



# Income and Corporation Taxes Act 1970

## 1970 CHAPTER 10

### PART I

#### CHARGE OF INCOME TAX, AND GENERAL PROVISIONS RELATING ONLY TO INCOME TAX

### CHAPTER I

#### THE CHARGE, AND DATES FOR PAYMENT

#### **1 The charge**

Where any Act enacts that income tax shall be charged for any year at any rates, then, subject to the provisions of the Income Tax Acts, the tax at those rates shall be charged for that year in respect of all property, profits or gains respectively described or comprised in the Schedules contained in the following sections of this Act—

- Schedule A—Section 67(1),
- Schedule B—Section 91,
- Schedule C—Section 93,
- Schedule D—Section 108,
- Schedule E—Section 181(1), and
- Schedule F—Section 232(1),

and in accordance with the provisions of the Income Tax Acts respectively applicable to those Schedules.

#### **2 Fractions of a pound, and yearly assessments**

- (1) The due proportion of income tax shall be charged for every fractional part of one pound, but no tax shall be charged of a lower denomination than one penny.
- (2) Every assessment and charge to income tax shall be made for a year commencing on the 6th April and ending on the following 5th April.

### **3 Effect of charging at a standard rate, and at higher rates for larger incomes**

- (1) Where any Act provides that income tax shall be charged for any year at a standard rate and, in the case of an individual whose total income exceeds a stated amount, at a rate or rates exceeding the standard rate in respect of any part or parts of his income in excess of that amount, then, subject to the provisions of the Income Tax Acts—
- (a) the Income Tax Acts, in so far as they relate to the tax at the standard rate, shall have effect as if income tax were charged for that year at the standard rate only, and, in the case of an individual whose total income exceeds the stated amount, the amount of the income tax charged at the standard rate shall, so far as that income tax is borne by him in respect of his income, be deemed to be an instalment at the standard rate of the amount of income tax for which he is chargeable for that year, and
  - (b) where the amount of income tax payable by an individual for that year in respect of his total income is greater than the amount which would have been payable by him in respect thereof if income tax had been chargeable at the standard rate only, the difference between those two amounts (in the Income Tax Acts referred to as " surtax ") shall be computed, assessed, charged, collected and paid as a deferred instalment of income tax according to the provisions of the Income Tax Acts relating to surtax.
- (2) Where, for a year for which income tax is charged in the manner specified in subsection (1) above, a person is required to be assessed and charged with income tax in respect of any property, profits or gains out of which he makes any payment in respect of—
- (a) any annuity or other annual payment (not being interest), or
  - (b) any royalty or other sum in respect of the user of a patent, or
  - (c) any rent, royalty or other payment which, by section 156 or 157 of this Act (mining etc. rents and royalties) is declared to be subject to deduction of tax under Part II of this Act as if it were a royalty or other sum paid in respect of the user of a patent,
- he shall, in respect of so much of the property, profits or gains as is equal to the said payment, and may be deducted in computing his total income, be charged at the standard rate only.
- (3) All the provisions of the Income Tax Acts relating to persons who are to be chargeable to income tax at the standard rate, and to assessments to, and the collection and recovery of, such tax shall, so far as they are applicable, apply to the charge, assessment, collection and recovery of surtax.

### **4 Dates for payment**

- (1) Subject to the provisions of the Income Tax Acts, and, in particular, to subsection (2) below and section 204 of this Act (pay as you earn), income tax, other than surtax, contained in an assessment for any year shall be payable on or before the 1st January in that year, except that tax included in an assessment for any year which is made on or after the 1st January shall be deemed to be due and payable on the day next after the day on which the assessment is made.
- (2) Income tax under Schedule D charged for any year on any individual or firm in respect of the profits or gains of any trade, profession or vocation shall, instead of being payable on or before the 1st January in that year or on such other date as is specified in subsection (1) above, be payable in two equal instalments, the first on or before the

1st January in that year or on such other day as aforesaid, and the second on or before the following 1st July, and the provisions of the Income Tax Acts as to the recovery of income tax shall apply to each instalment of the tax in the same manner as they apply to the whole amount of the tax:

Provided that, where the assessment is not made until after the said following 1st July, this subsection shall not have effect, and the tax shall be due and payable as provided in subsection (1) above.

- (3) Surtax shall be due and payable as a deferred instalment of income tax on or before the 1st January next after the end of the year of assessment for which it is payable, except that surtax, or any part of any surtax, included in an assessment which is made on or after the said 1st January shall be deemed to be due and payable on the day next following the day on which the assessment is made.

## CHAPTER II

### PERSONAL RELIEFS

#### *The reliefs*

#### **5 General**

An individual who makes a claim in that behalf shall be entitled to such relief as is specified in sections 6 to 22 below, subject however to the provisions of sections 23 to 27.

#### **6 Relief for small incomes**

- (1) Subject to subsection (3) below, the claimant, if he proves that his total income for the year of assessment does not exceed £450, shall be entitled to a deduction from the amount of income tax with which he is chargeable equal to income tax at the standard rate on two-ninths of the amount of that income.
- (2) Subject as aforesaid, a claimant not entitled to relief under subsection (1) above, if he proves that his total income does not exceed £710, shall be entitled to have the amount of the income tax payable in respect of his total income reduced, where necessary, so as not to exceed a sum equal to the aggregate of the two following amounts, that is to say, the amount of the income tax which would have been payable if his total income had amounted to, but had not exceeded, £450 and one-half of the amount by which his total income exceeds £450.
- (3) A claimant shall not be entitled to relief under this section if he is entitled to relief under subsection (2) of section 9 below, and any relief under this section shall be in substitution for, and not in addition to, relief under subsection (1) of that section.

#### **7 Relief for persons over sixty-five with small incomes**

The claimant, if he proves that at any time within the year of assessment either he or his wife living with him was of the age of sixty-five years or upwards—

- (a) shall be entitled to exemption from income tax if he also proves either—  
(i) that his total income for that year does not exceed £425, or

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- (ii) that he would be entitled to the higher (or married person's) relief under section 8(1) below, and his total income for the year does not exceed £680, and
- (b) shall be entitled, if he is not exempt under paragraph (a) above by reason only of his total income for the year exceeding £425 or £680, as the case may be, and the excess is less than £265, to have the income tax payable in respect of his total income reduced, where necessary, to an amount equal to nine-twentieths of that excess.

## 8 Personal relief

- (1) Subject to the provisions of this section and to section 15 below, the claimant shall be entitled—
- (a) if he proves—
    - (i) that for the year of assessment he has his wife living with him, or
    - (ii) that his wife is wholly maintained by him during the year of assessment, and that he is not entitled in computing the amount of his income for that year for income tax purposes to make any deduction in respect of the sums paid for the maintenance of his wife,
      - to a deduction from the amount of income tax with which he is chargeable equal to income tax at the standard rate on £375 ;
  - (b) in any other case, to a deduction from the amount of income tax with which he is chargeable equal to income tax at the standard rate on £255.
- (2) If the total income of the claimant includes any earned income of his wife, the deduction to be allowed under this section shall be increased by an amount equal to income tax at the standard rate on seven-ninths of the amount of that earned income or on £255, whichever is the less.

For the purposes of this subsection—

- (a) any earned income of the claimant's wife arising in respect of any pension, superannuation or other allowance, deferred pay or compensation for loss of office, given in respect of his past services in any office or employment, shall be deemed not to be earned income of his wife, and
  - (b) no payment on account of an allowance under the Family Allowances Act 1965 or the Family Allowances Act (Northern Ireland) 1966, and, except in the case of a retirement pension payable to the wife by virtue of her own insurance, no payment of benefit under the National Insurance Act 1965 or the National Insurance Act (Northern Ireland) 1966, shall be treated as earned income.
- (3) Subsection (1) above shall have effect in relation to any claim by a man who becomes married in the year of assessment for which the claim is made, and has not previously in that year been entitled to relief under paragraph (a) of that subsection, as if the sum specified in that paragraph were reduced by £10 for each month of the year ending before the date of the marriage.

In this subsection "month" means a month beginning with the 6th day of a month of the calendar year.

## **9 Earned income and old age reliefs**

- (1) The claimant shall be entitled to a deduction from the amount of income tax with which he is chargeable equal to income tax at the standard rate on—
  - (a) two-ninths of the amount (up to a maximum of £4,005) of the claimant's earned income, plus
  - (b) one-ninth of the amount (up to a maximum of £5,940) of any excess of his earned income over £4,005.
- (2) The claimant, if he proves that at any time within the year of assessment either he or, in the case of a married man, his wife living with him was of the age of sixty-five years or upwards, and that his total income for the year of assessment does not exceed £1,000, shall be entitled to a deduction from the amount of income tax with which he is chargeable equal to income tax at the standard rate on two-ninths of the amount of that income.
- (3) If the claimant would be entitled to relief under subsection (2) above but for the fact that his total income exceeds £1,000, he shall be entitled to have the amount of the income tax payable in respect of his total income reduced, where necessary, SO as not to exceed a sum equal to the aggregate of the two following amounts, that is to say, the amount of the income tax which would have been payable if his total income had amounted to, but had not exceeded, £1,000 and eleven-twentieths of the amount by which his total income exceeds £1,000.
- (4) Any relief under subsection (2) or subsection (3) above shall be in substitution for, and not in addition to, the relief under subsection (1) above.

