



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART VI

COMPANY DISTRIBUTIONS, TAX CREDITS ETC

CHAPTER I

TAXATION OF COMPANY DISTRIBUTIONS

208 U.K. company distributions not generally chargeable to corporation tax

Except as otherwise provided by the Corporation Tax Acts, corporation tax shall not be chargeable on dividends and other distributions of a company resident in the United Kingdom, nor shall any such dividends or distributions be taken into account in computing income for corporation tax.

CHAPTER II

MATTERS WHICH ARE DISTRIBUTIONS FOR THE PURPOSES OF THE CORPORATION TAX ACTS

209 Meaning of “distribution”

- (1) The following provisions of this Chapter, together with section 418, shall, subject to section 339(6) and to any other express exceptions, have effect with respect to the meaning of “distribution” and for determining the persons to whom certain distributions are to be treated as made, but references in the Corporation Tax Acts to distributions of a company shall not apply to distributions made in respect of share capital in a winding up.
- (2) In the Corporation Tax Acts “distribution”, in relation to any company, means—
 - (a) any dividend paid by the company, including a capital dividend;

Status: This is the original version (as it was originally enacted).

- (b) subject to subsections (5) and (6) below, any other distribution out of assets of the company (whether in cash or otherwise) in respect of shares in the company, except so much of the distribution, if any, as represents repayment of capital on the shares or is, when it is made, equal in amount or value to any new consideration received by the company for the distribution;
- (c) subject to section 230, any redeemable share capital or any security issued by the company in respect of shares in or securities of the company otherwise than wholly for new consideration, or such part of any redeemable share capital or any security so issued as is not properly referable to new consideration;
- (d) any interest or other distribution out of assets of the company in respect of securities of the company, where they are securities under which the consideration given by the company for the use of the principal thereby secured represents more than a reasonable commercial return for the use of that principal, except so much, if any, of any such distribution as represents that principal and so much as represents a reasonable commercial return for the use of that principal;
- (e) any interest or other distribution out of assets of the company in respect of securities of the company (except so much, if any, of any such distribution as represents the principal thereby secured and except so much of any distribution as falls within paragraph (d) above), where the securities are—
 - (i) securities issued as mentioned in paragraph (c) above, but excluding securities issued before 6th April 1965 in respect of shares and securities issued before 6th April 1972 in respect of securities; or
 - (ii) securities convertible directly or indirectly into shares in the company or securities issued after 5th April 1972 and carrying any right to receive shares in or securities of the company, not being (in either case) securities quoted on a recognised stock exchange nor issued on terms which are reasonably comparable with the terms of issue of securities so quoted; or
 - (iii) securities under which the consideration given by the company for the use of the principal secured is to any extent dependent on the results of the company's business or any part of it; or
 - (iv) securities issued by the company ("the issuing company") and held by a company not resident in the United Kingdom where the issuing company is a 75 per cent. subsidiary of the other company or both are 75 per cent. subsidiaries of a third company which is not resident in the United Kingdom; or
 - (v) securities issued by the company ("the issuing company") and held by a company not resident in the United Kingdom ("the non-resident company") where less than 90 per cent. of the share capital of the issuing company is directly owned by a company resident in the United Kingdom and both the issuing company and the non-resident company are 75 per cent. subsidiaries of a third company which is resident in the United Kingdom; or
 - (vi) securities which are connected with shares in the company, and for this purpose securities are so connected if, in consequence of the nature of the rights attaching to the securities or shares and in particular of any terms or conditions attaching to the right to transfer the shares or securities, it is necessary or advantageous for a person

- who has, or disposes of or acquires, any of the securities also to have, or to dispose of or to acquire, a proportionate holding of the shares;
- (f) any such amount as is required to be treated as a distribution by subsection (4) below or section 210.
- (3) Without prejudice to section 254(11), no amount shall be regarded for the purposes of subsection (2)(d) and (e) above as representing the principal secured by a security issued after 5th April 1972 in so far as it exceeds any new consideration which has been received by the company for the issue of the security.
- (4) Where on a transfer of assets or liabilities by a company to its members or to a company by its members, the amount or value of the benefit received by a member (taken according to its market value) exceeds the amount or value (so taken) of any new consideration given by him, the company shall, subject to subsections (5) and (6) below, be treated as making a distribution to him of an amount equal to the difference.
- (5) Subsection (4) above shall not apply where the company and the member receiving the benefit are both resident in the United Kingdom and either the former is a subsidiary of the latter or both are subsidiaries of a third company also so resident; and any amount which would apart from this subsection be a distribution shall not constitute a distribution by virtue of subsection (2)(b) above.
- (6) No transfer of assets (other than cash) or of liabilities between one company and another shall constitute, or be treated as giving rise to, a distribution by virtue of subsection (2)(b) or (4) above if they are companies—
- (a) both of which are resident in the United Kingdom and neither of which is a 51 per cent. subsidiary of a company not so resident; and
 - (b) which, neither at the time of the transfer nor as a result of it, are under common control.
- For the purposes of this subsection two companies are under common control if they are under the control of the same person or persons, and for this purpose “control” shall be construed in accordance with section 416.
- (7) The question whether one body corporate is a subsidiary of another for the purpose of subsection (5) above shall be determined as a question whether it is a 51 per cent. subsidiary of that other, except that that other shall be treated as not being the owner—
- (a) of any share capital which it owns directly in a body corporate, if a profit on a sale of the shares would be treated as a trading receipt of its trade; or
 - (b) of any share capital which it owns indirectly, and which is owned directly by a body corporate for which a profit on the sale of the shares would be a trading receipt; or
 - (c) of any share capital which it owns directly or indirectly in a body corporate not resident in the United Kingdom.
- (8) For the purposes of subsection (2)(c) above—
- (a) the value of any redeemable share capital shall be taken to be the amount of the share capital together with any premium payable on redemption, or in a winding up, or in any other circumstances; and
 - (b) the value of any security shall be taken to be the amount of the principal thereby secured (including any premium payable at maturity or in a winding up, or in any other circumstances);

and in determining the amount of the distribution constituted by the issue of any redeemable share capital or any security, the capital or security shall be taken at that value.

210 Bonus issue following repayment of share capital

- (1) Where a company—
- (a) repays any share capital or has done so at any time after 6th April 1965, and
 - (b) at or after the time of that repayment issues any share capital as paid up otherwise than by the receipt of new consideration,
- the amount so paid up shall, except as provided by any provision of the Corporation Tax Acts, be treated as a distribution made in respect of the shares on which it is paid up, except in so far as that amount exceeds the amount or aggregate amount of share capital so repaid less any amounts previously so paid up and treated by virtue of this subsection as distributions.
- (2) Subsection (1) above shall not apply where the repaid share capital consists of fully paid preference shares—
- (a) if those shares existed as issued and fully paid preference shares on 6th April 1965 and throughout the period from that date until the repayment those shares continued to be fully paid preference shares, or
 - (b) if those shares were issued after 6th April 1965 as fully paid preference shares wholly for new consideration not derived from ordinary shares and throughout the period from their issue until the repayment those shares continued to be fully paid preference shares.
- (3) Except in relation to a company within paragraph D of section 704, subsection (1) above shall not apply if the issue of share capital mentioned in paragraph (b) of that subsection—
- (a) is of share capital other than redeemable share capital; and
 - (b) takes place after 5th April 1973 and more than ten years after the repayment of share capital mentioned in paragraph (a) of that subsection.
- (4) In this section—
- “ordinary shares” means shares other than preference shares;
- “preference shares” means shares—
- (a) which do not carry any right to dividends other than dividends at a rate per cent. of the nominal value of the shares which is fixed, and
 - (b) which carry rights in respect of dividends and capital which are comparable with those general for fixed-dividend shares quoted on the Stock Exchange; and
- “new consideration not derived from ordinary shares” means new consideration other than consideration—
- (a) consisting of the surrender, transfer or cancellation of ordinary shares of the company or any other company or consisting of the variation of rights in ordinary shares of the company or any other company, or
 - (b) derived from a repayment of share capital paid in respect of ordinary shares of the company or of any other company.

211 Matters to be treated or not to be treated as repayments of share capital

(1) Where—

- (a) a company issues any share capital as paid up otherwise than by the receipt of new consideration, or has done so after 6th April 1965; and
- (b) any amount so paid up does not fall to be treated as a qualifying distribution or, where the issue took place before 6th April 1973, did not fall to be treated as a distribution;

then, except as otherwise provided by any provision of the Corporation Tax Acts, for the purposes of sections 209 and 210, distributions afterwards made by the company in respect of shares representing that share capital shall not be treated as repayments of share capital, except to the extent to which those distributions, together with any relevant distributions previously so made, exceed the amounts so paid up (then or previously) on such shares after 6th April 1965 and not falling to be treated as qualifying distributions or, where the share capital was issued before 6th April 1973, as distributions.

(2) Except in relation to a company within paragraph D of section 704, subsection (1) above shall not prevent a distribution being treated as a repayment of share capital if it is made—

- (a) more than ten years after the issue of share capital mentioned in paragraph (a) of that subsection; and
- (b) in respect of share capital other than redeemable share capital.

(3) In subsection (1) above “relevant distribution” means so much of any distribution made in respect of shares representing the relevant share capital as apart from that subsection would be treated as a repayment of share capital, but by virtue of that subsection cannot be so treated.

(4) For the purposes of subsection (1) above all shares of the same class shall be treated as representing the same share capital, and where shares are issued in respect of other shares, or are directly or indirectly converted into or exchanged for other shares, all such shares shall be treated as representing the same share capital.

(5) Where share capital is issued at a premium representing new consideration, the amount of the premium is to be treated as forming part of that share capital for the purpose of determining under this Chapter whether any distribution made in respect of shares representing the share capital is to be treated as a repayment of share capital.

(6) Subsection (5) above shall not have effect in relation to any part of the premium after that part has been applied in paying up share capital.

(7) Subject to subsection (5) above, premiums paid on redemption of share capital are not to be treated as repayments of capital.

CHAPTER III

MATTERS WHICH ARE NOT DISTRIBUTIONS FOR THE PURPOSES OF THE CORPORATION TAX ACTS

Payments of interest

212 Interest etc. paid in respect of certain securities

- (1) Any interest or other distribution—
- (a) which is paid out of the assets of a company (“the borrower”) to another company which is within the charge to corporation tax; and
 - (b) which is so paid in respect of securities of the borrower which fall within any of sub-paragraphs (i) to (iii) and (vi) of paragraph (e) of section 209(2); and
 - (c) which does not fall within paragraph (d) of section 209(2),
- shall not be a distribution for the purposes of the Corporation Tax Acts unless the application of this subsection is excluded by subsection (2) or (3) below.
- (2) Subsection (1) above does not apply in the case of any interest or other distribution which is paid in respect of a security of the borrower falling within section 209(2)(e) (iii) if—
- (a) the principal secured does not exceed £100,000; and
 - (b) the borrower is under an obligation to repay the principal and interest before the expiry of the period of five years beginning on the date on which the principal was paid to the borrower; and
 - (c) that obligation either was entered into before 9th March 1982 or was entered into before 1st July 1982 pursuant to negotiations which were in progress on 9th March 1982; and
 - (d) where the period for repayment of either principal or interest is extended after 8th March 1982 (but paragraph (b) above still applies), the interest or other distribution is paid within the period which was applicable immediately before that date;
- and for the purposes of paragraph (c) above negotiations shall not be regarded as having been in progress on 9th March 1982 unless, before that date, the borrower had applied to the lender for a loan and had supplied the lender with any documents required by him to support the application.
- (3) Subsection (1) above does not apply in a case where the company to which the interest or other distribution is paid is entitled under any enactment, other than section 208, to an exemption from tax in respect of that interest or distribution.

Demergers

213 Exempt distributions

- (1) The provisions of this section and sections 214 to 218 have effect for facilitating certain transactions whereby trading activities carried on by a single company or group are divided so as to be carried on by two or more companies not belonging to the same group or by two or more independent groups.

