act or subsection (9) of section 92 of the Finance Act 1972.

- (3) In a case falling within paragraph (a) of subsection (1) above, a notice under that subsection may be served on the surrendering company, within the meaning of section 258 of the Taxes Act, instead of or as well as on the company claiming relief.
- (4) In a case falling within paragraph (c) of subsection (1) above, a notice under that subsection may be served on the partners instead of or as well as on the company alone, and accordingly may require them, instead of or as well as the company, to furnish the declaration, information or declaration and information concerned.
- (5) In section 98 of the Taxes Management Act 1970 (penalty for failure to furnish information) there shall be added in the first column of the Table the words " Section 32 of the Finance Act 1973 ".
- (6) In this section, sections 29 to 31 above, paragraph 5(3) of Schedule 12 to this Act, and section 92(9) of the Finance Act 1972 " arrangements " means arrangements of any kind, whether in writing or not.

### **33 Setting of company's advance corporation tax against subsidiary's liability**

For the purpose of—

- (a) enabling the benefit of a company's advance corporation tax to be surrendered under section 92 of the Finance Act 1972, whether or not the tax is surplus advance corporation tax; and



- (b) amending the provisions governing the determination of the question whether one body corporate is a subsidiary of another for the purposes of that section; and
- (c) excepting an amount surrendered under that section from a claim under section 85(3) (carry back) of that Act; and
- (d) extending the period for claiming relief ;

section 92 and certain other provisions of the Finance Act 1972 shall have effect, and be deemed always to have had effect, subject to the amendments specified in Schedule 13 to this Act.

### **34 Minor amendments of Part V of Finance Act 1972**

Part V of the Finance Act 1972 (taxation of companies and company distributions) shall have effect and be deemed always to have had effect subject to the minor amendments specified in Schedule 14 to this Act.

### **35 Election for herd basis**

- (1) An election for the herd basis made under paragraph 2 of Schedule 6 to the Taxes Act after the passing of this Act and before 6th April 1976 shall be valid notwithstanding that it is not made within the time required by paragraph 2(3) or 6(2) of that Schedule.
- (2) An election which is valid by virtue only of this section shall have effect only for the chargeable period in which it is made and subsequent chargeable periods.

### **36 Provisions applicable to BOAC, BEA and the British Airways Board**

- (1) If the British Overseas Airways Corporation or the British European Airways Corporation ceases to carry on a trade and, on the Corporation ceasing to carry on that trade, the British Airways Board begins to carry it on, section 252 of the Taxes Act (company reconstructions without change of ownership) shall apply in relation to the Corporation and the Board (as " the predecessor " and " the successor " for the purposes of that section) with the omission of paragraph (a) of subsection (1) (provisions applicable to common ownership of a trade).
- (2) In section 59(1) of the Civil Aviation Act 1971 (application of group income and group relief provisions to the Corporations and the British Airways Board) after the words " shall be treated ", in the second place where they occur, there shall be inserted the words " notwithstanding anything in section 28 of the Finance Act 1973 ".

### **37 Amendment of section 33 of Finance Act 1965**

Section 33 of the Finance Act 1965 (replacement of business assets) shall apply, where the acquisition of the new assets or of the interest in the new assets referred to therein takes place on or after 6th April 1973, with the substitution in subsection (3) for the words " ending twelve months after the disposal " of the words " ending three years after the disposal ".

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### **38 Territorial extension of charge to income tax, capital gains tax and corporation tax**