## **10 Children**

- (1) If the claimant proves—
  - (a) that there is living at any time within the year of assessment a child of his with respect to whom one of the conditions in subsection (2) below is fulfilled, or
  - (b) that for the year of assessment he has the custody of, and maintains at his own expense, a child (other than a child of his) with respect to whom one of those conditions is fulfilled,he shall, subject to the provisions of this section and section 11 below, be entitled in respect of each such child to a deduction from the amount of income tax with which he is chargeable equal to income tax at the standard rate on the appropriate amount for the child.

In this provision "child" includes a stepchild and an illegitimate child whose parents have married each other after his birth.
- (2) The conditions referred to in subsection (1) above are—
  - (a) that the child is born in, or is under the age of sixteen years at the commencement of, the year of assessment referred to in that subsection, or
  - (b) that the child is over the age of sixteen years at the commencement of that year of assessment, but is receiving full-time instruction at any university, college, school or other educational establishment.
- (3) The appropriate amount for the child shall vary according to the age of the child at the commencement of the year of assessment, and, subject to subsection (5) below—
  - (a) for a child shown by the claimant to have been then over the age of sixteen, shall be £165, and

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- (b) for a child not so shown, but shown by the claimant to have been then over the age of eleven, shall be £140, and
  - (c) in any other case shall be £115.
- (4) The reference in subsection (2)(b) above to a child receiving full-time instruction at an educational establishment shall include a reference to a child undergoing training by any person (hereinafter referred to as " the employer ") for any trade, profession or vocation in such circumstances that the child is required to devote the whole of his time to the training for a period of not less than two years.

For the purpose of a claim in respect of a child undergoing training, the inspector may require the employer to furnish particulars with respect to the training of the child in such form as may be prescribed by the Board.

- (5) In the case of a child who is entitled in his own right to an income exceeding £115 a year, the appropriate amount for the child shall be reduced by the amount of the excess, and accordingly no relief shall be allowed under this section where the excess is equal to or greater than the amount which apart from this subsection would be the appropriate amount for the child:

Provided that, in calculating the income of the child for the purpose of this subsection, no account shall be taken of any income falling under Chapter V of this Part of this Act to be treated as income of a parent of the child, or of any income to which the child is entitled as the holder of a scholarship, bursary, or other similar educational endowment.

- (6) If any question arises as to whether any person is entitled to relief under this section in respect of a child who is over the age of sixteen years, as being a child who is receiving full-time instruction at an educational establishment, the Board may consult the Secretary of State for Education and Science.

In the application of this subsection to Scotland and Northern Ireland, the Secretary of State and the Ministry of Education for Northern Ireland shall respectively be substituted for the Secretary of State for Education and Science.

- (7) Notwithstanding anything in section 9 of the Family Law Reform Act 1969 or any corresponding enactment of the Parliament of Northern Ireland or any rule of law in Scotland, for the purposes of this section a child whose birthday falls on 6th April shall be taken to be over the age of eleven at the commencement of the year which begins with his eleventh birthday, and over the age of sixteen at the commencement of the year which begins with his sixteenth birthday.

## **11 Double claim for children**

- (1) The provisions of this section shall have effect where, for any year of assessment, two or more individuals are, or would but for the provisions of this section be, entitled to relief under section 10 above in respect of the same child.
- (2) The relief to be granted to each of the individuals shall be computed as if the reference in subsection (1) of that section to the appropriate amount for the child were a reference to the part of the appropriate amount for the child which is apportioned to that individual under subsection (3) below.
- (3) The appropriate amount for the child shall be apportioned between the individuals in question in such proportion as they agree, or, in default of agreement, in proportion

to the amount or value of the provision made by them respectively (otherwise than by way of payments deductible in computing their respective total incomes) for the child's maintenance and education for the year of assessment.

- (4) Any apportionment under this section shall be made by such body of General Commissioners, being the General Commissioners for a division in which one of the individuals resides, as the Board may direct, or, if none of the individuals resides in Great Britain, by the Special Commissioners.
- (5) Where a claim is made under the said section 10, and it appears that, if the claim is allowed, an apportionment will be necessary under this section, the Board may if they think fit direct that the claim itself shall be dealt with by any specified body of Commissioners which could under this section be directed to make the apportionment, and that the same Commissioners shall also make any apportionment which proves to be necessary; and where a direction is given under this subsection no other body of Commissioners shall have jurisdiction to determine the claim.
- (6) The Commissioners making any apportionment under this section shall hear and determine the case in like manner as an appeal, but any individual who is, or but for the provisions of this section would be, entitled to relief in respect of the child shall be entitled to appear and be heard by the Commissioners, or to make representations to them in writing.

## **12 Widower's or widow's housekeeper**

- (1) If the claimant proves that he is a widower and that for the year of assessment a person, being a female relative of his or of his deceased wife, is resident with him in the capacity of a housekeeper, or that he has no female relative of his own or of his deceased wife who is able and willing to act in such capacity and that he has employed some other female person to reside with him for the purpose, he shall be entitled to a deduction from the amount of income tax with which he is chargeable equal to income tax at the standard rate on £75 in respect of that female relative or female person:

Provided that—

- (i) no relief shall be allowed under this section unless the claimant proves that no other individual is entitled to relief in respect of the female relative under the provisions of this Chapter, or, if any other individual is so entitled, that the other individual has relinquished his claim thereto, and
  - (ii) no relief shall be allowed under this section where the female relative is a married woman living with her husband, and the husband has claimed and been allowed the higher relief under section 8(1) above, and
  - (iii) not more than one deduction of tax shall be allowed under this section to any claimant for any year.
- (2) This section shall apply to a claimant being a widow as it applies to a claimant being a widower, with the substitution of " her deceased husband " for " his deceased wife ".

## **13 Relative taking charge of unmarried person's young brother or sister**

If the claimant proves—

- (a) that he is unmarried, and that he has living with him either his mother, being a widow or a person living apart from her husband, or some other female relative, for the purpose of having the charge and care of any brother or sister

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of his, being a child in respect of whom relief is allowed under this Chapter, and that he maintains the mother or other relative at his own expense, and

- (b) that neither he nor any other individual is entitled to relief in respect of the same person under any of the other provisions of this Chapter, or, if any other individual is entitled to any such relief, that the other individual has relinquished his claim thereto,

he shall be entitled to a deduction from the amount of income tax with which he is chargeable equal to income tax at the standard rate on £75.

#### **14 Additional relief for widows and others in respect of children**

(1) This section applies—

- (a) to widows, widowers and other persons who are not entitled for the year of assessment to the higher (married persons) relief under section 8(1) above, except that it does not apply to a woman who is not a widow unless throughout the year of assessment she was either in full-time employment or engaged full-time in some trade, profession or vocation or totally incapacitated by physical or mental infirmity, and
- (b) to any married man who is entitled for the year of assessment to the higher relief aforesaid but whose wife was throughout that year totally incapacitated by physical or mental infirmity.

(2) Subject to subsection (3) below, if the claimant, being a person to whom this section applies, proves in the case of a year of assessment—

- (a) that he is entitled to relief under section 10 above in respect of a child resident with him, and
- (b) that he is not entitled to any relief under section 13 above, and either that no other individual is entitled to such relief in respect of the charge and care of that child or that his claim thereto has been relinquished,

he shall be entitled to a deduction from the amount of income tax with which he is chargeable equal to income tax at the standard rate on £100.

(3) Where more than one individual is entitled to relief under this section in connection with the same child, the £100 mentioned in subsection (2) above shall be apportioned between them in such proportions as may be agreed between them, or, in default of agreement, in accordance with such apportionment as may be adopted in relation to that child under section 11 above.

#### **15 Claims under ss. 12 to 14 for year of marriage**

A man who becomes married during a year of assessment may by notice in writing to the inspector elect that his marriage be disregarded for the purposes of any claim for that year under section 12, 13 or 14 above, and, in that case, the marriage shall also be disregarded for the purpose of any claim for that year under section 8 above.

#### **16 Dependent relatives**

(1) If the claimant proves that he maintains at his own expense—

- (a) any relative of his or of his wife who is incapacitated by old age or infirmity from maintaining himself, or



- (b) his or his wife's mother who, whether or not incapacitated, is either widowed, or living apart from her husband, or a single woman in consequence of dissolution or annulment of marriage,

being (whether falling under paragraph (a) or paragraph (b) above) a person whose total income does not exceed £320 a year, he shall be entitled in respect of each such person whom he so maintains to a deduction from the amount of income tax with which he is chargeable equal to income tax at the standard rate on £75:

Provided that, in the case of any person so maintained whose total income exceeds £245 a year, this subsection shall have effect with the substitution for the reference to £75 of a reference to £75 diminished by the amount of the excess.

- (2) Where the claimant under subsection (1) above is a woman—
- (a) the references in that subsection to the claimant's wife shall be construed as references to the claimant's husband, and
- (b) unless she is a married woman living with her husband, for the reference in that subsection to £320 there shall be substituted a reference to £355, and for references to £75 references to £110.
- (3) Subject to subsection (4) below, where two or more persons jointly maintain any such person as is mentioned in subsection (1) above, the £75 mentioned in that subsection, or, as the case may be, the lesser amount mentioned in the proviso to that subsection, shall be apportioned between them in proportion to the amount or value of their respective contributions towards the maintenance of that person.

The apportionment under this subsection may be effected as the persons entitled to claim the relief agree, and, subject to any such agreement, subsections (4) and (5) of section 11 above shall apply to an apportionment under this subsection, and as if, in the said subsection (5), the reference to a claim under section 10 above were a reference to a claim under this section.