- (2) References in the Corporation Tax Acts to distributions of a company shall not apply to any distribution—
- (a) which falls within subsection (3) below, and
 - (b) in respect of which the conditions specified in subsections (4) to (12) below are satisfied;
- and any such distribution is referred to in this section as an “exempt distribution”.
- (3) The following distributions fall within this subsection—
- (a) a distribution consisting of the transfer to all or any of its members by a company (“the distributing company”) of shares in one or more companies which are its 75 per cent. subsidiaries;
 - (b) a distribution consisting of the transfer by a company (“the distributing company”) to one or more other companies (“the transferee company or companies”) of—
 - (i) a trade or trades; or
 - (ii) shares in one or more companies which are 75 per cent. subsidiaries of the distributing company,and the issue of shares by the transferee company or companies to all or any of the members of the distributing company;
- and in this section and sections 214 to 217 references to a relevant company are to the distributing company, to each subsidiary whose shares are transferred as mentioned in paragraph (a) or (b) (ii) above and to each transferee company mentioned in paragraph (b) above.
- (4) Each relevant company must be resident in the United Kingdom at the time of the distribution.
- (5) The distributing company must at the time of the distribution be either a trading company or a member of a trading group and each subsidiary whose shares are transferred as mentioned in subsection (3)(a) or (b)(ii) above must at that time be either a trading company or the holding company of a trading group.
- (6) In a case within subsection (3)(1)(a) above—
- (a) the shares must not be redeemable, must constitute the whole or substantially the whole of the distributing company’s holding of the ordinary share capital of the subsidiary and must confer the whole or substantially the whole of the distributing company’s voting rights in the subsidiary; and
 - (b) subject to subsections (7) and (12)(b) below, the distributing company must after the distribution be either a trading company or the holding company of a trading group.
- (7) Subsection (6)(b) above does not apply if the transfer relates to two or more 75 per cent. subsidiaries of the distributing company and that company is dissolved without there having been after the distribution any net assets of the company available for distribution in a winding up or otherwise.
- (8) In a case within subsection (3)(b) above—
- (a) if a trade is transferred the distributing company must either not retain any interest or retain only a minor interest in that trade;
 - (b) if shares in a subsidiary are transferred those shares must constitute the whole or substantially the whole of the distributing company’s holding of the ordinary share capital of the subsidiary and must confer the whole or

- substantially the whole of the distributing company's voting rights in the subsidiary;
- (c) the only or main activity of the transferee company or each transferee company after the distribution must be the carrying on of the trade or the holding of the shares transferred to it;
 - (d) the shares issued by the transferee company or each transferee company must not be redeemable, must constitute the whole or substantially the whole of its issued ordinary share capital and must confer the whole or substantially the whole of the voting rights in that company; and
 - (e) subject to subsections (9) and (12)(b) below, the distributing company must after the distribution be either a trading company or the holding company of a trading group.
- (9) Subsection (8)(e) above does not apply if there are two or more transferee companies each of which has a trade or shares in a separate 75 per cent. subsidiary of the distributing company transferred to it and the distributing company is dissolved without there having been after the distribution any net assets of the company available for distribution in a winding up or otherwise.
- (10) The distribution must be made wholly or mainly for the purpose of benefiting some or all of the trading activities which before the distribution are carried on by a single company or group and after the distribution will be carried on by two or more companies or groups.
- (11) The distribution must not form part of a scheme or arrangements the main purpose or one of the main purposes of which is—
- (a) the avoidance of tax (including stamp duty); or
 - (b) without prejudice to paragraph (a) above, the making of a chargeable payment, as defined by section 214, or what would be such a payment if any of the companies mentioned in that section were an unquoted company; or
 - (c) the acquisition by any person or persons other than members of the distributing company of control of that company, of any other relevant company or of any company which belongs to the same group as any such company; or
 - (d) the cessation of a trade or its sale after the distribution.
- In paragraph (c) above “group” means a company which has one or more 51 per cent. subsidiaries together with that or those subsidiaries.
- (12) Where the distributing company is a 75 per cent. subsidiary of another company—
- (a) the group (or, if more than one, the largest group) to which the distributing company belongs at the time of the distribution must be a trading group;
 - (b) subsections (6)(b) and (8)(e) above shall not apply; and
 - (c) the distribution must be followed by one or more other distributions falling within subsection (3)(a) or (b)(ii) above which satisfy the conditions of this section and result in members of the holding company of the group (or, if more than one, the largest group) to which the distributing company belonged at the time of the distribution becoming members of—
 - (i) the transferee company or each transferee company to which a trade was transferred by the distributing company; or
 - (ii) the subsidiary or each subsidiary whose shares were transferred by the distributing company; or

- (iii) a company (other than that holding company) of which the company or companies mentioned in sub-paragraph (i) or (ii) above are 75 per cent. subsidiaries.

214 Chargeable payments connected with exempt distributions

- (1) If within five years after the making of an exempt distribution there is a chargeable payment—
 - (a) the amount or value of the payment shall be treated as income chargeable to tax under Case VI of Schedule D;
 - (b) unless the payment is a transfer of money's worth, sections 349(1) and 350 shall apply to the payment as if it were an annual sum payable otherwise than out of profits or gains charged to income tax;
 - (c) the payment shall be regarded as a distribution for the purposes of sections 337(2), 338(2)(a) and 427(4) and paragraph 3 of Schedule 19; and
 - (d) the payment shall not (if it otherwise would) be treated as a repayment of capital for the purposes of section 210 or 211.
- (2) In this section “a chargeable payment” means any payment made otherwise than for bona fide commercial reasons or forming part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax (including stamp duty), being a payment which—
 - (a) a company concerned in an exempt distribution makes directly or indirectly to a member of that company or of any other company concerned in that distribution; and
 - (b) is made in connection with, or with any transaction affecting, the shares in that or any such company; and
 - (c) is not a distribution or exempt distribution or made to another company which belongs to the same group as the company making the payment.
- (3) Where a company concerned in an exempt distribution is an unquoted company subsection (2)(a) above shall have effect as if any reference to the making of a payment by, or to a member of, a company concerned in the exempt distribution included a reference to the making of a payment by or to any other person in pursuance of a scheme or arrangements made with the unquoted company or, if the unquoted company is—
 - (a) under the control of five or fewer persons; and
 - (b) not under the control of (and only of) a company which is not itself under the control of five or fewer persons,with any of the persons mentioned in paragraph (a) above.
- (4) References in this section to a company concerned in an exempt distribution are to any relevant company and to any other company which was connected with any such company for the whole or any part of the period beginning with the exempt distribution and ending with the making of the payment which is in question under this section.
- (5) For the purposes of subsection (4) above and this subsection a company shall be deemed to have been connected in the period referred to in that subsection with each company to which a company connected with it was connected in that period.
- (6) References in this section to a payment include references to a transfer of money's worth including the assumption of a liability.

215 Advance clearance by Board of distributions and payments

- (1) A distribution shall be treated as an exempt distribution in any case in which, before the distribution is made, the Board have, on the application of the distributing company, notified that company that the Board are satisfied that it will be such a distribution.
- (2) A payment shall not be treated as a chargeable payment in any case in which, before the payment is made, the Board have, on the application of the person intending to make it, notified him that they are satisfied that it will be made for bona fide commercial reasons and will not form part of any scheme or arrangements the main purpose, or one of the main purposes, of which is the avoidance of tax (including stamp duty).
- (3) A company which becomes or ceases to be connected with another company may make an application under subsection (2) above as respects any payments that may be made by it at any time after becoming or ceasing to be so connected (whether or not there is any present intention to make any payments); and where a notification is given by the Board on such an application no payment to which the notification relates shall be treated as a chargeable payment by reason only of the company being or having been connected with the other company.
- (4) References in subsections (2) and (3) above to a payment shall be construed as in section 214.
- (5) Any application under this section shall be in writing and shall contain particulars of the relevant transactions and the Board may, within 30 days of the receipt of the application or of any further particulars previously required under this subsection, by notice require the applicant to furnish further particulars for the purposes of enabling the Board to make their decision; and if any such notice is not complied with within 30 days or such longer period as the Board may allow, the Board need not proceed further on the application.
- (6) The Board shall notify their decision to the applicant within 30 days of receiving the application or, if they give a notice under subsection (5) above, within 30 days of the notice being complied with.
- (7) If the Board notify the applicant that they are not satisfied as mentioned in subsection (1) or (2) above or do not notify their decision to the applicant within the time required by subsection (6) above, the applicant may within 30 days of the notification or of that time require the Board to transmit the application, together with any notice given and further particulars furnished under subsection (5) above, to the Special Commissioners; and in that event any notification by the Special Commissioners shall have effect for the purposes of this section as if it were a notification by the Board.
- (8) If any particulars furnished under this section do not fully and accurately disclose all facts and circumstances material for the decision of the Board or the Special Commissioners, any resulting notification that the Board or Commissioners are satisfied as mentioned in subsection (1) or (2) above shall be void.

216 Returns

- (1) Where a company makes an exempt distribution it shall within 30 days after the distribution make a return to the inspector giving particulars of the distribution and of the circumstances by reason of which it is exempt.

- (2) Where within five years after the making of an exempt distribution a person makes a chargeable payment which consists of a transfer of money's worth, he shall within 30 days after the transfer make a return to the inspector giving particulars—
 - (a) of the transaction effecting the transfer;
 - (b) of the name and address of the recipient or each recipient and the value of what is transferred to him or each of them; and
 - (c) if the transfer is accompanied by a chargeable payment consisting of a payment of money, of that payment.
- (3) Subject to subsection (4) below, where within five years after the making of an exempt distribution a person makes a payment or a transfer of money's worth which would be a chargeable payment but for the fact that it is made for bona fide commercial reasons and does not form part of any such scheme or arrangements as are mentioned in section 214(2), that person shall within 30 days after making the payment or transfer make a return to the inspector giving particulars—
 - (a) in the case of a transfer, of the transaction by which it is effected;
 - (b) of the name and address of the recipient or each recipient and the amount of the payment made, or the value of what is transferred, to him or each of them; and
 - (c) of the circumstances by reason of which the payment or transfer is not a chargeable payment.
- (4) Subsection (3) above does not apply where the payment or transfer is one in relation to which a notification under section 215(3) has effect.

217 Information

- (1) Where a distribution falling within section 213(3) has been made and the inspector has reason to believe that it may form part of any such scheme or arrangements as are mentioned in section 213(11), he may by notice require any relevant company or any person controlling any such company to furnish him within such time, not being less than 30 days, as may be specified in the notice with—
 - (a) a declaration in writing stating whether or not, according to information which the company or that person has or can reasonably obtain, any such scheme or arrangements exist or have existed;
 - (b) such other information as the inspector may reasonably require for the purposes of section 213(11) and the company or that person has or can reasonably obtain.
- (2) If the inspector has reason to believe that a person has not delivered an account or made a return which he is required to deliver or make by virtue of section 214(1) (b) or 216(2) or (3) in respect of any payment or transfer, he may by notice require that person to furnish him within such time, not being less than 30 days, as may be specified in the notice with such information relating to the payment or transfer as he may reasonably require for the purposes of section 214.
- (3) If the inspector has reason to believe that a payment or transfer has been made within five years after the making of an exempt distribution and that the payment or transfer is a chargeable payment by reason of the existence of any such scheme or arrangements as are mentioned in section 214(3), he may by notice require the person making the payment or transfer or, if that person is a company, any person controlling it to furnish him within such time, not being less than 30 days, as may be specified in the notice with—

- (a) a declaration in writing stating whether or not, according to information which that person has, or can reasonably obtain, any such scheme or arrangements exist or have existed;
 - (b) such other information as the inspector may reasonably require for the purposes of section 214 and that person has or can reasonably obtain.
- (4) Any recipient of a chargeable payment and any person on whose behalf such a payment is received shall, if so required by the inspector, state whether the payment received by him or on his behalf is received on behalf of any person other than himself and, if so, the name and address of that person.