- (1) The territorial sea of the United Kingdom shall for all purposes of income tax, capital gains tax and corporation tax (including the following provisions of this section) be deemed to be part of the United Kingdom.
- (2) In this section and in Schedule 15 to this Act—
  - (a) " exploration or exploitation activities " means activities carried on in connection with the exploration or exploitation of so much of the seabed and subsoil and their natural resources as is situated in the United Kingdom or a designated area ; and
  - (b) " exploration or exploitation rights " means rights to assets to be produced by exploration or exploitation activities or to interests in or to the benefit of such assets; and
  - (c) references to the disposal of exploration or exploitation rights include references to the disposal of shares deriving their value or the greater part of their value directly or indirectly from such rights, other than shares quoted on a recognised stock exchange (within the meaning of the Corporation Tax Acts); and
  - (d) "shares " includes stock and any security as defined in section 237(5) of the Taxes Act; and
  - (e) " designated area " means an area designated by Order in Council under section 1(7) of the Continental Shelf Act 1964.
- (3) Any profits or gains from exploration or exploitation activities carried on in a designated area or from exploration or exploitation rights shall be treated for the purposes of income tax or corporation tax as profits or gains from activities or property in the United Kingdom ; and any gains accruing on the disposal of such rights shall be treated for the purposes of Part III of the Finance Act 1965 as gains accruing on the disposal of assets situated in the United Kingdom.
- (4) Any profits or gains arising to any person not resident in the United Kingdom from exploration or exploitation activities carried on in the United Kingdom or in a designated area or from exploration or exploitation rights, and any gains accruing to such a person on the disposal of such rights shall, for the purposes of corporation tax or capital gains tax, be treated as profits or gains of a trade, or gains accruing on the disposal of assets used for the purposes of a trade, carried on by that person in the United Kingdom through a branch or agency.
- (5) In relation to exploration or exploitation rights disposed of by a company resident in a territory outside the United Kingdom to a company resident in the same territory or in the United Kingdom, sections 273 to 275 and 278 to 279 of the Taxes Act (transfer within group and company ceasing to be member of group) shall apply as if in section 272 of that Act (definition of " group " etc.) subsections (1)(a) and (2) were omitted.
- (6) Any emoluments from an office or employment in respect of duties performed in a designated area in connection with exploration or exploitation activities shall be treated for the purposes of income tax as emoluments in respect of duties performed in the United Kingdom.

- (7) This section shall have effect for the purposes of income tax and capital gains tax for the year 1973-74 and subsequent years of assessment and for the purposes of corporation tax for the financial year 1973 and subsequent years.
- (8) Schedule 15 to this Act shall have effect for supplementing this section.

### **39 Underwriters**

Schedule 16 to this Act shall have effect with respect to income tax and capital gains tax on the income and gains of underwriting members of Lloyd's or any approved association of underwriters.

### **40 Overseas life insurance companies**

- (1) Section 516(2) of the Taxes Act shall have effect with respect to any accounting period ending after the commencement of this Act as if the following were inserted at the end of paragraph (b): “and
  - (c) shall not affect the liability to tax of an overseas life insurance company for any accounting period for which a charge to corporation tax under Case III of Schedule D arises under section 316 of this Act in respect of any of its income from the investments of its life assurance fund (excluding the pension fund and general annuity fund, if any) or for which such a charge would arise if there were such income”.
- (2) Where an overseas life insurance company receives a qualifying distribution made after 5th April 1973 by a company resident in the United Kingdom and relief in respect of the distribution is not available or is not claimed under arrangements specified in an Order in Council made under section 497 of the Taxes Act, the overseas life insurance company shall be deemed for the purposes of sections 312, 314, 316, 318 and 319 of the Taxes Act and Schedule 18 to the Finance Act 1972 to be entitled to such a tax credit in respect of the distribution as it would be entitled to under section 86 of the Finance Act 1972 if it were resident in the United Kingdom; and accordingly the distribution shall be treated for the purposes of those provisions as representing income equal to the aggregate of the amount or value of the distribution and the amount of that credit.
- (3) Where under subsection (2) above an overseas life insurance company is deemed to be entitled to a tax credit in respect of a distribution, it may claim to have the income represented by the distribution set, subject to subsection (4) below, against its profits chargeable to tax under section 312 or against its income chargeable to tax in accordance with section 316 of the Taxes Act or partly against the one and partly against the other; but to the extent that any income is so set the tax credit included in it shall not be payable and shall not be set against corporation tax under paragraph 6 of Schedule 18 to the Finance Act 1972.
- (4) The amounts that an overseas life insurance company may by virtue of this section set against profits or income of any description shall not exceed the amount of the profits or income of that description and shall be further limited as follows:—
  - (a) the amount set against profits arising from general annuity business shall not exceed a portion of the company's income from investments referable to that business, and that portion shall be determined by the same formula as determines under section 318 of the Taxes Act the portion of those profits which is chargeable to tax; and