- (4) Where, without subsection (2)(b) above, the claimant's relief would fall to be reduced by any proportion under subsection (3) above, any increase in the claimant's relief attributable to the said subsection (2)(b) shall be reduced by the same proportion; and accordingly, subsection (3) above shall be read without reference to the modifications made by the said subsection (2)(b).
- (5) No person shall be entitled to less relief under the Income Tax Acts than he would be entitled to if no relief were available under subsection (1) above in respect of the maintenance of a person whose total income exceeds £50 a year, and if that subsection did not include a reference to the mother living apart from her husband or being a single woman in consequence of dissolution or annulment of marriage.

## **17 Claimant depending on services of a daughter**

If the claimant, by reason of old age or infirmity, is compelled to depend upon the services of a daughter resident with and maintained by him, he shall be entitled to a deduction from the amount of income tax with which he is chargeable equal to income tax at the standard rate on £40.

## **18 Relief for blind persons**

- (1) Subject to subsection (5) below, if the claimant proves—

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- (a) that he is a married man who for the year of assessment has his wife living with him, and that one of them was, and the other was not, throughout the year a registered blind person, or
- (b) that, not being such a married man, he was throughout the year a registered blind person,

and also proves that the amounts of any tax-free disability payments receivable in the year by him, or, as the case may be, by his wife living with him, are such that seven-ninths of the aggregate thereof is less than £100, he shall be entitled to a deduction from the amount of income tax with which he is chargeable equal to income tax at the standard rate on an amount equal to £100 reduced by seven-ninths of the aggregate of any such payments so receivable.

- (2) Subject to subsection (5) below, if the claimant proves—
- (a) that he is a married man who for the year of assessment has his wife living with him, and
  - (b) that throughout the year both he and his wife were registered blind persons, and
  - (c) that the amounts of any tax-free disability payments receivable in the year (whether by him or his wife) are such that seven-ninths of the aggregate thereof is less than £200,

he shall be entitled to a deduction from the amount of income tax with which he is chargeable equal to income tax at the standard rate on an amount equal to £200 reduced by seven-ninths of the aggregate of any such payments so receivable.

- (3) Where a person is a registered blind person during part only of the year of assessment, that person, or as the case may be that person's husband, shall be entitled to relief under subsection (1) or (2) above in any case in which he would have been entitled to such relief if that person had been such a registered blind person throughout the year, but the amount of relief granted by virtue of this subsection shall be calculated in accordance with subsection (4) below.
- (4) For the purpose of calculating the amount of relief for the purposes of subsection (3) above, this section shall have effect as if—
- (a) for references in subsections (1) and (2) above to the amounts of any tax-free disability payments receivable by a person in the year of assessment there were substituted references to the amounts of any such payments receivable by him in the part of the year during which he was a registered blind person, and
  - (b) for references in subsection (1) above to £100 there were substituted references to that proportion of £100 which the period in the year of assessment during which the person in question was a registered blind person bears to one year, and
  - (c) for references in subsection (2) above to £200 there were substituted references to that proportion of £200 which the sum of the periods in the year of assessment during which each of the persons in question was such a registered blind person bears to two years.
- (5) Unless a claimant who is entitled to relief for the year of assessment under section 17 above in respect of the services of a daughter relinquishes his claim to that relief, he shall not be allowed relief under this section for that year.
- (6) In this section—

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" registered blind person " means a person registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948 or under any corresponding enactment for the time being in force in Northern Ireland;

" tax-free disability payment " means a periodical payment receivable by a person on account of his blindness and not falling to be treated as income for the purposes of income tax.

## **19 Premiums under post-1916 life policies etc.**

- (1) Subject to the provisions of this section and of section 21 below, and subject also to section 227(11) of this Act (retirement annuity premiums), if the claimant has paid any such premium as is specified in subsection (2) below, he shall be entitled to a deduction from the amount of income tax with which he is chargeable equal to income tax at two-fifths of the standard rate on the amount of the premium:

Provided that if, in any year of assessment, the total premiums in respect of which relief falls to be granted under this section do not exceed £25, the relief under this section shall be a deduction equal to income tax at the standard rate on £10 or on the full amount of the premiums, whichever is the less.

- (2) The premiums referred to in subsection (1) above are any premiums paid by the claimant under a policy of insurance or contract for a deferred annuity where—
- (a) the insurance or contract was made after 22nd June 1916—
    - (i) with any insurance company legally established within Her Majesty's dominions, any other country mentioned in section 1(3) of the British Nationality Act 1948 or the Republic of Ireland, or lawfully carrying on business in the United Kingdom, or
    - (ii) with underwriters, being members of Lloyd's or of any other association of underwriters approved by the Board of Trade or the Ministry of Commerce for Northern Ireland, who comply with the requirements set forth in Schedule 1 to the Insurance Companies Act 1958 or, as the case may be, Schedule 1 to the Insurance Companies Act (Northern Ireland) 1968, or
    - (iii) with a registered friendly society, or
    - (iv) in the case of a deferred annuity, with the National Debt Commissioners, and
  - (b) the insurance or, as the case may be, the deferred annuity is on the life of the claimant or on the life of his wife, and
  - (c) the insurance or contract was made by him.
- (3) No relief under this section shall—
- (a) be given except in respect of premiums payable under policies for securing a capital sum on death, whether in conjunction with any other benefit or not, or
  - (b) be given in respect of premiums payable during the period of deferment in respect of a policy of deferred assurance:

Provided that this subsection shall not affect premiums payable—

- (i) under policies or contracts made in connection with any superannuation or bona fide pension scheme for the benefit of the employees of any employer, or of persons engaged in any particular trade, profession, vocation or business,

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or for the benefit of the wife or widow of any such employee or person or of his children or other dependants, or

- (ii) under policies taken out by teachers in the schools known in the year 1918 as secondary schools, pending the establishment of a superannuation or pension scheme for those teachers.

- (4) Relief shall not be granted under this section in respect of premiums payable under any policy of life insurance issued in respect of an insurance made after 19th March 1968 unless the policy is a qualifying policy within the meaning of Part I of Schedule 1 to this Act:

Provided that this subsection shall not apply—

- (a) to any policy of life insurance having as its sole object the provision on an individual's death or disability of a sum substantially the same as any amount then outstanding under a mortgage of his residence, or of any premises occupied by him for the purposes of a business, being a mortgage the principal amount secured by which is repayable by instalments payable annually or at shorter regular intervals, or
- (b) to any policy of life insurance issued in connection with a sponsored superannuation scheme as defined in section 226(11) of this Act, if one-half at least of the cost of the scheme is borne by the person or persons under whom the relevant offices or employments are held.

In the application of the above proviso to Scotland, for any reference to a mortgage there shall be substituted a reference to a heritable security within the meaning of the Conveyancing (Scotland) Act 1924 (but including a security constituted by *ex facie* absolute disposition or assignation).

- (5) A policy of life insurance issued in respect of an insurance made on or before 19th March 1968 shall be treated for the purposes of subsection (4) above as issued in respect of one made after that date if varied after that date so as to increase the benefits secured, or to extend the term of the insurance:

Provided that a variation effected before the end of the year 1968 shall be disregarded for the purposes of this subsection if its only effect was to bring into conformity with paragraph 2 of Schedule 1 to this Act (qualifying conditions for endowment policies) a policy previously conforming therewith except as respects the amount guaranteed on death, and no increase was made in the premiums payable under the policy.

- (6) The provisions of Part II of Schedule 1 to this Act shall have effect with respect to the certification of policies which are qualifying policies within the meaning of Part I of that Schedule.
- (7) Where a premium is paid by a wife out of her separate income in respect of an insurance on her own life or the life of her husband, or a contract for any deferred annuity on her own life or the life of her husband, the same relief shall be given as if the premium were a premium paid by her husband for an insurance on his own life, or for a contract for a deferred annuity on his own life, and this section shall apply accordingly.
- (8) Any reference in any provision of the Income Tax Acts (and, in particular, in section 22 below) to an amount income tax on which falls to be deducted under this or the preceding sections of this Chapter shall, in relation to a premium on which, by virtue of this section, a deduction falls to be made at two-fifths of the standard rate, be construed as a reference to two-fifths of the amount of that premium.

## **20 Premiums under pre-1916 life policies etc., and certain other payments**

(1) Subject to the provisions of this section and of section 21 below, and subject also to sections 210, 219(3) and 227(11) of this Act (retirement annuity premiums, and contributions under Superannuation Acts, National Insurance Acts etc.), if the claimant—

- (a) has paid any such premium as is specified in subsection (2) below, or
- (b) is under any Act of Parliament, or under the terms or conditions of his employment, liable to the payment of any sum, or to the deduction from his salary or stipend of any sum, for the purpose of securing, a deferred annuity to his widow or provision for his children after his death,

he shall be entitled to a deduction from the amount of income tax with which he is chargeable equal to income tax at the appropriate rate on the amount of the premium paid by him or on the amount of the sum paid by him or deducted from his salary or stipend.

(2) The premiums referred to in subsection (1)(a) above are any premiums paid by a person under a policy of insurance or contract for a deferred annuity where—

- (a) the insurance or contract was made on or before 22nd June 1916—
  - (i) with any insurance company legally established within the Crown's dominions, or lawfully carrying on business in the United Kingdom, or
  - (ii) with a registered friendly society, or
  - (iii) in the case of a deferred annuity, with the National Debt Commissioners, and
- (b) the insurance or, as the case may be, the deferred annuity is on the life of that person or on the life of his wife, and
- (c) the insurance or contract was made by him.