218 Interpretation of sections 213 to 217

- (1) In sections 213 to 217—
- “chargeable payment” has the meaning given by section 214(2);
 - “control” shall be construed in accordance with section 416(2) to (6);
 - “distributing company” has the meaning given by section 213(3);
 - “exempt distribution” has the meaning given by section 213(2);
 - “group”, except in section 213(11)(c), means a company which has one or more 75 per cent. subsidiaries together with that or those subsidiaries;
 - “holding company” means a company whose business (disregarding any trade carried on by it) consists wholly or mainly of the holding of shares or securities of one or more companies which are its 75 per cent. subsidiaries;
 - “member”, where the reference is to a member of a company, does not, except in section 214(2)(a), include a person who is a member otherwise than by virtue of holding shares forming part of the company’s ordinary share capital;
 - “relevant company” has the meaning given by section 213(3);
 - “shares” includes stock;
 - “trade”, except in subsection (3) below, does not include dealing in shares, securities, land, trades or commodity futures and “trading activities” shall be construed accordingly;
 - “trading company” means a company whose business consists wholly or mainly of the carrying on of a trade or trades;
 - “trading group” means a group the business of whose members, taken together, consists wholly or mainly in the carrying on of a trade or trades; and
 - “unquoted company” means a company which does not satisfy the condition that its shares or some class thereof (disregarding debenture or loan stock, preferred shares or preferred stock) are listed in the Official List of the Stock Exchange and are dealt in on the Stock Exchange regularly or from time to time, so however that this definition does not apply to a company under the control of (and only of) one or more companies to which this definition does not apply.
- (2) In determining for the purposes of section 213(3) to (9) whether a company whose shares are transferred by the distributing company is a 75 per cent. subsidiary of the distributing company there shall be disregarded any share capital of the first-mentioned company which is owned indirectly by the distributing company.

- (3) In determining for the purposes of sections 213 to 217 whether one company is a 75 per cent. subsidiary of another, the other company shall be treated as not being the owner of—
- (a) any share capital which it owns directly in a body corporate if a profit on a sale of the shares would be treated as a trading receipt of its trade; or
 - (b) any share capital which it owns indirectly and which is owned directly by a body corporate for which a profit on the sale of the shares would be a trading receipt.
- (4) Section 839 applies for the purposes of sections 213 to 217.

Purchase of own shares

219 Purchase by unquoted trading company of own shares

- (1) References in the Corporation Tax Acts to distributions of a company shall not include references to a payment made by a company on the redemption, repayment or purchase of its own shares if the company is an unquoted trading company or the unquoted holding company of a trading group and either—
- (a) the redemption, repayment or purchase is made wholly or mainly for the purpose of benefiting a trade carried on by the company or by any of its 75 per cent. subsidiaries, and does not form part of a scheme or arrangement the main purpose or one of the main purposes of which is—
 - (i) to enable the owner of the shares to participate in the profits of the company without receiving a dividend, or
 - (ii) the avoidance of tax; and
 the conditions specified in sections 220 to 224, so far as applicable, are satisfied in relation to the owner of the shares; or
 - (b) the whole or substantially the whole of the payment (apart from any sum applied in paying capital gains tax charged on the redemption, repayment or purchase) is applied by the person to whom it is made in discharging a liability of his for inheritance tax charged on a death and is so applied within the period of two years after the death;
- and in sections 220 to 224—
- “the purchase” means the redemption, repayment or purchase referred to in subsection (1)(a) above; and
- “the vendor” means the owner of the shares at the time it is made.
- (2) Where, apart from this subsection, a payment falls within subsection (1)(b) above, subsection (1) above shall not apply to the extent that the liability in question could without undue hardship have been discharged otherwise than through the redemption, repayment or purchase of shares in the company or another unquoted company which is a trading company or the holding company of a trading group.

220 Conditions as to residence and period of ownership

- (1) The vendor must be resident and ordinarily resident in the United Kingdom in the year of assessment in which the purchase is made and if the shares are held through a nominee the nominee must also be so resident and ordinarily resident.

- (2) The residence and ordinary residence of trustees shall be determined for the purposes of this section as they are determined under section 52 of the 1979 Act for the purposes of that Act.
- (3) The residence and ordinary residence of personal representatives shall be taken for the purposes of this section to be the same as the residence and ordinary residence of the deceased immediately before his death.
- (4) The references in this section to a person's ordinary residence shall be disregarded in the case of a company.
- (5) The shares must have been owned by the vendor throughout the period of five years ending with the date of the purchase.
- (6) If at any time during that period the shares were transferred to the vendor by a person who was then his spouse living with him then, unless that person is alive at the date of the purchase but is no longer the vendor's spouse living with him, any period during which the shares were owned by that person shall be treated for the purposes of subsection (5) above as a period of ownership by the vendor.
- (7) Where the vendor became entitled to the shares under the will or on the intestacy of a previous owner or is the personal representative of a previous owner—
 - (a) any period during which the shares were owned by the previous owner or his personal representatives shall be treated for the purposes of subsection (5) above as a period of ownership by the vendor, and
 - (b) that subsection shall have effect as if it referred to three years instead of five.
- (8) In determining whether the condition in subsection (5) above is satisfied in a case where the vendor acquired shares of the same class at different times—
 - (a) shares acquired earlier shall be taken into account before shares acquired later, and
 - (b) any previous disposal by him of shares of that class shall be assumed to be a disposal of shares acquired later rather than of shares acquired earlier.
- (9) If for the purposes of capital gains tax the time when shares were acquired would be determined under any provision of Chapter II of Part IV of the 1979 Act (reorganisation of share capital, conversion of securities, etc.) then, unless the shares were allotted for payment or were comprised in share capital to which section 249 applies, it shall be determined in the same way for the purposes of this section.

221 Reduction of vendor's interest as shareholder

- (1) If immediately after the purchase the vendor owns shares in the company, then, subject to section 224, the vendor's interest as a shareholder must be substantially reduced.
- (2) If immediately after the purchase any associate of the vendor owns shares in the company then, subject to section 224, the combined interests as shareholders of the vendor and his associates must be substantially reduced.
- (3) The question whether the combined interests as shareholders of the vendor and his associates are substantially reduced shall be determined in the same way as is (under the following subsections) the question whether a vendor's interest as a shareholder is substantially reduced, except that the vendor shall be assumed to have the interests of his associates as well as his own.

- (4) Subject to subsection (5) below, the vendor's interest as a shareholder shall be taken to be substantially reduced if and only if the total nominal value of the shares owned by him immediately after the purchase, expressed as a fraction of the issued share capital of the company at that time, does not exceed 75 per cent. of the corresponding fraction immediately before the purchase.
- (5) The vendor's interest as a shareholder shall not be taken to be substantially reduced where—
- (a) he would, if the company distributed all its profits available for distribution immediately after the purchase, be entitled to a share of those profits, and
 - (b) that share, expressed as a fraction of the total of those profits, exceeds 75 per cent. of the corresponding fraction immediately before the purchase.
- (6) In determining for the purposes of subsection (5) above the division of profits among the persons entitled to them, a person entitled to periodic distributions calculated by reference to fixed rates or amounts shall be regarded as entitled to a distribution of the amount or maximum amount to which he would be entitled for a year.
- (7) In subsection (5) above "profits available for distribution" has the same meaning as it has for the purposes of Part VIII of the Companies Act 1985, except that for the purposes of that subsection the amount of the profits available for distribution (whether immediately before or immediately after the purchase) shall be treated as increased—
- (a) in the case of every company, by £100, and
 - (b) in the case of a company from which any person is entitled to periodic distributions of the kind mentioned in subsection (6) above, by a further amount equal to that required to make the distribution to which he is entitled in accordance with that subsection;
- and where the aggregate of the sums payable by the company on the purchase and on any contemporaneous redemption, repayment or purchase of other shares of the company exceeds the amount of the profits available for distribution immediately before the purchase, that amount shall be treated as further increased by an amount equal to the excess.
- (8) References in this section to entitlement are, except in the case of trustees and personal representatives, references to beneficial entitlement.

222 Conditions applicable where purchasing company is member of group

- (1) Subject to section 224, where the company making the purchase is immediately before the purchase a member of a group and—
- (a) immediately after the purchase the vendor owns shares in one or more other members of the group (whether or not he then owns shares in the company making the purchase), or
 - (b) immediately after the purchase the vendor owns shares in the company making the purchase and immediately before the purchase he owned shares in one or more other members of the group,
- the vendor's interest as a shareholder in the group must be substantially reduced.
- (2) In subsections (5) to (7) below "relevant company" means the company making the purchase and any other member of the group in which the vendor owns shares immediately before or immediately after the purchase, but subject to subsection (4) below.

- (3) Subject to section 224, where the company making the purchase is immediately before the purchase a member of a group and at that time an associate of the vendor owns shares in any member of the group, the combined interests as shareholders in the group of the vendor and his associates must be substantially reduced.
- (4) The question whether the combined interests as shareholders in the group of the vendor and his associates are substantially reduced shall be determined in the same way as is (under the following subsections) the question whether a vendor's interest as a shareholder in a group is substantially reduced, except that the vendor shall be assumed to have the interests of his associates as well as his own (and references in subsections (5) to (7) below to a relevant company shall be construed accordingly).
- (5) The vendor's interest as a shareholder in the group shall be ascertained by—
- (a) expressing the total nominal value of the shares owned by him in each relevant company as a fraction of the issued share capital of the company,
 - (b) adding together the fractions so obtained, and
 - (c) dividing the result by the number of relevant companies (including any in which he owns no shares).
- (6) Subject to subsection (7) below, the vendor's interest as a shareholder in the group shall be taken to be substantially reduced if and only if it does not exceed 75 per cent. of the corresponding interest immediately before the purchase.
- (7) The vendor's interest as a shareholder in the group shall not be taken to be substantially reduced if—
- (a) he would, if every member of the group distributed all its profits available for distribution immediately after the purchase (including any profits received by it on a distribution by another member), be entitled to a share of the profits of one or more of them, and
 - (b) that share, or the aggregate of those shares, expressed as a fraction of the aggregate of the profits available for distribution of every member of the group which is—
 - (i) a relevant company, or
 - (ii) a 51 per cent. subsidiary of a relevant company,
 exceeds 75 per cent. of the corresponding fraction immediately before the purchase.
- (8) Subsections (6) and (7) of section 221 shall apply for the purposes of subsection (7) above as they apply for the purposes of subsection (5) of that section.
- (9) Subject to the following subsections, in this section “group” means a company which has one or more 51 per cent. subsidiaries, but is not itself a 51 per cent. subsidiary of any other company, together with those subsidiaries.
- (10) Where the whole or a significant part of the business carried on by an unquoted company (“the successor company”) was previously carried on by—
- (a) the company making the purchase, or
 - (b) a company which is (apart from this subsection) a member of a group to which the company making the purchase belongs,
- the successor company and any company of which it is a 51 per cent. subsidiary shall be treated as being a member of the same group as the company making the purchase

(whether or not, apart from this subsection, the company making the purchase is a member of a group).

- (11) Subsection (10) above shall not apply if the successor company first carried on the business there referred to more than three years before the time of the purchase.
- (12) For the purposes of this section a company which has ceased to be a 51 per cent. subsidiary of another company before the time of the purchase shall be treated as continuing to be such a subsidiary if at that time there exist arrangements under which it could again become such a subsidiary.

223 Other conditions

- (1) Subject to section 224, the vendor must not immediately after the purchase be connected with the company making the purchase or with any company which is a member of the same group as that company.

In this subsection “group” has the same meaning as it has for the purposes of section 222.

- (2) Subject to section 224, the purchase must not be part of a scheme or arrangement which is designed or likely to result in the vendor or any associate of his having interests in any company such that, if he had those interests immediately after the purchase, any of the conditions in sections 221 and 222 and subsection (1) above could not be satisfied.
- (3) A transaction occurring within one year after the purchase shall be deemed for the purposes of subsection (2) above to be part of a scheme or arrangement of which the purchase is also part.

224 Relaxation of conditions in certain cases

Where—

- (a) any of the conditions in sections 221 to 223 which are applicable are not satisfied in relation to the vendor, but
- (b) he proposed or agreed to the purchase in order that the condition in section 221(2) or 222(3) could be satisfied in respect of the redemption, repayment or purchase of shares owned by a person of whom he is an associate,

then, to the extent that that result is produced by virtue of the purchase, section 219(1)

(a) shall have effect as if the conditions in sections 221 to 223 were satisfied in relation to the vendor.

225 Advance clearance of payments by Board

- (1) A payment made by a company on the redemption, repayment or purchase of its own shares shall be deemed—
 - (a) to be one to which section 219 applies if, before it is made, the Board have on the application of the company notified the company that they are satisfied that the section will apply; and
 - (b) to be one to which section 219 does not apply if, before it is made, the Board have on the application of the company notified the company that they are satisfied that the section will not apply.