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- (b) the amount set against profits from pension business shall not exceed such of its income referable to that business as is represented by distributions in respect of which the company is deemed to be entitled to a tax credit by virtue of this section, and shall not reduce any other income.
- (5) Where by virtue of a set-off under this section income or profits of any description are reduced by any amount, that amount shall be left out of account in determining the amount of income tax which is available for set-off against corporation tax under section 246(3) of the Taxes Act.
- (6) A claim under this section in respect of a distribution shall not prevent the making of a subsequent claim for relief in respect of that distribution under arrangements specified in an Order in Council made under section 497 of the Taxes Act; but where such a subsequent claim is made the claim under this section shall be deemed never to have been made, and no adjustment (whether by additional assessments or otherwise) to which the subsequent claim gives rise shall be out of time if it is made within twelve months after the making of the subsequent claim.
- (7) Section 323 of the Taxes Act (interpretation) shall apply for the purposes of this section.

#### **41 General Commissioners' divisions**

The boundaries of any division specified by an order made or having effect as if made under section 2(6) of the Taxes Management Act 1970 and in operation immediately before—

- (a) 1st April 1974, if the division is in England or Wales; and
- (b) 16th May 1975, if the division is in Scotland;

shall remain the same on and after that day as if there were then no change of local government areas (but without prejudice to the making of new orders under that section).

#### **42 Double taxation Agreement with Republic of Ireland**

- (1) The Agreement set out in Schedule 17 to this Act, that is to say, the Agreement made on 2nd May 1973 between the Governments of the United Kingdom and of the Republic of Ireland relating to the first of the Agreements set out in Schedule 12 to the Taxes Act as amended by the second of those Agreements, is hereby confirmed, and, subject to the necessary steps being taken to give it the force of law in the Republic of Ireland, shall have effect accordingly.
- (2) Where, under Article 2 of the Agreement of 2nd May 1973, the exemption from Republic of Ireland income tax to which a company resident in the United Kingdom is entitled in respect of a dividend (as defined in that Article) is limited, the tax to which it is liable by virtue of that Article shall, on a claim made for the purpose to the Board, be allowed (subject to subsection (3) below) as a credit against the corporation tax attributable to that dividend.
- (3) The aggregate of the amounts of credit allowed—
  - (a) under subsection (2) above for Republic of Ireland income tax; and
  - (b) under any arrangement specified in an Order in Council made under section 497 of the Taxes Act for Republic of Ireland corporation profits tax ;

in respect of any dividend to which a company is entitled shall not exceed the amount of corporation tax attributable to that dividend.

- (4) Where a company, under subsection (2) above, claims a credit for Republic of Ireland income tax then, notwithstanding section 516 of the Taxes Act, no deduction shall be made for that tax in computing the company's income for the purposes of corporation tax.
- (5) Subsections (4) to (6) of section 100 of the Finance Act 1972 shall apply, with the necessary modifications, for determining for the purposes of this section the corporation tax attributable to any dividend.

#### **43 Occupation of Chevening House**

Section 185 of the Taxes Act (accommodation occupied by holder of office or employment) shall not apply in relation to the occupation of Chevening House or any other premises held on the trusts of the trust instrument set out in the Schedule to the Chevening Estate Act 1959 by a person nominated in accordance with those trusts.

#### **44 Relief for interest on special charge**

In relation to interest paid under subsection (3) of section 43 of the Finance Act 1968 after the end of the year 1972-73 subsection (5) of that section shall have effect as if the deduction allowable under it were a deduction in computing income for the purpose of ascertaining the excess of liability to income tax over what it would be if all income tax were chargeable at the basic rate to the exclusion of any other rate and as if for the reference to the standard rate there were substituted a reference to the basic rate.