(3) For the purposes of this section, " the appropriate rate " means—

- (a) where the total income of the claimant does not exceed £1,000, half the standard rate of income tax,
- (b) where the total income of the claimant exceeds £1,000 but does not exceed £2,000, three-fourths of the standard rate of income tax,
- (c) where the total income of the claimant exceeds £2,000, the standard rate of income tax:

Provided that, in relation to the premiums referred to in subsection (1)(a) above, this subsection shall, as respects any year for which the standard rate exceeds 35 per cent. have effect as if the standard rate were 35 per cent.

(4) No relief under subsection (1) above shall be given in respect of the amount, if any, by which the premiums or other sums in respect of which relief is claimed exceed the claimant's taxable income, that is to say, his total income less any amount on which he is entitled to relief by virtue of sections 6(1), 8, 9(1), 9(2) or 10 to 19 above.

(5) Where the income tax ultimately payable by any person after deducting the relief under this section is greater than the amount of income tax at the standard rate which would be payable if the total income of that person exceeded £1,000 or £2,000, as the case may be, the relief under this section shall be increased by a sum representing the amount by which income tax at one-fourth of the standard rate on the amount of the premiums or payment in respect of which the relief is given exceeds the amount of the

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income tax at the standard rate on the amount by which the total income falls short of £1,000 or £2,000, as the case may be:

Provided that, in relation to the premiums referred to in subsection (1)(a) above, this subsection shall, as respects a year for which the standard rate of income tax exceeds 35 per cent., have effect as if the two last references therein to the standard rate were references to a rate of 35 per cent.

- (6) Where a premium is paid by a wife out of her separate income in respect of an insurance on her own life or the life of her husband, or a contract for any deferred annuity on her own life or the life of her husband, the same relief shall be given as if the premium were a premium paid by her husband for an insurance on his own life, or for a contract for a deferred annuity on his own life, and this section shall apply accordingly.

## **21 Limits on relief under ss. 19 and 20**

- (1) The aggregate of the premiums or other sums in respect of which relief is given to any person under sections 19 and 20 above shall not exceed one-sixth of that person's total income.
- (2) No relief under either of the said sections in respect of a premium or other payment payable on a policy for securing a capital sum on death (whether in conjunction with any other benefit or not) shall exceed the amount of the income tax calculated at the appropriate rate on an amount equal to 7 per cent. of the actual capital sum assured, and, in calculating any such capital sum, no account shall be taken of any sum payable on the happening of any other contingency, or of the value of any premiums agreed to be returned, or of any benefit by way of bonus or otherwise which is to be or may be received either before or after death, either by the person paying the premium or by any other person, and which is not the sum actually assured.
- (3) The aggregate of the relief given under the said sections in respect of premiums or sums payable for securing any benefits other than those mentioned in subsection (2) above shall not exceed the amount of the income tax calculated at the appropriate rate on £100.
- (4) In subsections (2) and (3) above, " the appropriate rate "—
- (a) in relation to premiums to which the said section 19 applies, means two-fifths of the standard rate, and
  - (b) in relation to other premiums or payments, has the same meaning as in the said section 20,
- and the said subsections (2) and (3) shall not apply to premiums falling within the proviso to subsection (1) of the said section 19.
- (5) War insurance premiums shall not be taken into account in calculating the limits of one-sixth of total income or of 7 per cent. or of £100 mentioned in this section.

In this subsection " war insurance premiums " means any additional premium or other sum paid in order to extend an existing life insurance policy to risks arising from war or war service abroad, and any part of any premium or other sum paid in respect of a life insurance policy covering those risks, or either of them, which appears to the inspector to be attributable to those risks, or either of them.

## 22 Reduced rate relief

- (1) Subject to the provisions of this section, the claimant shall be entitled to have the amount of the income tax which remains chargeable on him in respect of his total income after making any deductions to which he is entitled under sections 6(1), 8, 9(1), 9(2) and 10 to 19 above reduced by a further deduction of the amount shown in the following Table, in which "the relevant amount" means the amount of the total income less the aggregate of the amounts income tax on which falls to be deducted under the provisions aforesaid.

TABLE

|  |  |
|--|--|
| Where the relevant amount does not exceed £260 | a deduction equal to 11-25 per cent, of the relevant amount; |
| exceeds £260                                   | the same deduction as if the relevant amount were £260.      |

- (2) Where the income of an individual includes both earned income of his wife and other income available for relief under subsection (1) above, the further deduction under the said subsection (1) shall (where necessary) be increased so as to equal the sum of—
- the deduction which would be made if the relevant amount referred to in the above Table were equal to the amount of the earned income of the wife available for relief under the said subsection (1), and
  - the deduction which would be made if the relevant amount so referred to were equal to the other income available for relief under the said subsection (1).
- (3) References in this section to the earned income of the wife available for relief under subsection (1) above shall be construed as references to her earned income less—
- so much of any amount which falls to be deducted under any of the provisions of the Income Tax Acts as could not have been deducted but for the existence of the earned income of the wife, and
  - so much of the amounts income tax on which falls to be deducted under the provisions mentioned in the said subsection (1) as could not have been taken into account but for the existence of the earned income of the wife.
- (4) References in this section to the income available for relief under subsection (1) above, other than earned income of the wife, shall be construed as references to the man's total income other than earned income of the wife, less the total of the amounts income tax on which falls to be deducted under the provisions mentioned in the said subsection (1), other than so much of those amounts as falls to be deducted from the earned income of the wife in ascertaining the earned income of the wife available for relief under that subsection.
- (5) For the purposes of this section—
- any earned income of an individual's wife arising in respect of any pension, superannuation or other allowance, deferred pay or compensation for loss of office, given in respect of his past services in any office or employment shall be deemed not to be earned income of his wife, and
  - no payment on account of an allowance under the Family Allowances Act 1965 or the Family Allowances Act (Northern Ireland) 1966, and, except in the case of a retirement pension payable to the wife by virtue of her own

insurance, no payment of benefit under the National Insurance Act 1965 or the National Insurance Act (Northern Ireland) 1966, shall be treated as earned income of an individual's wife.

*Supplemental*

**23 Meaning of " relative "**

In this Chapter " relative " includes any person of whom the person claiming a relief had the custody and whom he maintained at his own expense while that person was under the age of sixteen years.

**24 Reduction in reliefs on account of family allowances**

- (1) Where for any year of assessment an individual is assessable to income tax in respect of payments on account of an allowance or allowances under the Family Allowances Act 1965 or the Family Allowances Act (Northern Ireland) 1966, the total deductions from tax to which, apart from this section, the individual (or, if the individual is a wife assessable in respect of the payments by virtue of an application for separate assessment under section 38(1) below, she and her husband together) would be entitled for the year under sections 8 and 10 to 19 above shall be reduced, for each allowance if more than one, by an amount equal to income tax at the standard rate on £42 or, if the payments in question are payments for a part only of the year, by a proportionate part of that amount.
- (2) The allowances referred to in subsection (1) above shall be treated as including any allowance payable to an individual in the service of the Crown in lieu of an allowance under either of the enactments there specified.
- (3) The said subsection (1) shall not apply in the case of any payments if the individual assessable in respect thereof is entitled in the year—
  - (a) to a widow's allowance, widowed mother's allowance, retirement pension or child's special allowance under the National Insurance Act 1965 or the National Insurance Act (Northern Ireland) 1966, or
  - (b) to an allowance under section 21 of the National Insurance (Industrial Injuries) Act 1965 or section 21 of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 (allowances in respect of children of deceased), or
  - (c) to an allowance granted by the Secretary of State for Social Services under a Royal Warrant, Order in Council or order administered by him to widows of members of the armed forces.
- (4) The said subsection (1) shall not affect the construction of any reference in the Income Tax Acts to the deduction allowable under any particular provision of those referred to in that subsection.

**25 No relief to be given in respect of charges on income**

A claimant shall not be entitled to relief under sections 5 to 19 and 22 of this Chapter in respect of any income the income tax on which he is entitled to charge against any other person, or to deduct, retain or satisfy out of any payment which he is liable to make to any other person.



## 26 Partners

The following persons having joint interests, that is to say—

- (a) coparceners, joint tenants, or tenants in common of the profits of any property, and
- (b) joint tenants, or tenants of land or tenements in partnership, being in the actual and joint occupation thereof in partnership, who are entitled to the profits thereof in shares, and
- (c) partners carrying on a trade, profession or vocation together who are entitled to the profits thereof in shares,

may claim any relief under sections 5 to 19 and 22 of this Chapter according to their respective shares and interests, and any such claims which are proved may be dealt with in the same manner as in the case of several interests:

Provided that the income of a partner from a partnership carrying on any trade, profession or vocation shall be deemed to be the share to which he is entitled during the year to which the claim relates in the partnership profits, such profits being estimated according to the provisions of the Income Tax Acts.

## 27 Non-residents

- (1) Subject to the provisions of this section, no relief under this Chapter shall be given in the case of any individual who is not resident in the United Kingdom.
- (2) Subsection (1) above shall not apply in the case of any individual who satisfies the Board that he or she—
  - (a) is a British subject or a citizen of the Republic of Ireland, or
  - (b) is a person who is or has been employed in the service of the Crown, or who is employed in the service of any missionary society or in the service of any territory under Her Majesty's protection, or
  - (c) is resident in the Isle of Man or the Channel Islands, or
  - (d) has previously resided within the United Kingdom, and is resident abroad for the sake of his or her health, or the health of a member of his or her family resident with him or her, or
  - (e) is a widow whose late husband was in the service of the Crown:

Provided that no such relief as aforesaid shall be given so as to reduce the amount of the income tax other than surtax payable by that individual below the amount which results from applying the fraction

$$\frac{A}{B}$$

to the amount which would be payable by him by way of income tax other than surtax if the tax were chargeable on his total income from all sources (including income which is not subject to income tax charged in the United Kingdom), where—

A is the amount of his income subject to income tax charged in the United Kingdom, and

B is the amount of his total income.