- (2) An application under this section shall be in writing and shall contain particulars of the relevant transactions; and the Board may, within 30 days of the receipt of the application or of any further particulars previously required under this subsection, by notice require the applicant to furnish further particulars for the purpose of enabling the Board to make their decision.
- (3) If a notice under subsection (2) above is not complied with within 30 days or such longer period as the Board may allow, the Board need not proceed further on the application.
- (4) The Board shall notify their decision to the applicant within 30 days of receiving the application or, if they give a notice under subsection (2) above, within 30 days of the notice being complied with.
- (5) If particulars furnished under this section do not fully and accurately disclose all facts and circumstances material for the decision of the Board, any resulting notification by the Board shall be void.

226 Returns and information

- (1) A company which treats a payment made by it as one to which section 219 applies shall within 60 days after making the payment make a return to the inspector giving particulars of the payment and of the circumstances by reason of which that section is regarded as applying to it.
- (2) Where a company treats a payment made by it as one to which section 219(1)(a) applies, any person connected with the company who knows of any such scheme or arrangement affecting the payment as is mentioned in section 223(2) shall, within 60 days after he first knows of both the payment and the scheme or arrangement, give a notice to the inspector containing particulars of the scheme or arrangement.
- (3) Where the inspector has reason to believe that a payment treated by the company making it as one to which section 219(1)(a) applies may form part of a scheme or arrangement of the kind referred to therein or in section 223(2), he may by notice require the company or any person who is connected with the company to furnish him within such time, not being less than 60 days, as may be specified in the notice with—
 - (a) a declaration in writing stating whether or not, according to information which the company or that person has or can reasonably obtain, any such scheme or arrangement exists or has existed, and
 - (b) such other information as the inspector may reasonably require for the purposes of the provision in question and the company or that person has or can reasonably obtain.
- (4) The recipient of a payment treated by the company making it as one to which section 219 applies, and any person on whose behalf such a payment is received, shall if so required by the inspector state whether the payment received by him or on his behalf is received on behalf of any person other than himself and, if so, the name and address of that person.

227 Associated persons

- (1) Any question whether a person is an associate of another in relation to a company shall be determined for the purposes of sections 219 to 226 and 228 in accordance with the following provisions of this section.
- (2) A husband and wife living together are associates of one another, a person under the age of 18 is an associate of his parents, and his parents are his associates.
- (3) A person connected with a company is an associate of the company and of any company controlled by it, and the company and any company controlled by it are his associates.
- (4) Where a person connected with one company has control of another company, the second company is an associate of the first.
- (5) Where shares in a company are held by trustees (other than bare trustees) then in relation to that company, but subject to subsection (8) below, the trustees are associates of—
 - (a) any person who directly or indirectly provided property to the trustees or has made a reciprocal arrangement for another to do so,
 - (b) any person who is, by virtue of subsection (2) above, an associate of a person within paragraph (a) above, and
 - (c) any person who is or may become beneficially entitled to a significant interest in the shares;and any such person is an associate of the trustees.
- (6) Where shares in a company are comprised in the estate of a deceased person, then in relation to that company the deceased's personal representatives are associates of any person who is or may become beneficially entitled to a significant interest in the shares, and any such person is an associate of the personal representatives.
- (7) Where one person is accustomed to act on the directions of another in relation to the affairs of a company, then in relation to that company the two persons are associates of one another.
- (8) Subsection (5) above shall not apply to shares held on trusts which—
 - (a) relate exclusively to an exempt approved scheme as defined in Chapter I of Part XIV, or
 - (b) are exclusively for the benefit of the employees, or the employees and directors, of the company referred to in that subsection or of companies in a group to which that company belongs, or their dependants (and are not wholly or mainly for the benefit of directors or their relatives);and for the purposes of this subsection “group” means a company which has one or more 51 per cent. subsidiaries, together with those subsidiaries.
- (9) For the purposes of subsections (5) and (6) above a person's interest is significant if its value exceeds 5 per cent. of the value of all the property held on the trusts or, as the case may be, comprised in the estate concerned, excluding any property in which he is not and cannot become beneficially entitled to an interest.

228 Connected persons

- (1) Any question whether a person is connected with a company shall be determined for the purposes of sections 219 to 227 in accordance with the following provisions of this section.
- (2) A person is connected with a company if he directly or indirectly possesses or is entitled to acquire more than 30 per cent. of—
 - (a) the issued ordinary share capital of the company, or
 - (b) the loan capital and issued share capital of the company, or
 - (c) the voting power in the company.
- (3) Where a person—
 - (a) acquired or became entitled to acquire loan capital of a company in the ordinary course of a business carried on by him, being a business which includes the lending of money, and
 - (b) takes no part in the management or conduct of the company,
 his interest in that loan capital shall be disregarded for the purposes of subsection (2) above.
- (4) A person is connected with a company if he directly or indirectly possesses or is entitled to acquire such rights as would, in the event of the winding up of the company or in any other circumstances, entitle him to receive more than 30 per cent. of the assets of the company which would then be available for distribution to equity holders of the company; and for the purposes of this subsection—
 - (a) the persons who are equity holders of the company, and
 - (b) the percentage of the assets of the company to which a person would be entitled,
 shall be determined in accordance with paragraphs 1 and 3 of Schedule 18, taking references in paragraph 3 to the first company as references to an equity holder and references to a winding up as including references to any other circumstances in which assets of the company are available for distribution to its equity holders.
- (5) A person is connected with a company if he has control of it.
- (6) References in this section to the loan capital of a company are references to any debt incurred by the company—
 - (a) for any money borrowed or capital assets acquired by the company, or
 - (b) for any right to receive income created in favour of the company, or
 - (c) for consideration the value of which to the company was (at the time when the debt was incurred) substantially less than the amount of the debt (including any premium thereon).
- (7) For the purposes of this section a person shall be treated as entitled to acquire anything which he is entitled to acquire at a future date or will at a future date be entitled to acquire.
- (8) For the purposes of this section a person shall be assumed to have the rights or powers of his associates as well as his own.

229 Other interpretative provisions

- (1) In sections 219 to 228—

Status: This is the original version (as it was originally enacted).

“control” has the meaning given by section 840;

“holding company” means a company whose business (disregarding any trade carried on by it) consists wholly or mainly of the holding of shares or securities of one or more companies which are its 75 per cent. subsidiaries;

“personal representatives” means persons responsible for administering the estate of a deceased person;

“quoted company” means a company whose shares (or any class of whose shares) are listed in the official list of a stock exchange;

“shares” includes stock;

“trade” does not include dealing in shares, securities, land or futures and “trading activities” shall be construed accordingly;

“trading company” means a company whose business consists wholly or mainly of the carrying on of a trade or trades;

“trading group” means a group the business of whose members, taken together, consists wholly or mainly of the carrying on of a trade or trades, and for this purpose “group” means a company which has one or more 75 per cent. subsidiaries together with those subsidiaries; and

“unquoted company” means a company which is neither a quoted company nor a 51 per cent. subsidiary of a quoted company.

- (2) References in sections 219 to 228 to the owner of shares are references to the beneficial owner except where the shares are held on trusts (other than bare trusts) or are comprised in the estate of a deceased person, and in such a case are references to the trustees or, as the case may be, to the deceased’s personal representatives.
- (3) References in sections 219 to 228 to a payment made by a company include references to anything else that is, or would but for section 219 be, a distribution.

Stock dividends

230 Stock dividends: distributions

Any share capital to which section 249 applies and which is issued by a company either as mentioned in subsection (4), (5) or (6) of that section or to a close company as mentioned in paragraph 12(1) of Schedule 19 (read in either case with subsection (3) of that section)—

- (a) shall, notwithstanding section 209(2)(c), not constitute a distribution within the meaning of section 209(2); and
- (b) for purposes of sections 210 and 211 shall not be treated as issued “as paid up otherwise than by the receipt of new consideration”.

CHAPTER IV

TAX CREDITS

231 Tax credits for certain recipients of qualifying distributions

- (1) Subject to sections 95(1)(b) and 247, where a company resident in the United Kingdom makes a qualifying distribution and the person receiving the distribution is another such company or a person resident in the United Kingdom, not being a company, the

Status: This is the original version (as it was originally enacted).

recipient of the distribution shall be entitled to a tax credit equal to such proportion of the amount or value of the distribution as corresponds to the rate of advance corporation tax in force for the financial year in which the distribution is made.

- (2) Subject to section 241(5), a company resident in the United Kingdom which is entitled to a tax credit in respect of a distribution may claim to have the amount of the credit paid to it if—
 - (a) the company is wholly exempt from corporation tax or is only not exempt in respect of trading income; or
 - (b) the distribution is one in relation to which express exemption is given (otherwise than by section 208), whether specifically or by virtue of a more general exemption from tax, under any provision of the Tax Acts.
- (3) A person, not being a company resident in the United Kingdom, who is entitled to a tax credit in respect of a distribution may claim to have the credit set against the income tax chargeable on his income under section 3 or on his total income for the year of assessment in which the distribution is made and where the credit exceeds that income tax, to have the excess paid to him.
- (4) Where a distribution mentioned in subsection (1) above is, or falls to be treated as, or under any provision of the Tax Acts is deemed to be, the income of a person other than the recipient, that person shall be treated for the purposes of this section as receiving the distribution (and accordingly the question whether he is entitled to a tax credit in respect of it shall be determined by reference to where he, and not the actual recipient, is resident); and where any such distribution is income of a United Kingdom trust the trustees shall be entitled to a tax credit in respect of it if no other person falls to be treated for the purposes of this section as receiving the distribution.
- (5) In subsection (4) above “United Kingdom trust” means a trust administered under the law of any part of the United Kingdom, not being a trust the general administration of which is ordinarily carried on outside the United Kingdom and the trustees, or a majority of the trustees, of which are resident or ordinarily resident outside the United Kingdom.

232 Tax credits for non-U.K. residents

- (1) An individual who, having made a claim in that behalf, is entitled to relief under Chapter I of Part VII by virtue of section 278(2) in respect of any year of assessment shall be entitled to a tax credit in respect of any qualifying distribution received by him in that year to the same extent as if he were resident in the United Kingdom.
- (2) Where a qualifying distribution is income of a fund to which section 615(2)(b) or (c) applies the persons entitled to receive the income shall be entitled to a tax credit in respect of the distribution to the same extent as a recipient mentioned in section 231(1).
- (3) Where a qualifying distribution is income of, or of the government of, any sovereign power or of any international organisation, that power, government or organisation shall be entitled to a tax credit in respect of the distribution to the same extent as a recipient mentioned in section 231(1).

In this subsection “international organisation” means an organisation of which two or more sovereign powers, or the governments of two or more sovereign powers, are members; and if in any proceedings a question arises whether a person is within this subsection, a certificate issued by or under the authority of the Secretary of State stating any fact relevant to that question shall be conclusive evidence of that fact.

233 Taxation of certain recipients of distributions and in respect of non-qualifying distributions

- (1) Where in any year of assessment the income of any person, not being a company resident in the United Kingdom, includes a distribution in respect of which that person is not entitled to a tax credit—
 - (a) no assessment shall be made on that person in respect of income tax at the basic rate on the amount or value of the distribution;
 - (b) that person's liability under any assessment made in respect of income tax at a higher rate on the amount or value of the distribution or on any part of the distribution shall be reduced by a sum equal to income tax at the basic rate on so much of the distribution as is assessed at that higher rate;
 - (c) the amount or value of the distribution shall be treated for the purposes of sections 348 and 349(1) as not brought into charge to income tax.
- (2) Where a person has paid tax ("the tax paid") in respect of excess liability on, or on any part of, a non-qualifying distribution, then if, apart from this subsection, he would be liable to pay an amount of tax in respect of excess liability on, or on any part of, a repayment of the share capital or of the principal of the security which constituted that non-qualifying distribution, he shall be so liable only to the extent (if any) to which that amount exceeds the amount of the tax paid.

In this subsection—

"excess liability" means the excess of liability to income tax over what it would be if all income tax were charged at the basic rate to the exclusion of any higher rate;

"non-qualifying distribution" means a distribution which is not a qualifying distribution.

234 Information relating to distributions

- (1) Without prejudice to subsections (3) and (4) below but subject to section 95(1)(c), a company which makes a qualifying distribution shall, if the recipient so requests in writing, furnish to him a statement in writing showing the amount or value of the distribution and (whether or not the recipient is a person entitled to a tax credit in respect of the distribution) the amount of the tax credit to which a recipient who is such a person is entitled in respect of that distribution.
- (2) The duty imposed by subsection (1) above shall be enforceable at the suit or instance of the person requesting the information.
- (3) Every warrant or cheque or other order drawn or made, or purporting to be drawn or made, in payment of any dividend or interest distributed by any company, being a company within the meaning of the Companies Act 1985 or the Companies (Northern Ireland) Order 1986, or a company created by letters patent or by or in pursuance of an Act, shall have annexed to itself or be accompanied by a statement in writing showing—
 - (a) in the case of interest which is not a qualifying distribution—
 - (i) the gross amount which, after deduction of the income tax appropriate thereto, corresponds to the net amount actually paid;
 - (ii) the rate and the amount of income tax appropriate to such gross amount, and
 - (iii) the net amount actually paid;

Status: This is the original version (as it was originally enacted).

