



Income and Corporation Taxes Act 1970

1970 CHAPTER 10

PART XI

COMPANY TAXATION

CHAPTER II

COMPANIES' CAPITAL GAINS

General provisions

265 Computation of chargeable gains

- (1) Subject to the provisions of this section, the amount to be included in respect of chargeable gains in a company's total profits for any accounting period shall be the total amount of chargeable gains accruing to the company in the accounting period after deducting any allowable losses accruing to the company in the period and, so far as they have not been allowed as a deduction from chargeable gains accruing in any previous accounting period, any allowable losses previously (but not earlier than the year 1965-66) accruing to the company while it has been within the charge to corporation tax.
- (2) Except as otherwise provided by the Corporation Tax Acts, the total amount of the chargeable gains to be so included shall for purposes of corporation tax be computed in accordance with the principles applying for capital gains tax, all questions as to the amounts which are or are not to be taken into account as chargeable gains or as allowable losses, or in computing gains or losses, or charged to tax as a person's gain, or as to the time when any such amount is to be treated as accruing, being determined in accordance with the provisions relating to capital gains tax as if accounting periods were years of assessment.
- (3) Subject to subsection (4) below, where the enactments relating to capital gains tax contain any reference to income tax or to the Income Tax Acts the reference shall,

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in relation to a company, be construed as a reference to corporation tax or to the Corporation Tax Acts ; but—

- (a) this subsection shall not affect the references to income tax in paragraph 5(2) of Schedule 6 to the Finance Act 1965 (exclusion of expenditure by reference to hypothetical income tax),
 - (b) nothing in this section shall be taken as applying for corporation tax section 21 of the said Act (alternative charge to tax on capital gains accruing to an individual), and
 - (c) in so far as the said provisions operate by reference to matters of any specified description, account shall for corporation tax be taken of matters of that description which are confined to companies, but not of any which are confined to individuals.
- (4) Part III of the Finance Act 1965 as extended by this section shall not be affected in its operation by the fact that capital gains tax and corporation tax are distinct taxes but, so far as is consistent with the Corporation Tax Acts, shall apply in relation to capital gains tax and corporation tax on chargeable gains as if they were one tax, so that, in particular, a matter which in a case involving two individuals is relevant for both of them in relation to capital gains tax shall in a like case involving an individual and a company be relevant for him in relation to that tax and for it in relation to corporation tax.
- (5) Where assets of a company are vested in a liquidator under section 244 of the Companies Act 1948, or section 226 of the Companies Act (Northern Ireland) 1960, or otherwise, this section and the enactments applied by this section shall apply as if the assets were vested in, and the acts of the liquidator in relation to the assets were the acts of, the company (acquisitions from or disposals to him by the company being disregarded accordingly).

266 Corporation tax attributable to chargeable gains: recovery from shareholder

- (1) This section applies where a person who is connected with a company resident in the United Kingdom receives or becomes entitled to receive in respect of shares in the company any capital distribution from the company, other than a capital distribution representing a reduction of capital, and—
 - (a) the capital so distributed derives from the disposal of assets in respect of which a chargeable gain accrues to the company; or
 - (b) the distribution constitutes such a disposal of assets.
- (2) If the corporation tax assessed on the company for the accounting period in which the chargeable gain accrues included any amount in respect of chargeable gains, and any of the tax assessed on the company for that period is not paid within six months from the date when it becomes payable by the company, the said person may by an assessment made within two years from that date be assessed and charged (in the name of the company) to an amount of that corporation tax—
 - (a) not exceeding the amount or value of the capital distribution which that person has received or become entitled to receive; and
 - (b) not exceeding a proportion equal to that person's share of the capital distribution made by the company of corporation tax on the amount of that gain at the rate in force when the gain accrued.
- (3) A person paying any amount of tax under this section shall be entitled to recover a sum equal to that amount from the company.

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- (4) The provisions of this section are without prejudice to any liability of the person receiving or becoming entitled to receive the capital distribution in respect of a chargeable gain accruing to him by reference to the capital distribution as constituting a disposal of an interest in shares in the company.
- (5) In this section " capital distribution " has the same meaning as in paragraph 3 of Schedule 7 to the Finance Act 1965 and " connected with " shall be construed in accordance with section 533 of this Act.