- (3) For the purposes of the proviso to subsection (2) above as it applies to an individual whose income includes income eligible for double taxation relief—

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- (a) in computing the amount of the income tax payable by the individual, the tax chargeable in respect of the income eligible for double taxation relief shall be disregarded,
- (b) in computing the amount of his income subject to income tax charged in the United Kingdom, the income eligible for double taxation relief shall be disregarded, and
- (c) in computing his total income from all sources, including income which is not subject to income tax charged in the United Kingdom, income eligible for double taxation relief shall be included, and the income tax which would be chargeable on that total income shall be computed without regard to the double taxation relief available in respect of the income eligible for double taxation relief,

and accordingly, where this subsection applies, the amount of the tax chargeable in respect of the income eligible for double taxation relief shall not be affected by subsection (2) above:

Provided that this subsection shall not operate so as to make the tax payable by an individual for a year of assessment higher than it would have been if the double taxation relief had not been available.

- (4) In subsection (3) above " income eligible for double taxation relief" means any dividends, interest, royalties or other profits which are chargeable to income tax but in respect of which relief (other than credit) is available under an Order in Council under section 497 of this Act (double taxation agreements), or under section 31 of the Finance Act 1966 (transitory provisions for company dividends paid to non-residents), so as to limit the rate of income tax so chargeable (but not so as to confer an exemption and make it income which is not subject to income tax charged in the United Kingdom).
- (5) Any claim which an individual is entitled to make by virtue of subsection (2) above shall be made to the Board.

## CHAPTER III

### SURTAX

#### *General reliefs*

## 28 Earned income and other personal reliefs

- (1) Subject to subsection (2) below, for the purpose of charging surtax for any year of assessment there shall be deducted from an individual's total income—
  - (a) the amount income tax on which at the standard rate for that year is equal to the deduction which he is entitled to be allowed for that year under section 9(1) above (earned income relief), and
  - (b) where a deduction falls to be made under paragraph (a) above and the earned income of the individual in question, reduced by the amount of that deduction, exceeds £2,000, whichever is the less of the following amounts, that is to say, the amount of the excess and £2,000, and
  - (c) the amount income tax on which at the standard rate for the year is equal to the deductions which he is entitled to be allowed for that year from income tax

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other than surtax under sections 8(1), 10 and 12 to 18 above, after subtracting from those deductions the amount of the deduction which a single person may be allowed for that year under the said section 8(1).

- (2) Where an individual not resident in the United Kingdom is entitled to a deduction for any year under subsection (1) above, the deduction shall be reduced in the proportion in which the proviso to section 27(2) above reduces any relief given him for that year under Chapter II of this Part of this Act.

## **29 Relief on death in year for which rates increased**

The amount of surtax payable in respect of the total income of an individual for the year of assessment in which he dies shall not exceed the amount of surtax which would have been payable if income tax had been chargeable for that year at the same rates as for the year preceding that year, and all such adjustments and repayments of tax shall be made as may be required in order to give effect to the provisions of this section.

*Special provisions as to accrual of income*

## **30 Provisions for preventing avoidance of surtax by sales cum dividend, etc.**

- (1) Any individual upon whom notice is served by the Board requiring him to furnish a statement of and particulars relating to any assets in which, at any time during the period specified in the notice, he has had any beneficial interest, and in respect of which, within such period, either no income was received by him or the income received by him was less than the sum to which the income would have amounted if the income from such assets had accrued from day to day and been apportioned accordingly, shall, whether an assessment to surtax in respect of his total income has or has not been made for the relevant year or years of assessment, furnish such a statement and such particulars in the form and within the time (not being less than twenty-eight days) required by the notice.
- (2) The Board may serve further notices whenever they consider it necessary for the purposes of this section until complete particulars have been furnished to their satisfaction.
- (3) If it appears to the Board by reference to all the circumstances in relation to the assets of any such individual (including circumstances with respect to sales, purchases, dealings, contracts, arrangements, transfers or any other transactions relating to such assets) that the individual has thereby avoided, or would avoid, more than 10 per cent. of the amount of the surtax for any year which would have been payable in his case if the income from those assets had been deemed to accrue from day to day and had been apportioned accordingly and the income so deemed to have been apportioned to him had been treated as part of his total income for the purposes of surtax, then those assets shall be deemed to be assets to which subsection (4) below applies.
- (4) For the purposes of assessment to surtax in the case of any such individual, the income from any assets to which this subsection applies shall be deemed to accrue from day to day and, in the case of the sale or transfer of any such assets by or to him, shall be deemed to have been received as and when it is deemed to have accrued:

Provided that an individual shall not be liable to be assessed to surtax under this section in respect of any such income if he proves to the satisfaction of the Board that the avoidance of surtax was exceptional and not systematic, and that there was not in

his case in any of the three next preceding years any such avoidance of surtax as is described in the provisions of subsection (3) above.

- (5) If any individual fails to furnish any statement or particulars required under this section, or if the Board are not satisfied with any statement or particulars furnished under this section, they may make an estimate of the amount of the income which, under the preceding provisions of this section, is to be deemed to form part of his total income for the purposes of surtax.
- (6) For the purposes of this section " assets " means—
- (a) stocks or securities entitled to interest or dividend at a fixed rate only, not being stocks or securities the interest or dividend on which is dependent on the earnings of a company, and
  - (b) any other stocks or securities and any shares, if transactions in relation thereto have been effected by the individual otherwise than through a stock exchange in the United Kingdom and by a transfer on which ad valorem duty has been paid under the heading " Conveyance or Transfer on Sale " in Schedule 1 to the Stamp Act 1891.

### **31 Relief where income attributable to a period exceeding a year is received in a year**

If any individual, on a claim made to the Board under this section, proves to the satisfaction of the Board—

- (a) that, as respects any assets, in consequence of the operation of the provisions of the Income Tax Acts which require that for the purposes of surtax any income which is chargeable with income tax by way of deduction shall be deemed to be income of the year in which it is receivable, the income from those assets, as estimated for the purposes of surtax for any year of assessment, represents more than the income which would be attributable to a period of one full year if the income were deemed to have accrued from day to day, and
- (b) that, in consequence, the amount of surtax payable by him for that year exceeds by more than 5 per cent. the amount of the surtax which would have been payable by him for that year if the amount of his income from those assets had not exceeded the amount which would be attributable to a period of one full year if the income from those assets were deemed to have accrued from day to day,

the Board shall charge him to surtax, or adjust his liability to surtax, for that year and any succeeding year so as to give such relief as may be just, having regard to all the circumstances and, in particular, to the amount of any liability or additional liability to surtax which would have arisen for any preceding year or years if—

- (i) the income from such assets as aforesaid were deemed to have accrued from day to day and to have been apportioned accordingly, and
- (ii) the income so deemed to have been apportioned to him had been treated as part of his total income for the purposes of surtax.

### **32 Relief in case of purchases cum dividend**

If any individual, on a claim made to the Board under this section, proves to the satisfaction of the Board that, in consequence of the sale or transfer to him of any assets, the amount of surtax payable by him for any year of assessment exceeds by more than 10 per cent. the amount of the surtax which would have been payable by him

for that year if the income from those assets and from any assets sold or transferred by him were deemed to have accrued from day to day, then, for the purposes of surtax in the case of that individual for that year, the income from all such assets as aforesaid shall be deemed to have accrued from day to day and to have been received by him as and when it is deemed to have accrued.

### **33 Supplemental**

- (1) Any income arising in respect of any assets which, for any of the purposes of sections 30 to 32 above, is deemed to have accrued from day to day, or which is to be computed as if it were income that accrued from day to day, shall—
  - (a) if payable in respect of any stated period, be deemed to have accrued from day to day during that period, and
  - (b) if not payable in respect of any stated period, be deemed to have accrued from day to day during the period of twelve months next preceding the date on which that income was declared payable, or during the period between the last previous declaration of a dividend (not being a dividend expressed to be an interim dividend in respect of a stated period), payment of interest, or other yield or produce of such asset and the date aforesaid, whichever period is the less.
- (2) The jurisdiction of the Special Commissioners on any appeal shall include jurisdiction to review any relevant decision taken by the Board in the exercise of their functions under the said sections 30 to 32.

#### *Other special provisions*

### **34 Surtax to be charged on consideration for certain restrictive covenants etc.**

- (1) Where—
  - (a) an individual who holds, has held, or is about to hold, an office or employment gives in connection with his holding thereof an undertaking (whether absolute or qualified, and whether legally valid or not) the tenor or effect of which is to restrict him as to his conduct or activities, and
  - (b) in respect of the giving of that undertaking by him, or of the total or partial fulfilment of that undertaking by him, any sum is paid either to him or to any other person, and
  - (c) apart from this section, the sum paid would neither fall to be treated as income of any person for the purposes of income tax for any year of assessment nor fall to be taken into account as a receipt in computing, for the purposes of income tax for any year of assessment, the amount of any income of, or loss incurred by, any person,

the same results shall follow in relation to surtax for the year of assessment in which the said sum is paid as would have followed if the said sum had been paid to the said individual (and not to any other person) as and for the net amount of an annual payment to which the said individual was entitled, being an annual payment chargeable to income tax from the gross amount of which income tax at the standard rate for that year had been duly deducted under section 52 or 53 of this Act:

Provided that, where the individual has died before the payment of the said sum, so much of the preceding provisions of this subsection as relates to the results which are

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to follow from the matters specified in paragraphs (a) to (c) thereof shall have effect as if the said sum had been paid immediately before the death.