- (b) in the case of a dividend or interest which is a qualifying distribution, each of the following amounts—
 - (i) the amount of the dividend or interest paid, and
 - (ii) (whether or not the recipient is a person entitled to a tax credit in respect of that distribution) the amount of the tax credit to which a recipient who is such a person is entitled in respect of that distribution.
- (4) If a company fails to comply with the provisions of subsection (3) above, the company shall in respect of each offence incur a penalty of £10 except that the aggregate amount of any penalties imposed under this subsection on any company in respect of offences connected with any one distribution of dividends or interest shall not exceed £100.
- (5) Where a company makes a distribution which is not a qualifying distribution it shall make a return to the inspector—
 - (a) within 14 days from the end of the accounting period in which the distribution is made; or
 - (b) if the distribution is made on a date not falling in an accounting period, within 14 days from that date.
- (6) A return under subsection (5) above shall contain—
 - (a) particulars of the transaction giving rise to the distribution; and
 - (b) the name and address of the person, or each of the persons, receiving the distribution, and the amount or value of the distribution received by him or by each of them.
- (7) Where it is not in the circumstances apparent whether a transaction gives rise to a distribution in respect of which a return is required to be made under subsection (5) above, the company shall—
 - (a) within the time within which such a return would be required to be made if the transaction did give rise to such a distribution, make a return to the inspector containing particulars of the transaction in question; and
 - (b) if required by a notice served on the company by the inspector, furnish him within the time specified in the notice with such further information in relation to the transaction as he may reasonably require.
- (8) If it appears to the inspector that particulars of any transaction ought to have been and have not been included in a return under subsection (5) or (7) above, he may by a notice served on the company require the company to furnish him within the time specified in the notice with such information relating thereto as he may reasonably require.
- (9) Any power which the inspector may exercise under paragraph 17 of Schedule 19 for the purposes of that Schedule may be exercised by him for the purposes of subsections (5) to (8) above.

235 Distributions of 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—

Status: This is the original version (as it was originally enacted).

- (a) to which profits arising after the date of acquisition are attributable in accordance with section 236; or
 - (b) in relation to which the date of acquisition is earlier than 6th April 1965.
- (2) For the purposes of this section and section 236, 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 348 and 349(1) 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 353.
- (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 except any amount which is treated as such in accordance with section 209(3) or sections 210 and 211.

236 Provisions supplementary to section 235

- (1) Section 235 shall be construed in accordance with the following provisions of this section.
- (2) Two or more holdings are associated if they were acquired by persons acting in concert or under arrangements made by any person.
- (3) There shall be attributed—
 - (a) to the distributions made by a company at any time (whether before or after the passing of this Act) in respect of any class of shares, securities or rights such of its relevant profits arising after the date of acquisition and before that time as remain after allowing for earlier distributions made in respect of that or any other class of shares, securities or rights, and for distributions made at or to be made after that time in respect of other classes of shares, securities or rights; and
 - (b) to any part of a distribution made at any time to which a person is entitled by virtue of any part of his holding of any class of shares, securities or rights, such proportion of the profits attributable under paragraph (a) above to the distributions made at that time in respect of that class as corresponds to that part of his holding.
- (4) For the purposes of subsection (3) above profits arising in part of an accounting period shall be taken to be a proportionate part of the profits arising in the whole of the accounting period except where a different method of arriving at the profits arising in that part can be shown to be fair and reasonable.
- (5) For the purposes of this section the relevant profits of a company are, subject to subsection (6) below, its profits computed on a commercial basis after allowing for

Status: This is the original version (as it was originally enacted).

any provision properly made for corporation tax; and the computation shall be made without regard to any capital gains or losses or to any such amount as is mentioned in section 235(5), and—

- (a) shall include franked investment income received from any company not related to the first-mentioned company; and
 - (b) shall exclude group income and franked investment income received from a company related to the first-mentioned company.
- (6) There shall be treated as included in the relevant profits of a company the appropriate portion of the relevant profits of any company related to it.
- (7) For the purposes of this section a company (“the owned company”) is related to another company (“the owning company”) if—
- (a) the owning company owns not less than 10 per cent. of any one class of shares in the owned company; or
 - (b) any company related to the owning company owns not less than 10 per cent. of any one class of shares in the owned company;

and the appropriate proportion of the relevant profits of a related company is that proportion of those profits which the owning company would receive by virtue of the shares, securities or rights owned by it, if all the relevant profits of the owned company were distributed and, so far as received directly or indirectly by a company related to the owning company, were distributed by that related company, no account being taken of any profits arising at a time when the owned company was not related to the owning company.

237 Disallowance of reliefs in respect of bonus issues

- (1) This section has effect where any person (“the recipient”) receives an amount treated as a distribution by virtue of section 209(3) or 210 or 211(1); and in this section—
- (a) any such distribution is referred to as a bonus issue; and
 - (b) “relevant tax credit” in relation to a bonus issue means the tax credit to which the recipient becomes entitled 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 241 and 244 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 348 or with which he is chargeable by virtue of section 349(1), and
 - (b) no interest may be deducted or set off under section 353 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 since 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.

CHAPTER V

ADVANCE CORPORATION TAX AND FRANKED INVESTMENT INCOME

238 Interpretation of terms and collection of ACT

- (1) In this Chapter—

“franked investment income” means income of a company resident in the United Kingdom which consists of a distribution in respect of which the company is entitled to a tax credit (and which accordingly represents income equal to the aggregate of the amount or value of the distribution and the amount of that credit), but subject to section 247(2);

“franked payment” means the sum of the amount or value of a qualifying distribution and such proportion of that amount or value as corresponds to the rate of advance corporation tax in force for the financial year in which the distribution is made, but subject to section 247(2);

“surplus advance corporation tax” has the meaning given by section 239(3);

“surplus of franked investment income” means any such excess as is mentioned in subsection (3) of section 241 (calculated without regard to franked investment income which by virtue of subsection (5) of that section cannot be used to frank distributions);

“tax credit” means a tax credit under section 231;

Status: This is the original version (as it was originally enacted).

and references to any accounting or other period in which a franked payment is made are references to the period in which the distribution in question is made.

- (2) References in this Chapter to distributions or payments received by a company apply to any received by another person on behalf of or in trust for the company but not to any received by the company on behalf of or in trust for another person.
- (3) References in this Chapter to using franked investment income to frank distributions of a company shall be construed in accordance with section 241(5).
- (4) References in this Chapter to an amount of profits on which corporation tax falls finally to be borne are references to the amount of those profits after making all deductions and giving all reliefs that for the purposes of corporation tax are made or given from or against those profits, including deductions and reliefs which under any provision are treated as reducing them for those purposes.
- (5) Schedule 13 shall have effect for the purpose of regulating the time and manner in which advance corporation tax is to be accounted for and paid.

239 Set-off of ACT against liability to corporation tax

- (1) Subject to section 497 and subsection (2) below, advance corporation tax paid by a company (and not repaid) in respect of any distribution made by it in an accounting period shall be set against its liability to corporation tax on any profits charged to corporation tax for that accounting period and shall accordingly discharge a corresponding amount of that liability.
- (2) The amount of advance corporation tax to be set against a company's liability for any accounting period under subsection (1) above shall not exceed the amount of advance corporation tax that would have been payable (apart from section 241) in respect of a distribution made at the end of that period of an amount which, together with the advance corporation tax so payable in respect of it, is equal to the company's profits charged to corporation tax for that period.
- (3) Where in the case of any accounting period of a company there is an amount of surplus advance corporation tax, the company may, within two years after the end of that period, claim to have the whole or any part of that amount treated for the purposes of this section (but not of any further application of this subsection) as if it were advance corporation tax paid in respect of distributions made by the company in any of its accounting periods beginning in the six years preceding that period (but so that the amount which is the subject of the claim is set, so far as possible, against the company's liability for a more recent accounting period before a more remote one) and corporation tax shall, so far as may be required, be repaid accordingly.

In this subsection "surplus advance corporation tax", in relation to any accounting period of a company, means advance corporation tax which cannot be set against the company's liability to corporation tax for that period because the company has no profits charged to corporation tax for that period or because of subsection (2) above or section 797(4).

- (4) Where in the case of any accounting period of a company there is an amount of surplus advance corporation tax which has not been dealt with under subsection (3) above, that amount shall be treated for the purposes of this section (including any further application of this subsection) as if it were advance corporation tax paid in respect of distributions made by the company in the next accounting period.

- (5) Effect shall be given to subsections (1) and (4) above as if on a claim in that behalf by the company and, for that purpose, a return made by the company under section 11 of the Management Act containing particulars of advance corporation tax or surplus advance corporation tax which falls to be dealt with under those subsections shall be treated as a claim.
- (6) For the purposes of this section the profits of a company charged to corporation tax for any period shall be taken to be the amount of its profits for that period on which corporation tax falls finally to be borne.
- (7) This section has effect subject to subsections (5) to (7) of section 430 and the following provisions of this Chapter.

240 Set-off of company's surplus ACT against subsidiary's liability to corporation tax

- (1) Where a company ("the surrendering company") has paid an amount of advance corporation tax in respect of a dividend or dividends paid by it in an accounting period and the advance corporation tax has not been repaid, it may, on making a claim, surrender the benefit of the whole or any part of that amount—
 - (a) to any company which was a subsidiary of the surrendering company throughout that accounting period, or
 - (b) in such proportions as the surrendering company may determine, to any two or more companies which were subsidiaries of the surrendering company throughout that period.
- (2) Subject to subsections (4) and (5) below, where the benefit of any amount of advance corporation tax ("the surrendered amount") is surrendered under this section to a subsidiary, then—
 - (a) if the advance corporation tax mentioned in subsection (1) above was paid in respect of one dividend only or of dividends all of which were paid on the same date, the subsidiary shall be treated for the purposes of section 239 as having paid an amount of advance corporation tax equal to the surrendered amount in respect of a distribution made by it on the date on which the dividend or dividends were paid;
 - (b) if the advance corporation tax mentioned in subsection (1) above was paid in respect of dividends paid on different dates, the subsidiary shall be treated for the purposes of section 239 as having paid an amount of advance corporation tax equal to the appropriate part of the surrendered amount in respect of a distribution made by it on each of those dates.
- (3) For the purposes of paragraph (b) of subsection (2) above "the appropriate part of the surrendered amount", in relation to any distribution treated as made on the same date as that on which a dividend was paid, means such part of that amount as bears to the whole of it the same proportion as the amount of that dividend bears to the total amount of the dividends mentioned in that paragraph.
- (4) No advance corporation tax which a subsidiary is treated as having paid by virtue of subsection (2) above shall be set against the subsidiary's liability to corporation tax under subsection (3) of section 239; but in determining for the purposes of subsections (3) and (4) of that section what (if any) amount of surplus advance corporation tax there is in any accounting period of a subsidiary, an amount so treated as having been

Status: This is the original version (as it was originally enacted).

paid shall be set against its liability to corporation tax before any advance corporation tax paid in respect of any distribution made by the subsidiary.