- (2) Where valuable consideration otherwise than in the form of money is given in respect of the giving of, or of the total or partial fulfilment of, any undertaking, subsection (1) above shall apply as if a sum had instead been paid equal to the value of that consideration.
- (3) Subsections (1) and (2) above shall not apply to any sum paid or consideration given if either—
- (a) the undertaking in question was given on or before 6th April 1948, or
  - (b) the sum or consideration is or was paid or given at or after the time of the retirement of the individual in question from the service of the person under whom the office or employment in question was held, and is or was so paid or given in pursuance of a provision in that behalf which expressly provides for the payment or giving thereof at or after that time and is embodied in a contract made in writing on or before 18th April 1950, or reduced to writing on or before that date, or
  - (c) the sum or consideration is or was paid or given in pursuance of an express provision in that behalf embodied in a contract made in writing on or before the said 18th April, or reduced to writing on or before that date, being a contract the main purpose of which was to provide for the transfer of a trade or part of a trade, or for the transfer of the controlling interest in any body corporate.

For the purposes of this subsection, a director of a company shall be deemed to be in the service of that company and to hold his office as such under that company.

- (4) Where any sum is paid or valuable consideration given to any person in any year of assessment in respect of the giving of, or of the total or partial fulfilment of, an undertaking given after 6th April 1948 and satisfying the conditions specified in subsection (1)(a) above (not being a sum from which income tax is duly deducted under any provision of the Income Tax Acts), it shall be the duty of the person paying over the sum or giving the consideration to deliver particulars thereof in writing to the inspector not later than one month after the end of that year, identifying the recipient of the payment or consideration, the undertaking in connection with which it was made or given and the individual who gave that undertaking.
- (5) In this section " office or employment" means any office or employment whatsoever such that the emoluments thereof, if any, are or would be chargeable to income tax under Case I or II of Schedule E ; and references in this section to the giving of valuable consideration do not include references to the mere assumption of an obligation to make over or provide valuable property, rights or advantages, but do include references to the doing of anything in or towards the discharge of such an obligation.

### **35 Expenses of Crown servants abroad**

For the purpose of charging surtax, there shall be deducted from the total income of an individual in the service of the Crown abroad any such sum as the Minister for the Civil Service may allow for expenses which, in the Minister's opinion, are necessarily incidental to the discharge of the functions of the individual's office and for which an allowance has not already been made.

### **36 Recovery of surtax due from beneficiary under discretionary trust**

- (1) The provisions of this section shall have effect in relation to surtax due from any person (in this section referred to as "the beneficiary") to whom, or for whose benefit, any income or any capital may in the discretion of some other person be paid or applied under a trust.
- (2) If any surtax charged in respect of the income of the beneficiary is not paid before the expiry of six months from the date when it became due and payable, the Board may at any time thereafter, so long as the said surtax remains unpaid, cause to be served on the trustees of the trust a notice in writing that the said surtax remains unpaid.
- (3) Where such a notice as aforesaid is served in accordance with the provisions of this section on the trustees of the trust, it shall be the duty of the trustees, as soon as may be, and if necessary from time to time, to pay to the Board in or towards satisfaction of the said surtax from time to time remaining unpaid any income or capital which, by virtue of any exercise of the discretion under the trust, the beneficiary may become entitled to receive or to have applied for his benefit.
- (4) Any payments made out of income by trustees on account of surtax in respect of which a notice under this section has been served shall be deemed for all the purposes of the Income Tax Acts to represent income paid to the beneficiary.
- (5) Any sum which the trustees are liable to pay by virtue of the provisions of this section shall be recoverable from them as a debt due to the Crown.
- (6) Where there are two or more trustees under the trust, a notice under this section shall be deemed to have been validly served upon the trustees if served upon any one of them, but nothing in this section shall render a trustee personally liable for anything done by him in good faith and in ignorance of the fact that such a notice has been served.

## **CHAPTER IV**

### **AGGREGATION OF INCOME—HUSBAND AND WIFE**

### **37 General rule for aggregation of wife's income**

- (1) Subject to the provisions of this Chapter, a woman's income chargeable to income tax shall, so far as it is income for a year of assessment or part of a year of assessment during which she is a married woman living with her husband, be deemed for income tax purposes to be his income and not to be her income:

Provided that the question whether there is any income of hers chargeable to income tax for any year of assessment and, if so, what is to be taken to be the amount thereof for income tax purposes shall not be affected by the provisions of this subsection.

- (2) Any tax falling to be assessed in respect of any income which, under subsection (1) above, is to be deemed to be the income of a woman's husband shall, instead of being assessed on her, or on her trustee, guardian, curator, receiver or committee, or on her executors or administrators, be assessable on him or, in the appropriate cases, on his trustee, guardian, curator, receiver or committee, or on his executors or administrators:

Provided that nothing in this subsection shall affect the operation of section 152 of this Act (assessment of partnership income).

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- (3) The personal reliefs allowed in the case of a man for any year of assessment shall be so allowed that an amount not less than the total of the following—
- (a) any deduction falling to be made under section 8(2) of this Act (special relief where a man's income includes earned income of his wife), and
  - (b) so much of any deduction falling to be made under section 9(1) of this Act (earned income relief) as could not have been made but for the existence of earned income of his wife, and
  - (c) any deduction falling to be made by virtue of section 22(2) of this Act (increase in reduced rate relief in certain cases where a man's income includes earned income of his wife),
- goes to reduce the income tax chargeable on the earned income of his wife.
- (4) References in this section to a woman's income include references to any sum which, apart from the provisions of this section, would fall to be included in computing her total income, and this subsection has effect in relation to any such sum notwithstanding that some enactment (including, except so far as the contrary is expressly provided, an enactment passed after the passing of this Act) requires that that sum should not be treated as income of any person other than her.
- (5) In this section " personal relief " means any relief under Chapter II of this Part of this Act.

### **38 Options for separate assessment**

- (1) If, within six months before the 6th July in any year of assessment, a husband or a wife makes an application for the purpose in such manner and form as the Board may prescribe, income tax other than surtax for that year shall be assessed, charged and recovered on the income of the husband and on the income of the wife as if they were not married, and all the provisions of the Income Tax Acts with respect to the assessment, charge and recovery of income tax other than surtax shall, save as otherwise provided by those Acts, apply as if they were not married:
- Provided that, in the case of persons married during the course of a year of assessment, an application under this subsection may be made as regards that year at any time before the 6th July in the following year.
- (2) If, before the 6th July in the year next following the year of assessment, a husband or a wife makes an application for the purpose in such manner and form as the Board may prescribe—
- (a) surtax for that year shall be assessed, charged and recovered on the income of the husband and on the the income of the wife as if they were not married, and all the provisions of the Income Tax Acts with respect to the assessment, charge and recovery of surtax shall apply as if they were not married, and
  - (b) the income of the husband and wife shall be treated as one in estimating total income for the purposes of surtax, and, subject to section 39(4) below, the amount of surtax payable in respect of the total income shall be divided between the husband and wife in proportion to the amounts of their respective incomes and the total amount payable shall not be less than it would have been if an application had not been made under this subsection.
- (3) Subject to subsection (4) below, an application duly made by a husband or wife under subsection (1) or (2) above shall have effect, not only as respects the year of assessment for which it is made, but also for any subsequent year of assessment.



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- (4) A person who has made any such application for any year of assessment may give, for any subsequent year of assessment, a notice to withdraw that application; and where such a notice is given the application shall not have effect with respect to the year for which the notice is given or any subsequent year.
- (5) A notice of withdrawal under subsection (4) above shall be in such form, and be given in such manner, as may be prescribed by the Board, and shall not be valid unless it is given within the period allowed by law for making, for the year for which the notice is given, applications similar to that to which the notice relates.

### **39 Effect of separate assessment on personal reliefs (including those running for surtax)**

- (1) Where, by virtue of an application under section 38(1) above, income tax other than surtax for any year of assessment is to be assessable and chargeable on the incomes of a husband and wife as if they were not married, the total relief given to the husband and the wife by way of personal reliefs (meaning, in this subsection, the reliefs provided for by Chapter II of this Part of this Act) shall be the same as if the application had not had effect with respect to the year and, subject to the proviso to this subsection and to subsection (2) below, the reduction of tax flowing from the personal reliefs shall be allocated to the husband and the wife—
  - (a) so far as it flows from relief under section 9(1) in the said Chapter II (earned income relief), in proportion to the amounts of their respective earned incomes,
  - (b) so far as it flows from relief under section 6 or 9(2) (relief for small incomes, and old age relief), in proportion to the amounts of their respective total incomes,
  - (c) so far as it flows from relief under section 19 or 20 (relief for life insurance premiums and other payments), to the husband or the wife according as he or she made the payment giving rise to the relief,
  - (d) so far as it flows from relief in respect of a child under section 10(1)(b), or relief in respect of a dependent relative under section 16, or relief in respect of a daughter under section 17, to the husband or the wife according as he or she maintains the child, relative or daughter, and
  - (e) as to the balance, in proportion to the amounts of tax which would have been payable by them respectively if the only personal reliefs allowable had been the reliefs referred to in paragraphs (a) and (b) above:

Provided that, subject to subsection (2) below, the amount of reduction of tax allocated to the wife by virtue of paragraphs (a) to (e) above shall not be less than the minimum amount which, if no application under the said section 38(1) had had effect for that year, would under section 37(3) above have had to go to reduce the tax chargeable in respect of her earned income, and the amount of reduction of tax allocated to the husband shall be correspondingly reduced.

- (2) Where the amount of reduction of tax allocated to the husband under subsection (1) above exceeds the tax (other than surtax) chargeable on the income of the husband for the year of assessment, the balance shall be applied to reduce the tax chargeable on the income of the wife for that year; and where the amount of reduction of tax allocated to the wife under that subsection exceeds the tax (other than surtax) chargeable on her income for the year of assessment, the balance shall be applied to reduce the tax chargeable on the income of the husband for that year.

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- (3) Returns of the total incomes of the husband and the wife may be made for the purposes of subsections (1) and (2) above either by the husband or by the wife, but, if the Board are not satisfied with any such return, they may obtain a return from the wife or the husband, as the case may be.
- (4) Where for any year of assessment a husband and wife are separately assessed by virtue of an application under section 38(1) or 38(2) above—
- (a) whether or not they are separately assessed to surtax, the total relief resulting from section 28 above (surtax reliefs) shall be the same as if there were no separate assessment, and
  - (b) if they are separately assessed to surtax, the relief resulting from paragraphs (a) and (b) of section 28(1) above (earned income) shall be allocated between them by apportioning the aggregate deduction under those paragraphs from total income in proportion to their respective earned incomes, and
  - (c) if they are separately assessed to surtax, the relief resulting from paragraph (c) of section 28(1) above shall be allocated between them as follows—
    - (i) the amount (if any) added to the deduction from their total income under that paragraph in respect of relief under section 10(1)(b), 16 or 17 of this Act shall be treated as reducing the income of the husband or the wife according to whether he or she maintains the child, relative or daughter in respect of whom that relief is given, and
    - (ii) subject to sub-paragraph (i) above, the said deduction shall be treated as reducing their respective incomes rateably, or, where relief is given under paragraph (a) or (b) of the said section 28(1), as reducing rateably those incomes as first reduced in accordance with paragraph (b) of this subsection, and
  - (d) in so far as any deduction to which paragraph (b) or (c) of this subsection applies cannot be applied for the benefit of the one for whose benefit it would be applicable under the paragraph in question, it shall be applied for the benefit of the other.

#### **40 Collection from wife of tax assessed on husband but attributable to her income**

- (1) Where—
- (a) an assessment to income tax (hereafter in this section referred to as " the original assessment") is made on a man, or on a man's trustee, guardian, curator, receiver or committee, or on a man's executors or administrators, and
  - (b) the Board are of opinion that, if an application for separate assessment under section 38(1) or 38(2) of this Act had been in force with respect to the year for which the assessment is made, an assessment in respect of, or of part of, the same income would have fallen to be made on, or on the trustee, guardian, curator, receiver or committee of, or on the executors or administrators of, a woman who is the said man's wife, or was his wife in that year of assessment, and
  - (c) the whole or part of the amount payable under the original assessment has remained unpaid at the expiration of twenty-eight days from the time when it became due,

the Board may serve on her, or, if she is dead, on her executors or administrators, or, if such an assessment as is referred to in paragraph (b) above could in the event therein referred to have been made on her trustee, guardian, curator, receiver or committee, on her or on her trustee, guardian, curator, receiver or committee, a notice—

- (i) giving particulars of the original assessment and of the amount remaining unpaid thereunder, and
- (ii) giving particulars, to the best of their judgment, of the assessment which would have fallen to be made as aforesaid,

and requiring the person on whom the notice is served to pay the amount which would have been payable under the last-mentioned assessment if it conformed with those particulars, or the amount remaining unpaid under the original assessment, whichever is the less.

- (2) The same consequences as respects—
- (a) the imposition of a liability to pay, and the recovery of, the tax, with or without interest, and
  - (b) priority for the tax in bankruptcy, or in the administration of the estate of a deceased person, and
  - (c) appeals to the General or Special Commissioners, and the stating of cases for the opinion of the High Court, and
  - (d) the ultimate incidence of the liability imposed,

shall follow on the service of a notice under subsection (1) above on a woman, or on her trustee, guardian, curator, receiver or committee, or on her executors or administrators, as would have followed on the making on her, or on her trustee, guardian, curator, receiver or committee, or on her executors or administrators, as the case may be, of such an assessment as is referred to in paragraph (b) of that subsection, being an assessment which—

- (i) was made on the day of the service of the notice, and
- (ii) charged the same amount of income tax as is required to be paid by the notice, and
- (iii) fell to be made, and was made, by the authority who made the original assessment, and
- (iv) was made by that authority to the best of their judgment,

and the provisions of the Income Tax Acts relating to the matters specified in paragraphs (a) to (d) of this subsection shall, with the necessary adaptations, have effect accordingly:

Provided that, where an appeal against the original assessment has been heard in whole or in part by the Special Commissioners, any appeal from the notice shall be an appeal to the Special Commissioners, and where an appeal against the original assessment has been heard in whole or in part by the General Commissioners for any division, any appeal from the notice shall be an appeal to the General Commissioners for that division.

- (3) Where a notice is given under subsection (1) above, income tax up to the amount required to be paid by the notice shall cease to be recoverable under the original assessment, and, where the tax charged by the original assessment carried interest under section 86 of the Taxes Management Act 1970, such adjustment shall be made of the amount payable under that section in relation to that assessment, and such repayment shall be made of any amounts previously paid under that section in relation thereto, as are necessary to secure that the total sum, if any, paid or payable under that section in relation to that assessment is the same as it would have been if the amount which ceases to be recoverable had never been charged.
- (4) Where the amount payable under a notice given under subsection (1) above is reduced as the result of an appeal, or of the stating of a case for the opinion of the High Court—

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- (a) the Board shall, if in the light of that result they are satisfied that the original assessment was excessive, cause such relief to be given by way of repayment or otherwise as appears to them to be just, but
  - (b) subject to any relief so given, a sum equal to the reduction in the amount payable under the notice shall again become recoverable under the original assessment.
- (5) The Board and the inspector shall have the like powers of obtaining information with a view to the giving of, and otherwise in connection with, a notice under subsection (1) above as they would have had with a view to the making of, and otherwise in connection with, such an assessment as is referred to in paragraph (b) of that subsection if the necessary conditions had been fulfilled for the making of such an assessment.

#### **41 Right of husband to disclaim liability for tax on deceased wife's income**

- (1) Where a woman dies who, at any time before her death, was a married woman living with her husband, he or, if he is dead, his executors or administrators, may, not later than two months from the date of the grant of probate or letters of administration in respect of her estate or, with the consent of her executors or administrators, at any later date, serve on her executors or administrators and on the inspector a notice in writing declaring that, to the extent permitted by this section, he or they disclaims or disclaim responsibility for unpaid income tax in respect of all income of hers for any year of assessment or part of a year of assessment during which he was her husband and she was living with him:

Provided that a notice under this section shall not be deemed to be validly served on the inspector unless it specifies the names and addresses of the woman's executors or administrators.

- (2) Where such a notice has been duly served on a woman's executors or administrators and on the inspector—
- (a) it shall be the duty of the Board to exercise such powers as they may then or thereafter be entitled to exercise under section 40 above in connection with any assessment made on or before the date when the service of the notice is completed, being an assessment in respect of any of the income to which the notice relates, and
  - (b) the assessments (if any), whether to income tax other than surtax or to surtax, which may be made after that date shall in all respects, and in particular as respects the persons assessable and the tax payable, be the assessments which would have fallen to be made if—
    - (i) an application for separate assessment under section 38(1) or 38(2) above, as the case may be, had been in force in respect of the year of assessment in question, and
    - (ii) all assessments previously made had been made accordingly.
- (3) In the application of this section to Scotland, the reference to the date of the grant of probate or letters of administration shall be construed as a reference to the date of confirmation.

#### **42 Construction of references to married women living with their husbands, etc.**

- (1) A married woman shall be treated for income tax purposes as living with her husband unless—

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- (a) they are separated under an order of a court of competent jurisdiction, or by deed of separation, or
  - (b) they are in fact separated in such circumstances that the separation is likely to be permanent.
- (2) Where a married woman is living with her husband and either—
- (a) one of them is, and one of them is not, resident in the United Kingdom for a year of assessment, or
  - (b) both of them are resident in the United Kingdom for a year of assessment, but one of them is, and one of them is not, absent from the United Kingdom throughout that year,

the same consequences shall follow for income tax purposes as would have followed if, throughout that year of assessment, they had been in fact separated in such circumstances that the separation was likely to be permanent:

Provided that, where this subsection applies and the net aggregate amount of income tax (including surtax) falling to be borne by the husband and the wife for the year is greater than it would have been but for the provisions of this subsection, the Board shall cause such relief to be given (by the reduction of such assessments on the husband or the wife or the repayment of such tax paid (by deduction or otherwise) by the husband or the wife as the Board may direct) as will reduce the said net aggregate amount by the amount of the excess.

## CHAPTER V

### AGGREGATION OF INCOME—PARENT AND CHILD

#### **43 General rule for aggregation of investment etc. income of unmarried infants not regularly working**

- (1) Subject to the following provisions of this section, an infant's income, so far as it is income for a year of assessment or part of a year of assessment during which he or she is unmarried and not regularly working, shall, in the circumstances specified in section 44 below, be treated in accordance with that section as income of his or her parent or parents.