- (5) No advance corporation tax which a subsidiary is treated as having paid by virtue of subsection (2) above shall be set against the subsidiary's liability to corporation tax for any accounting period in which, or in any part of which, it was not a subsidiary of the surrendering company.
- (6) Any claim under this section shall be made within six years after the end of the accounting period to which it relates and shall require the consent, notified to the inspector in such form as the Board may require, of the subsidiary or subsidiaries concerned.
- (7) No amount of advance corporation tax which has been dealt with under section 239(3) shall be available for the purposes of a claim under this section; and no amount of advance corporation tax the benefit of which has been surrendered under this section shall be treated for the purposes of that section as advance corporation tax paid by the surrendering company.
- (8) A payment made by a subsidiary to a surrendering company in pursuance of an agreement between them as respects the surrender of the benefit of an amount of advance corporation tax, being a payment not exceeding that amount—
 - (a) shall not be taken into account in computing profits or losses of either company for corporation tax purposes; and
 - (b) shall not for any of the purposes of the Corporation Tax Acts be regarded as a distribution or a charge on income.
- (9) References in this section to dividends shall be construed as including references to distributions made on the redemption, repayment or purchase by a company of its own shares, and references to the payment of dividends shall be construed accordingly.
- (10) References in this section to a company apply only to bodies corporate resident in the United Kingdom; and, subject to subsection (11) below, for the purposes of this section the question whether one body corporate is the subsidiary of another shall be determined as a question whether it is a 51 per cent. subsidiary of that other, except that that other shall be treated as not being the owner—
 - (a) of any share capital which it owns directly in a body corporate if a profit on the sale of the shares would be treated as a trading receipt of its trade; or
 - (b) of any share capital which it owns indirectly, and which is owned directly by a body corporate for which a profit on the sale of the shares would be a trading receipt; or
 - (c) of any share capital which it owns directly or indirectly in a body corporate not resident in the United Kingdom.
- (11) Notwithstanding that, apart from this subsection, one company ("the subsidiary company") would at any time, by virtue of subsection (10) above, be a subsidiary of another company ("the parent company") for the purposes of this section, the subsidiary company shall not be treated at that time as a subsidiary for those purposes—
 - (a) if arrangements are in existence by virtue of which any person has or could obtain, or any persons together have or could obtain, control of the subsidiary company but not of the parent company; and
 - (b) unless the following conditions are also fulfilled, namely—

- (i) that the parent company is beneficially entitled to more than 50 per cent. of any profits available for distribution to equity holders of the subsidiary company; and
- (ii) that the parent company would be beneficially entitled to more than 50 per cent. of any assets of the subsidiary company available for distribution to its equity holders on a winding up.

In this subsection “control” has the meaning given by section 840 and “arrangements” means arrangements of any kind, whether in writing or not.

- (12) Where by virtue of any enactment a Minister of the Crown or Northern Ireland department has power to give directions to a statutory body as to the disposal of assets belonging to, or to a subsidiary of, that body, the existence of that power shall not be regarded as constituting (or as having at any time constituted) an arrangement within the meaning of subsection (11) above.
- (13) Schedule 18 shall have effect for the purposes of subsection (11)(b) above, subject to the following modifications—
 - (a) for any reference to section 413(7) to (10) there shall be substituted a reference to subsection (11)(b) above; and
 - (b) paragraph 7(1) shall be omitted and for any reference to the relevant accounting period there shall be substituted a reference to the accounting period current at the time in question.

241 Calculation of ACT where company receives franked investment income

- (1) Where in any accounting period a company receives franked investment income the company shall not be liable to pay advance corporation tax in respect of qualifying distributions made by it in that period unless the amount of the franked payments made by it in that period exceeds the amount of that income.
- (2) If in an accounting period there is such an excess, advance corporation tax shall be payable on an amount which, when the advance corporation tax payable thereon is added to it, is equal to the excess.
- (3) If the amount of franked investment income received by a company in an accounting period exceeds the amount of the franked payments made by it in that period the excess shall be carried forward to the next accounting period and treated for the purposes of this section (including any further application of this subsection) as franked investment income received by the company in that period.
- (4) Without prejudice to section 238(5), Schedule 13 shall apply for the purpose of regulating the manner in which effect is to be given to subsections (1) to (3) above.
- (5) No franked investment income shall be used to frank distributions of a company (that is to say, used in accordance with this section and Schedule 13 so as to relieve the company from, or obtain repayment of, advance corporation tax for which the company would otherwise be liable) if the amount of the tax credit comprised in it has been paid under subsection (2) of section 231; and no payment shall be made under that subsection in respect of the tax credit comprised in franked investment income which has been so used.

242 Set-off of losses etc. against surplus of franked investment income

- (1) Where a company has a surplus of franked investment income for any accounting period—
- (a) the company may, on making a claim for the purpose, require that the amount of the surplus shall for all or any of the purposes mentioned in subsection (2) below be treated as if it were a like amount of profits chargeable to corporation tax; and
 - (b) subject to subsection (4) below, the provisions mentioned in subsection (2) below shall apply in accordance with this section to reduce the amount of the surplus for purposes of section 241(3); and
 - (c) the company shall be entitled to have paid to it the amount of the tax credit comprised in the amount of franked investment income by which the surplus is so reduced.
- (2) The purposes for which a claim may be made under subsection (1) above are those of—
- (a) the setting of trading losses against total profits under section 393(2);
 - (b) the deduction of charges on income under section 338 or paragraph 5 of Schedule 4;
 - (c) the deduction of expenses of management under section 75 or 76;
 - (d) the setting of certain capital allowances against total profits under section 74(3) of the 1968 Act;
 - (e) the setting of losses against income under section 573(2).
- (3) Where a company makes a claim under this section for any accounting period, the reduction falling to be made in profits of that accounting period shall be made, as far as may be, in profits chargeable to corporation tax rather than in the amount treated as profits so chargeable under this section.
- (4) Where a claim under this section relates to section 393(2) or 573(2) of this Act or to section 74(3) of the 1968 Act and an accounting period of the company falls partly before and partly within the time mentioned in that subsection, then—
- (a) the restriction imposed by section 393(3) or 573(3) of this Act or by section 74(4) of the 1968 Act on the amount of the relief shall be applied only to any relief to be given apart from this section, and shall be applied without regard to any amount treated as profits of the accounting period under this section; but
 - (b) relief under this section shall be given only against a part of the amount so treated proportionate to the part of the accounting period falling within that time.
- (5) Where—
- (a) on a claim made under this section for any accounting period relief is given in respect of the whole or part of any loss incurred in a trade, or of any amount which could be treated as a loss under section 393(9); and
 - (b) in a later accounting period the franked payments made by the company exceed its franked investment income;

then (unless the company has ceased to carry on the trade or to be within the charge to corporation tax in respect of it) the company shall, for the purposes of section 393(1), be treated as having, in the accounting period ending immediately before the beginning

of the later accounting period mentioned in paragraph (b) above, incurred a loss equal to whichever is the lesser of—

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

(6) Subject to subsection (7) below, subsection (5) above shall apply, with the necessary adaptations—

- (a) in relation to relief given in respect of management expenses; and
- (b) in relation to relief given in respect of capital allowances; and
- (c) in relation to relief given in respect of losses under section 573(2);

as it applies in relation to relief given in respect of a loss (the reference to the company ceasing to be within the charge to corporation tax in respect of the trade being construed as a reference to its ceasing to be within that charge at all, and as respects the relief mentioned in paragraph (c) above, the reference to the purposes of section 393(1) being construed as a reference to the purposes of corporation tax on chargeable gains).

(7) Any amount which may be dealt with under subsection (5) above as a loss shall be so dealt with rather than under subsection (6) above, except in so far as the company concerned otherwise elects.

(8) The time limits for claims under this section shall be as follows—

- (a) if and so far as the purpose for which the claim is made is the setting of trading losses against total profits under section 393(2), two years from the end of the accounting period in which the trading loss is incurred;
- (b) if and so far as the purpose for which the claim is made is the deduction of charges on income under section 338 or paragraph 5 of Schedule 4 or of expenses of management under section 75 or 76, six years from the end of the accounting period in which the charges were paid or the expenses of management were incurred;
- (c) if and so far as the purpose for which the claim is made is the setting of capital allowances against total profits under section 74(3) of the 1968 Act, two years from the end of the accounting period for which the capital allowances fall to be made;
- (d) if and so far as the purpose for which the claim is made is the setting of a loss against income under section 573(2), two years from the end of the accounting period in which the loss was incurred.

(9) For the purposes of a claim under this section for any accounting period, the surplus of franked investment income for that accounting period shall be calculated without regard to the part, if any, carried forward from an earlier accounting period; and for the purposes of subsection (5) above franked investment income which by virtue of section 241(5) cannot be used to frank distributions of a company shall be left out of account.

243 Set-off of loss brought forward, or terminal loss

(1) Where a company has a surplus of franked investment income for any accounting period, the company, instead of or in addition to making a claim under section 242, may on making a claim for the purpose require that the surplus shall be taken into

Status: This is the original version (as it was originally enacted).

account for relief under section 393(1) or 394, up to the amount of franked investment income for the accounting period which, if chargeable to corporation tax, would have been so taken into account by virtue of section 393(8); and (subject to the restriction to that amount of franked investment income) the following subsections shall have effect where the company makes a claim under this section for any accounting period.

- (2) The amount to which the claim relates shall for the purposes of the claim be treated as trading income of the accounting period.
- (3) The reduction falling to be made in trading income of an accounting period shall be made as far as possible in trading income chargeable to corporation tax rather than in the amount treated as trading income so chargeable under this section.
- (4) If the claim relates to section 393(1), section 242(5) shall apply in relation to it.
- (5) If the claim relates to section 394 and an accounting period of the company falls partly outside the three years mentioned in subsection (1) of that section, then—
 - (a) the restriction imposed by subsection (2) of that section on the amount of the reduction that may be made in the trading income of that period shall be applied only to any relief to be given apart from this section, and shall be applied without regard to any amount treated as trading income of the accounting period by virtue of this section, but
 - (b) relief under this section shall be given only against a part of the amount so treated proportionate to the part of the accounting period falling within the three years in question.
- (6) The time limits for claims under this section shall be as follows—
 - (a) if and so far as the purpose for which the claim is made is the allowance of relief under section 393(1), six years from the end of the accounting period for which the claim is made,
 - (b) if and so far as the purpose for which the claim is made is the allowance of relief under section 394, six years from the time when the company ceases to carry on the trade.
- (7) For the purposes of a claim under this section for any accounting period the surplus of franked investment income for that period shall be calculated without regard to the part, if any, carried forward from an earlier accounting period.

244 Further provisions relating to claims under section 242 or 243

- (1) Without prejudice to section 242(9) or 243(7), the surplus of franked investment income for an accounting period for which a claim is made under either of those sections shall be calculated without regard to any part of that surplus which, when the claim is made, has been used to frank distributions made by the company in a later accounting period.
- (2) Where in consequence of a claim under either section 242 or section 243 for any accounting period a company is entitled to payment of a sum in respect of tax credit—
 - (a) an amount equal to that sum shall be deducted from any advance corporation tax which apart from this subsection would fall, under section 239, to be set against the company's liability to corporation tax for the next accounting period or the benefit of which could be surrendered under section 240; and
 - (b) if that amount exceeds that advance corporation tax or there is no such advance corporation tax, that excess or that amount (as the case may be) shall be carried

Status: This is the original version (as it was originally enacted).

forward and similarly deducted in relation to the following accounting period and so on.

245 Calculation etc. of ACT on change of ownership of company

- (1) This section applies if—
- (a) within any period of three years there is both a change in the ownership of a company and (either earlier or later in that period, or at the same time) a major change in the nature or conduct of a trade or business carried by the company; or
 - (b) at any time after the scale of the activities in a trade or business carried on by a company has become small or negligible, and before any considerable revival of the trade or business, there is a change in the ownership of the company.
- (2) Sections 239 and 241 and Schedule 13 shall apply to an accounting period in which the change of ownership occurs as if the part ending with the change of ownership, and the part after, were two separate accounting periods; and for that purpose the profits of the company charged to corporation tax for the accounting period (as defined in section 239(6)) shall be apportioned between those parts.
- (3) No advance corporation tax paid by the company in respect of distributions made in an accounting period beginning before the change of ownership shall be treated under section 239(4) as paid by it in respect of distributions made in an accounting period ending after the change of ownership; and this subsection shall apply to an accounting period in which the change of ownership occurs as if the part ending with the change of ownership, and the part after, were two separate accounting periods.
- (4) In subsection (1) above “a major change in the nature or conduct of a trade or business” includes—
- (a) a major change in the type of property dealt in, or services or facilities provided, in the trade or business; or
 - (b) a major change in customers, outlets or markets of the trade or business; or
 - (c) a change whereby the company ceases to be a trading company and becomes an investment company or vice versa; or
 - (d) where the company is an investment company, a major change in the nature of the investments held by the company;
- and this section applies even if the change is the result of a gradual process which began outside the period of three years mentioned in subsection (1)(a) above.
- (5) In this section—
- “trading company” means a company whose business consists wholly or mainly of the carrying on of a trade or trades;
 - “investment company” means a company (other than a holding company) whose business consists wholly or mainly in the making of investments and the principal part of whose income is derived therefrom;
 - “holding company” means a company whose business consists wholly or mainly in the holding of shares or securities of companies which are its 90 per cent. subsidiaries and which are trading companies.
- (6) Subsection (3) above applies to advance corporation tax which a company is treated as having paid by virtue of section 240 as it applies to advance corporation tax which it has actually paid.