An infant is to be treated for the purposes of this subsection as working regularly if, and only if, he or she—

- (a) is engaged in a full-time occupation, not being one entered into during an interval not exceeding fifteen months between two periods of full-time education, and
- (b) intends to be regularly engaged in that or another such occupation,

and in this provision " occupation " means any office, employment, trade, profession or vocation.

- (2) Subsection (1) above does not apply to—
- (a) earned income, or
  - (b) income derived from any sum, or from assets representing any sum, paid by way of, or in satisfaction of a claim for, damages in respect of personal injury to the infant (including any disease, and any impairment of his or her physical or mental condition) or paid in respect of any such personal injury

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by a body established for charitable purposes only, or by the Criminal Injuries Compensation Board or under any enactment of the Parliament of Northern Ireland providing for compensation in respect of criminal injuries, or

- (c) income consisting of payments made to a female infant by the putative father of a child of the infant and for the benefit, maintenance or education of that child,

but, subject to those exclusions and to subsection (3) below, applies to all such amounts as would fall to be included in computing the infant's total income apart therefrom, and so applies notwithstanding anything in any other enactment (including, except so far as the contrary is expressly provided, any enactment passed after this Act) requiring any amount not to be treated as income of anyone other than the infant.

- (3) Subsection (1) above shall not have effect in relation to an infant for any year of assessment for which his or her aggregate income, so far as it would fall within that subsection or within section 437(1) of this Act (settlements on children: treatment of income as settlor's) but for this exception and the corresponding exception in subsection (3) of the said section 437, does not exceed £5.
- (4) Income of an infant falling to be treated as income of a parent by virtue of the provisions of this Chapter shall be so treated for all income tax purposes, or for the purposes of income tax other than surtax, or for the purposes of surtax only, according to the purposes for which it would have constituted income of the infant but for those provisions.
- (5) Any tax falling to be assessed in respect of income which is to be treated by virtue of this Chapter as income of an infant's parent shall, instead of being assessed on the infant, or on the infant's trustee, guardian, curator, receiver or committee, or on the infant's executors or administrators, be assessable on the parent, or, in the appropriate cases, on the parent's trustee, guardian, curator, receiver or committee, or on the parent's executors or administrators.
- (6) This section shall be disregarded for the purposes of section 21 of the Finance Act 1965 (calculation of capital gains tax by reference to liability to income tax).

#### **44 Detailed rules**

- (1) Subject to the following provisions of this section, income to which section 43(1) above applies shall be treated as follows—
- (a) so far as it is income for a year of assessment, or part of a year of assessment, during which both parents of the infant are alive and are married to and living with each other, as income for that year of the father,
  - (b) so far as it is income for a year or part during which both parents are alive, but are either not married to each other or not living with each other, as income for that year of the father or, for any period during which the mother has actual custody of the infant, as income for that year of the mother, and
  - (c) so far as it is income for a year or part during which one only of the parents is alive, as income for the year of that parent.
- (2) So far as any income to which the said section 43(1) applies is income for a year of assessment, or part of a year of assessment, of an infant who is illegitimate and has not been adopted, subsection (1) above shall not apply to the income, but it shall be treated instead as income for that year of the mother, or, for any period during which the father has actual custody of the infant, as income for that year of the father.

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- (3) Subsection (1) above shall not apply to any income so far as it is income for a year of assessment, or part of a year of assessment, during which the infant was in law in the custody of a person or persons other than a parent, and was not in the actual custody of a parent.
- (4) Where, in the case of any income falling within subsection (1)(a) above, one of the infant's parents is, and one is not, resident for the year in the United Kingdom, the said subsection (1)(a) shall have effect in relation thereto as if, instead of specifying the infant's father, it specified the parent resident for the year in the United Kingdom if the infant is so resident, and the other parent if the infant is not so resident.
- (5) Nothing in this section shall have effect so as to treat income of an infant resident in the United Kingdom for any year of assessment as income of a parent not so resident for that year, or income of an infant not so resident for any year as income of a parent so resident for that year.

#### **45 Consequences of aggregation as respects certain payments involving tax reliefs**

- (1) Where income of an infant for any period is treated by virtue of this Chapter as income of a parent, and the infant has made payments of either of the following descriptions—
  - (a) annual payments in respect of which a deduction is permitted in computing for that period total income for the purposes of income tax or surtax, or
  - (b) payments in that period of interest in respect of which income tax at the standard rate is repayable,the said payments shall, to the extent of that income, be treated as having been made thereout by the parent instead of by the infant, and in the order in which they are described above.
- (2) Where income of an infant for any period is so treated, and the infant has during that period made payments qualifying for relief under section 19 of this Act (life policy and annuity contract premiums), the deductions from tax to which the infant would apart from this subsection be entitled by reason of those payments shall, to the extent that the payments could have been made out of the income so treated (or, where subsection (1) above has effect, out of that income reduced by the payments falling within that subsection), be made instead from the tax with which the parent is chargeable.

#### **46 Right of parent to recover tax on aggregated income**

- (1) Where income of an infant is treated by virtue of this Chapter as income of a parent for any year of assessment, the parent shall be entitled to recover from the infant an amount equal to that by which the tax chargeable on and payable by the parent for the year exceeds that which would have been so chargeable and payable if the income had not been so treated:

Provided that, so far as the excess is attributable to trust income which has not been distributed, the right conferred by this subsection shall be exercisable against that income instead of against the infant.
- (2) A parent may require from the Board a certificate specifying in relation to any income the amount of tax which he or she is entitled to recover under subsection (1) above from trustees, and any such certificate shall be conclusive evidence of that amount.

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#### **47 Accountability of parent for tax repayments attributable to aggregation**

Where income of an infant is treated as income of a parent by virtue of this Chapter, and, by reason thereof, the parent obtains in respect of any allowance or relief a repayment of tax in excess of that to which he or she would have been entitled if the income had not been so treated, the parent shall pay an amount equal to the excess to the infant, or, if the income arose under a trust, to the trustees.

#### **48 Supplemental**

- (1) For the purposes of this Chapter, an infant's parents are to be treated as living with each other unless—
  - (a) they are separated under an order of a court of competent jurisdiction, or by deed of separation, or
  - (b) they are in fact separated in such circumstances that the separation is likely to be permanent.
- (2) Where a parent appeals against any assessment or decision on a claim on the grounds that an infant was not, or was, in his or her actual custody for any period, or was or was not for any period in the actual custody of the other parent, the other parent shall be entitled to appear and be heard on that question by the Commissioners hearing the appeal; and, as respects that question—
  - (a) if the other parent does so appear, the determination of the Commissioners shall for the purposes of income tax be final and conclusive against him or her, save that he or she shall have the same right as the appellant to require the statement of a case for the opinion of the High Court, and
  - (b) the determination of the Commissioners shall also be final and conclusive against the other parent if he or she fails without reasonable cause to appear.
- (3) A trustee shall, on being so required in writing by a parent of any beneficiary under the trust, give to the parent details of the trust income arising to the beneficiary for any year of assessment during or for any part of which the beneficiary is an infant.
- (4) In this Chapter—
  - " infant " means a person who has not attained the age of eighteen,
  - " parent " means, in relation to an infant who has been adopted, a parent by adoption (with references to the father and the mother of an infant construed accordingly), and references to adoption include references to adoption under the law of any territory outside the United Kingdom.

## **CHAPTER VI**

### RESIDENCE

#### **49 British subjects etc. temporarily abroad**

Every British subject or citizen of the Republic of Ireland shall, if his ordinary residence has been in the United Kingdom, be assessed and charged to income tax notwithstanding that at the time the assessment or charge is made he may have left the United Kingdom, if he has so left the United Kingdom for the purpose only of occasional residence abroad, and shall be charged as a person actually residing in the United Kingdom upon the whole amount of his profits or gains, whether they arise



from property in the United Kingdom or elsewhere, or from any allowance, annuity or stipend, or from any trade, profession, employment or vocation in the United Kingdom or elsewhere.

## **50 Residence of persons working abroad**

- (1) Where a person works full-time in one or more of the following, that is to say, a trade, profession, vocation, office or employment, and the condition mentioned in subsection (2) below is satisfied, the question whether he is resident in the United Kingdom shall be decided without regard to any place of abode maintained in the United Kingdom for his use.
- (2) The said condition is that no part of the trade, profession or vocation is carried on in the United Kingdom and all the duties of the office or employment are performed outside the United Kingdom.
- (3) Where an office or employment is in substance one of which the duties fall in the year of assessment to be performed outside the United Kingdom there shall be treated for the purposes of this section as so performed any duties performed in the United Kingdom the performance of which is merely incidental to the performance of the other duties outside the United Kingdom.

## **51 Temporary residents in United Kingdom**

- (1) A person shall not be charged to income tax under Schedule D as a person residing in the United Kingdom, in respect of profits or gains received in respect of possessions or securities out of the United Kingdom, who is in the United Kingdom for some temporary purpose only and not with any view or intent of establishing his residence therein, and who has not actually resided in the United Kingdom at one time or several times for a period equal in the whole to six months in any year of assessment, but if any such person resides in the United Kingdom for the aforesaid period he shall be so chargeable for that year.
- (2) For the purposes of Cases I, II and III of Schedule E, a person who is in the United Kingdom for some temporary purpose only and not with the intention of establishing his residence there shall not be treated as resident in the United Kingdom if he has not in the aggregate spent at least six months in the United Kingdom in the year of assessment, but shall be treated as resident there if he has.