Status: This is the original version (as it was originally enacted).

- (7) Sections 768(8) and (9) and 769 shall apply also for the purposes of this section and as if in subsection (3) of section 769 the reference to the benefit of the losses were a reference to the benefit of advance corporation tax.

246 Charge of ACT at previous rate until new rate fixed, and changes of rate

- (1) If, at the beginning of any financial year, the basic rate percentage for the appropriate year of assessment has not been determined (whether under the Provisional Collection of Taxes Act 1968 or otherwise), then, subject to subsection (2) below, advance corporation tax in respect of distributions made in that financial year shall be payable under Schedule 13 and may be assessed under that Schedule according to the rate of advance corporation tax fixed for the previous financial year.
- (2) Subsection (1) above does not apply with respect to any distribution made in a financial year after—
- (a) the date on which is determined the basic rate percentage for the appropriate year of assessment; or
 - (b) 5th August in that year,
- whichever is the earlier.
- (3) If a rate of advance corporation tax for any financial year is not fixed, under section 14(3) or any other enactment, or if advance corporation tax for any financial year is charged otherwise than as it has been paid or assessed, the necessary adjustment shall be made by discharge or repayment of tax or by a further assessment.
- (4) In subsections (1) and (2) above “the basic rate percentage for the appropriate year of assessment”, in relation to a financial year, means the percentage at which income tax at the basic rate is charged for the year of assessment which begins on 6th April in that financial year.
- (5) Where different rates of advance corporation tax are in force in different parts of an accounting period, the maximum set-off permitted for that accounting period under section 239(2) shall be determined by apportioning the profits of the company charged to corporation tax for that period (as defined in section 239(6)) between the different parts of the period, calculating the maximum for each part as if it were a separate accounting period and aggregating the result.
- (6) Where the rate of advance corporation tax for any financial year differs from the rate last fixed—
- (a) any advance corporation tax payable in respect of a distribution made in that financial year on or before 5th April shall be calculated according to the rate last fixed and—
 - (i) the definition of “franked payment” in section 238(1), and
 - (ii) section 231(1) and Schedule 13,
 shall have effect in relation to the distribution as if the rate for that year were the same as the rate last fixed;
 - (b) if a distribution is made on or before 5th April in an accounting period which extends beyond 5th April in that year and another distribution is made, or franked investment income is received, in that period after that date, then—
 - (i) the company’s liability for advance corporation tax,
 - (ii) the amount of any such tax, and
 - (iii) the amount of any surplus of franked investment income,

for that accounting period, shall be determined under section 241 and Schedule 13 as if the part of the accounting period ending with, and the part of it beginning after, that date were separate accounting periods.

CHAPTER VI

MISCELLANEOUS AND SUPPLEMENTAL

Group income

247 Dividends etc. paid by one member of a group to another

(1) Where a company (“the receiving company”) receives dividends from another company (“the paying company”), both being bodies corporate resident in the United Kingdom, and the paying company is—

- (a) a 51 per cent. subsidiary of the other or of a company so resident of which the other is a 51 per cent. subsidiary; or
- (b) a trading or holding company owned by a consortium the members of which include the receiving company,

then, subject to the following provisions of this section, the receiving company and the paying company may jointly elect that this subsection shall apply to the dividends received from the paying company by the receiving company (“the election dividends”).

(2) So long as an election under subsection (1) above is in force the election dividends shall be excluded from sections 14(1) and 231 and are accordingly not included in references to franked payments made by the paying company or the franked investment income of the receiving company but are in the Corporation Tax Acts referred to as “group income” of the receiving company.

(3) Where an election under subsection (1) above is in force the paying company may by notice to the collector state that it does not wish the election to have effect in relation to any amount of dividends specified in the notice and the Corporation Tax Acts shall then have effect in relation to that amount as if there had been no such election.

(4) Where a company (“the recipient company”) receives from another company (“the payer company”), both being bodies corporate resident in the United Kingdom, any payments which are for corporation tax charges on income of the payer company and either—

- (a) the conditions in subsection (1)(a) or (b) above would be satisfied in relation to the companies if the payments were dividends, or
- (b) the recipient company is a 51 per cent. subsidiary of the payer company,

then, subject to the following provisions of this section, the recipient company and the payer company may jointly elect that this subsection shall apply to any such payments received from the payer company by the recipient company, and so long as the election is in force those payments may be made without deduction of income tax and neither section 349 nor section 350 shall apply thereto.

(5) Subsections (1) to (4) above shall not apply to dividends or other payments received by a company on any investments, if a profit on the sale of those investments would be treated as a trading receipt of that company, and shall not apply to a dividend in

Status: This is the original version (as it was originally enacted).

any case where, if those subsections do not apply to it, the receiving company will, or would but for section 235 or 237, be entitled by virtue of any exemption to claim payment of the tax credit to which it is entitled in respect of the dividend.

(6) Where—

- (a) the paying company purports by virtue of an election under subsection (1) above to pay any dividends without paying advance corporation tax, or
- (b) the payer company purports by virtue of an election under subsection (4) above to make any payment without deduction of income tax,

and advance corporation tax ought to have been paid or income tax ought to have been deducted, as the case may be, the inspector may make such assessments, adjustments or set-offs as may be required for securing that the resulting liabilities to tax (including interest on unpaid tax) of the paying or payer company and the receiving or recipient company are, so far as possible, the same as they would have been if the advance corporation tax had been duly paid or the income tax had been duly deducted.

(7) Where tax assessed under subsection (6) above on the paying or payer company is not paid by that company before the expiry of the period of three months from the date on which that tax is payable, that tax shall, without prejudice to the right to recover it from that company, be recoverable from the receiving or recipient company.

(8) In determining for the purposes of this section whether one body corporate is a 51 per cent. subsidiary of another, that other shall be treated as not being the owner—

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

(9) For the purposes of this section—

- (a) “trading or holding company” means a trading company or a company the business of which consists wholly or mainly in the holding of shares or securities of trading companies which are its 90 per cent. subsidiaries;
- (b) “trading company” means a company whose business consists wholly or mainly of the carrying on of a trade or trades; and
- (c) a company is owned by a consortium if three-quarters or more of the ordinary share capital of the company is beneficially owned between them by companies resident in the United Kingdom of which none beneficially owns less than one-twentieth of that capital, and those companies are called the members of the consortium.

(10) References in this section to dividends or payments received by a company apply to any received by another person on behalf of or in trust for the company, but not to any received by the company on behalf of or in trust for another person, and references to “group income” shall be construed accordingly.

248 Provisions supplementary to section 247

(1) The Board may make regulations with respect to the procedure to be adopted for giving effect to section 247 and as to the information and evidence to be furnished by a company in connection with that section and, subject to the provisions of such regulations, an election under that section (“the election”) shall be made by notice to

Status: This is the original version (as it was originally enacted).

the inspector which shall set out the facts necessary to show that the companies are entitled to make the election.

- (2) The election shall not have effect in relation to dividends or other payments paid less than three months after the giving of the notice and before the inspector is satisfied that the election is validly made, and has so notified the companies concerned; but shall be of no effect if within those three months the inspector notifies the companies concerned that the validity of the election is not established to his satisfaction.
- (3) The companies concerned shall have the like right of appeal against any decision that the validity of the election is not established as the company paying the dividends or other payments would have if it were an assessment made on that company, and Part V of the Management Act shall apply accordingly.
- (4) The election shall cease to be in force if at any time the companies cease to be entitled to make the election, and on that happening each company shall forthwith notify the inspector.
- (5) Either of the companies making the election may at any time give the inspector notice revoking the election; and any such notice shall have effect from the time it is given.
- (6) The Board shall not make any regulations under subsection (1) above unless a draft of them has been laid before and approved by a resolution of the House of Commons.

Stock dividends

249 Stock dividends treated as income

- (1) Subject to subsections (7) to (9) below, this section applies to any of the following share capital, that is to say—
 - (a) any share capital issued by a company resident in the United Kingdom in consequence of the exercise by any person of an option conferred on him to receive in respect of shares in the company (whether the last-mentioned shares were issued before or after the coming into force of this section) either a dividend in cash or additional share capital; and
 - (b) any bonus share capital issued by a company so resident in respect of any shares in the company of a relevant class (whether the last-mentioned shares were issued before or after the coming into force of this section).
- (2) For the purposes of subsection (1)(b) above a class of shares is a relevant class if—
 - (a) shares of that class carry the right to receive bonus share capital in the company of the same or a different class; and
 - (b) that right is conferred by the terms on which shares of that class were originally issued or by those terms as subsequently extended or otherwise varied.
- (3) Where a company issues any share capital in a case in which two or more persons are entitled thereto, the following provisions of this section and paragraph 12(1) to (3) of Schedule 19 shall have effect as if the company had issued to each of those persons separately a part of that share capital proportionate to his interest therein on the due date of issue.
- (4) Subject to the following provisions of this section, where a company issues any share capital in a case in which an individual is beneficially entitled to that share capital,

Status: This is the original version (as it was originally enacted).

that individual shall be treated as having received on the due date of issue income of an amount which, if reduced by an amount equal to income tax on that income at the basic rate for the year of assessment in which that date fell, would be equal to the appropriate amount in cash, and—

- (a) no assessment shall be made on the individual in respect of income tax at the basic rate on that income but he shall be treated as having paid tax at the basic rate on it or, if his total income is reduced by any deductions, on so much of it as is part of his total income as so reduced;
 - (b) no repayment shall be made of income tax treated by virtue of paragraph (a) above as having been paid; and
 - (c) that income shall be treated for the purposes of sections 348 and 349(1) as not brought into charge to income tax.
- (5) Where a company issues any share capital to the personal representatives of a deceased person as such during the administration period, the amount of income which, if the case had been one in which an individual was beneficially entitled to that share capital, that individual would have been treated under subsection (4) above as having received shall be deemed for the purposes of Part XVI to be part of the aggregate income of the estate of the deceased.

This subsection shall be construed as if it were contained in Part XVI.

- (6) Where a company issues any share capital to trustees in respect of any shares in the company held by them (or by them and one or more other persons) in a case in which a dividend in cash paid to the trustees in respect of those shares would have been to any extent income to which section 686 applies, then—
- (a) there shall be ascertained the amount of income which, if the case had been one in which an individual was beneficially entitled to that share capital, that individual would have been treated under subsection (4) above as having received; and
 - (b) income of that amount shall be treated as having arisen to the trustees on the due date of issue and as if it had been chargeable to income tax at the basic rate; and
 - (c) paragraphs (a) to (c) of subsection (4) above shall, with the substitution of “income” for “total income” and with all other necessary modifications, apply to that income as they apply to income which an individual is treated as having received under that subsection.
- (7) This section does not apply to—
- (a) any share capital of which the due date of issue is earlier than 6th April 1975; or
 - (b) any share capital issued by a company in respect of shares in the company which confer on the holder a right to convert or exchange them into or for shares in the company of a class which is not a relevant class for the purposes of subsection (1)(b) above where the due date of issue of the share capital so issued precedes the earlier of the following dates, namely—
 - (i) the day next after the earliest date after 5th August 1975 on which conversion or exchange of the shares could be effected by an exercise of that right; and
 - (ii) 6th April 1976 or, in the case of share capital issued by an investment trust, 6th April 1977.

Status: This is the original version (as it was originally enacted).

- (8) Where, in a case within subsection (4) above, the share capital in question is issued in respect of shares in the company issued before 6th April 1975 which confer on the holder a right to convert or exchange them into or for shares of a different class, this section shall not apply to so much (if any) of any bonus share capital issued by the company after 5th April 1976 in connection with an exercise of that right as would have been issued if that right had been exercised so as to effect the conversion or exchange of the shares on the earliest possible date after 5th April 1975; and subsections (5) and (6) above shall, where applicable, have effect accordingly.
- (9) Where any bonus share capital falling within subsection (1)(b) above is after 5th April 1975 converted into or exchanged for shares in the company in question of a different class, then—
- (a) this section shall not apply to any shares in the company issued, in connection with the conversion or exchange, in consideration of the cancellation, extinguishment or acquisition by the company of that bonus share capital; but
 - (b) section 230(a) and (b) shall apply to any shares in the company issued, in connection with the conversion or exchange, in consideration of the cancellation, extinguishment or acquisition by the company of so much of that bonus share capital as caused an individual to be treated under subsection (4) above as having received an amount of income on the due date of issue (or would have done so if the case had been one in which an individual was beneficially entitled to that share capital).

250 Returns

- (1) A company shall for each of its accounting periods make, in accordance with this section, returns to the inspector of all share capital to which section 249 applies (“relevant share capital”) and which was issued by it in that period.
- (2) A return shall be made for—
- (a) each complete quarter falling within the accounting period, that is to say, each of the periods of three months ending with 31st March, 30th June, 30th September or 31st December which falls within that period;
 - (b) each part of the accounting period which is not a complete quarter and ends on the first (or only), or begins immediately after the last (or only), of those dates which falls within the accounting period;
 - (c) if none of those dates falls within the accounting period, the whole accounting period.
- (3) A return for any period for which a return is required to be made under this section (a “return period”) shall be made within 30 days from the end of that period.
- (4) No return need be made under this section by a company for any period in which it has issued no relevant share capital.
- (5) The return made by a company for any return period shall state—
- (a) the date on which any relevant share capital issued by it in the period was issued and, if different, the date on which the company was first required to issue it;
 - (b) particulars of the terms on which any such share capital so issued by it was issued; and

Status: This is the original version (as it was originally enacted).

- (c) what is, in relation to any such share capital so issued, the appropriate amount in cash.
- (6) If it appears to the inspector that a company ought to have, but has not, made a return for any return period, he may (notwithstanding subsection (4) above) by notice require the company to make a return for that period within such time (not being less than 30 days) as may be specified in the notice; and a return required to be made under this subsection shall, if such be the case, state that no relevant share capital was issued in the period in question.
- (7) As regards any share capital included in a return made under this section by a company, the inspector may by notice require the company to furnish him within such time (not being less than 30 days) as may be specified in the notice with such further information relating thereto as he may reasonably require for the purposes of sections 230 and 249, this section and section 251 and paragraph 12 of Schedule 19.

251 Interpretation of sections 249 and 250

- (1) For the purposes of sections 249 and 250 —
 - (a) “bonus share capital”, in relation to a company, means share capital issued by the company otherwise than wholly for new consideration or such part of any share capital so issued as is not properly referable to new consideration;
 - (b) “due date of issue”, in relation to any share capital issued by a company, means the earliest date on which the company was required to issue that share capital;
 - (c) an option to receive either a dividend in cash or additional share capital is conferred on a person not only where he is required to choose one or the other, but also where he is offered the one subject to a right, however expressed, to choose the other instead, and a person’s abandonment of, or failure to exercise, such a right is to be treated as an exercise of the option;
 and in section 254 the definition of “security” (in subsection (1)) and subsections (5) and (11) shall not apply.
- (2) In sections 249 and 250 “the appropriate amount in cash”, in relation to any share capital to which section 249 applies—
 - (a) in a case where that share capital was issued —
 - (i) in consequence of the exercise of an option such as is mentioned in section 249(1)(a); or
 - (ii) in a quantity which is determined by or determines the amount of a dividend in cash payable in respect of share capital in the company of a different class,

and where the relevant cash dividend is not substantially greater nor substantially less than the market value of that share capital on the relevant date, means the amount of the relevant cash dividend or, in a case in which section 249(3) applies, a due proportion of that amount;
 - (b) in a case where paragraph (a) above does not apply, means the market value of that share capital on the relevant date or, in a case in which section 249(3) applies, a due proportion of that market value.
- (3) In subsection (2) above—
 - “the relevant cash dividend”, in a case falling within subsection (2)(a) (i) above, means the cash dividend mentioned in section 249(1)(a) or, in a

Status: This is the original version (as it was originally enacted).

case falling within subsection (2)(a)(ii) above, means the cash dividend there mentioned (subject to subsection (4) below);

“the relevant date”, in the case of share capital listed in the Stock Exchange Daily Official List, means the date of first dealing and, in the case of share capital not so listed, means the due date of issue; and

“market value”, in relation to any share capital in a company, means, subject to the provisions applied by subsections (5) and (6) below, the price which that share capital might reasonably be expected to fetch on a sale in the open market.

- (4) Where, in a case falling within subsection (2)(a)(ii) above, the company on the occasion on which it issues the share capital in question also issues a dividend in cash (“the accompanying cash dividend”) in respect of the shares in the company in respect of which that share capital is issued, “the relevant cash dividend” means the cash dividend mentioned in subsection (2)(a)(ii) above reduced by the amount of the accompanying cash dividend.
- (5) Section 150(3) of the 1979 Act (market value of shares or securities listed in the Stock Exchange Daily Official List) shall apply for the purposes of subsection (3) above as it applies for the purposes of that Act.
- (6) In the case of shares or securities which are not quoted on a recognised stock exchange at the time when their market value for the purposes of subsection (2) above falls to be determined, subsection (3) of section 152 of the 1979 Act shall apply with respect to the determination of their market value for those purposes as it applies with respect to a determination falling within subsection (1) of that section.

Supplemental

252 Rectification of excessive set-off etc. of ACT or tax credit

- (1) If an inspector discovers that—
 - (a) any set-off of advance corporation tax under section 239, or
 - (b) any set-off or payment of tax credit,ought not to have been made, or is or has become excessive, the inspector may make any such assessments as may in his judgment be required for recovering any tax that ought to have been paid or any payment of tax credit that ought not to have been made and generally for securing that the resulting liabilities to tax (including interest on unpaid tax) of the persons concerned are what they would have been if only such set-offs or payments had been made as ought to have been made.
- (2) In any case where—
 - (a) interest has been paid under section 826 on a payment of tax credit; and
 - (b) interest ought not to have been paid on that payment, either at all or to any extent,an assessment under this section may be made for recovering any interest that ought not to have been paid.
- (3) Where—
 - (a) an assessment is made under this section to recover tax credit paid to a company in respect of franked investment income received by the company in an accounting period; and

Status: This is the original version (as it was originally enacted).

- (b) more than one payment of tax credit has been made in respect of that period, any sum recovered shall as far as possible be treated as relating to a payment of tax credit made later rather than to a payment made earlier.
- (4) Subsections (2) and (3) above shall have effect in relation to payments of tax credit claimed in respect of accounting periods ending after such day as may be appointed for the purpose of those subsections by order made by the Treasury, not being earlier than 31st March 1992.
- (5) The Management Act shall apply to any assessment under this section for recovering a payment of tax credit or interest on such a payment as if it were an assessment to income tax for the year of assessment, or in the case of a company, corporation tax for the accounting period, in respect of which the payment was claimed, and as if that payment represented a loss of tax to the Crown; and any sum charged by any such assessment shall, subject to any appeal against the assessment, be due within 14 days after the issue of the notice of assessment.

253 Power to modify or replace section 234(5) to (9) and Schedule 13

- (1) The Board may by regulations—
 - (a) modify, supplement or replace any of the provisions of subsections (5) to (9) of section 234 for the purpose of requiring companies resident in the United Kingdom to make returns and give information to the inspector in respect of distributions made by them, whether before or after the passing of this Act, which are not qualifying distributions;
 - (b) modify, supplement or replace any of the provisions of Schedule 13 for the purpose of regulating the time and manner in which advance corporation tax is to be accounted for and paid or the manner in which effect is to be given to section 241(1) to (3);
 and references in this Act and in any other enactment to section 234(5) to (9) and to Schedule 13 shall be construed as including references to any such regulations.
- (2) Without prejudice to the generality of subsection (1) above, regulations under that subsection may, in relation to advance corporation tax, modify any provision of Parts II to VI of the Management Act or apply any such provision with or without modifications.
- (3) Regulations under this section may—
 - (a) make different provision for different descriptions of companies and for different circumstances and may authorise the Board, where in their opinion there are special circumstances justifying it, to make special arrangements as respects advance corporation tax or the repayment of income tax borne by a company or the payment to a company of amounts in respect of any tax credit to which it is entitled;
 - (b) include such transitional and other supplemental provisions as appear to the Board to be expedient or necessary.
- (4) The Board shall not make any regulations under this section unless a draft of them has been laid before and approved by a resolution of the House of Commons.

254 Interpretation of Part VI

- (1) In this Part, except where the context otherwise requires—

Status: This is the original version (as it was originally enacted).

“new consideration” means, subject to subsections (5) and (6) below, consideration not provided directly or indirectly out of the assets of the company, and in particular does not include amounts retained by the company by way of capitalising a distribution;

“security” includes securities not creating or evidencing a charge on assets, and interest paid by a company on money advanced without the issue of a security for the advance, or other consideration given by a company for the use of money so advanced, shall be treated as if paid or given in respect of a security issued for the advance by the company;

“share” includes stock, and any other interest of a member in a company; and in this section “a 90 per cent. group” means a company and all of its 90 per cent. subsidiaries.

- (2) In this Part, the expressions “in respect of shares in the company” and “in respect of securities of the company”, in relation to a company which is a member of a 90 per cent. group, mean respectively in respect of shares in that company or any other company in the group and in respect of securities of that company or any other company in the group.
- (3) Without prejudice to section 209(2)(b) as extended by subsection (2) above, in relation to a company which is a member of a 90 per cent. group, “distribution” includes anything distributed out of assets of the company (whether in cash or otherwise) in respect of shares in or securities of another company in the group.
- (4) Nothing in subsections (2) and (3) above shall require a company to be treated as making a distribution to any other company which is in the same group and is resident in the United Kingdom.
- (5) Where share capital has been issued at a premium representing new consideration, any part of that premium afterwards applied in paying up share capital shall be treated as new consideration also for that share capital, except in so far as the premium has been taken into account under section 211(5) so as to enable a distribution to be treated as a repayment of share capital.
- (6) Subject to subsection (7) below, no consideration derived from the value of any share capital or security of a company, or from voting or other rights in a company, shall be regarded for the purposes of this Part as new consideration received by the company unless the consideration consists of—
 - (a) money or value received from the company as a qualifying distribution;
 - (b) money received from the company as a payment which for those purposes constitutes a repayment of that share capital or of the principal secured by the security; or
 - (c) the giving up of the right to the share capital or security on its cancellation, extinguishment or acquisition by the company.
- (7) No amount shall be regarded as new consideration by virtue of subsection (6)(b) or (c) above in so far as it exceeds any new consideration received by the company for the issue of the share capital or security in question or, in the case of share capital which constituted a qualifying distribution on issue, the nominal value of that share capital.
- (8) Where two or more companies enter into arrangements to make distributions to each other’s members, all parties concerned (however many) may for the purposes of this Part be treated as if anything done by any one of those companies had been done by any of the others.

Status: This is the original version (as it was originally enacted).

- (9) A distribution shall be treated under this Part as made, or consideration as provided, out of assets of a company if the cost falls on the company.
- (10) References in this Part to issuing share capital as paid up apply also to the paying up of any issued share capital.
- (11) Where securities are issued at a price less than the amount repayable on them, and are not quoted on a recognised stock exchange, the principal secured shall not be taken for the purposes of this Part to exceed the issue price, unless the securities are issued on terms reasonably comparable with the terms of issue of securities so quoted.
- (12) For the purposes of this Part a thing is to be regarded as done in respect of a share if it is done to a person as being the holder of the share, or as having at a particular time been the holder, or is done in pursuance of a right granted or offer made in respect of a share; and anything done in respect of shares by reference to share holdings at a particular time is to be regarded as done to the then holders of the shares or the personal representatives of any share holder then dead.

This subsection shall apply in relation to securities as it applies in relation to shares.

255 “Gross rate” and “gross amount” of distributions to include ACT

- (1) Where any right or obligation created before 6th April 1973 is expressed by reference to a dividend at a gross rate or of a gross amount, that right or obligation shall continue to have effect, in relation to a dividend payable on or after that date, as if the reference were to a dividend of an amount which, when there is added to it such proportion thereof as corresponds to the rate of advance corporation tax in force on that date, that is to say, 6th April 1973, is equal to a dividend at that gross rate or of that gross amount.
- (2) Subsection (1) above shall apply with the necessary modifications to a dividend partly at a gross rate or of a gross amount and shall apply to any distribution other than a dividend as it applies to a dividend.