267 Company reconstruction or amalgamation: transfer of assets

- (1) Subject to the provisions of this section, where—
 - (a) any scheme of reconstruction or amalgamation involves the transfer of the whole or part of a company's business to another company, and
 - (b) the transfer takes effect after 5th April 1970, and
 - (c) at the time of the transfer both the companies are resident in the United Kingdom, and
 - (d) the first-mentioned company receives no part of the consideration for the transfer (otherwise than by the other company taking over the whole or part of the liabilities of the business),

then so far as relates to corporation tax on chargeable gains the two companies shall be treated as if any assets included in the transfer were acquired by the one company from the other company for a consideration of such amount as would secure that on the disposal by way of transfer neither a gain nor a loss would accrue to the company making the disposal, and for the purposes of Part II of Schedule 6 to the Finance Act 1965 (assets held on 6th April 1965) the acquiring company shall be treated as if the respective acquisitions of the assets by the other company had been the acquiring company's acquisition of them.

- (2) This section does not apply in relation to an asset which, until the transfer, formed part of trading stock of a trade carried on by the company making the disposal, or in relation to an asset which is acquired as trading stock for the purposes of a trade carried on by the company acquiring the asset.
- (3) This section does not apply in the case of a transfer of the whole or part of a company's business to a unit trust scheme to which subsection (1) or subsection (2) of section 38 of the Finance Act 1965 (unit trusts for exempt unit holders) applies.
- (4) In this section—
 - " scheme of reconstruction or amalgamation " means a scheme for the reconstruction of any company or companies or the amalgamation of any two or more companies,
 - " trading stock " has the meaning given by section 137(4) of this Act.

268 Postponement of charge on transfer of assets to nonresident company

- (1) This section applies where a company resident in the United Kingdom which is carrying on a trade outside the United Kingdom through a branch or agency transfers the trade carried on through that branch or agency, together with the whole assets of the business used for the purposes of that trade, or together with the whole of those assets other than cash, to a company not resident in the United Kingdom, and the business is so transferred wholly or partly in exchange for shares or for shares and loan

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stock issued by the transferee company to the transferor company, and the shares so issued, either alone or taken together with any other shares in the transferee company already held by the transferor company, amount in all to not less than one quarter of the ordinary share capital of the transferee company.

(2) For the purposes of Part III of the Finance Act 1965, the transferor company shall be treated as if a fraction of any chargeable gain accruing to it on its disposal of any asset so transferred to the transferee company did not accrue to the transferor company until—

- (a) the transferee company disposes or partly disposes of that asset, or ceases to use it, or is wound up or dissolved, or
- (b) the transferor company disposes of all or any of the shares or loan stock issued in exchange by the transferee company, or
- (c) the expiration of a period of ten years beginning with the transfer, or
- (d) the passing of a resolution or the making of an order, or any other act, for the winding up of the transferor company (unless that company is not in fact wound up or dissolved),

whichever event comes first.

(3) A disposal of shares or loan stock by the transferor company which, by virtue of section 273 below, is treated as giving rise to neither a gain nor a loss shall be disregarded for the purposes of subsection (2)(b) above, but on the first occasion after such a disposal that there is a disposal which is not so treated of all or any of those shares or that loan stock, that subsection shall apply as if the disposal were a disposal by the transferor company.

(4) The fraction referred to in subsection (2) above is

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

where—

A is the market value at the time of the transfer of the shares and of any loan stock received by the transferor company in exchange for the business (including any such assets as are referred to in subsection (1) above), and

B is the market value at the time of the transfer of the whole of the consideration so received by the transferor company.

(5) For the purposes of this section the ordinary share capital of a company means all the issued share capital (by whatever name called) of the company, other than capital the holders of which have a right to a dividend at a fixed rate but have no other right to share in the profits of the company; and if all or part of the ordinary share capital of the transferee company consists of shares of no par value, the proportion of one quarter shall be determined according to the market value of the ordinary share capital at the time of the transfer.

(6) All such adjustments shall be made by discharge or repayment of tax as are required to give effect to the provisions of this section.

(7) This section applies only in relation to a transfer of a trade and assets after 10th April 1968.

269 Interest charged to capital

(1) Where—

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- (a) a company incurs expenditure on the construction of any building, structure or works, being expenditure allowable as a deduction under paragraph 4 of Schedule 6 to the Finance Act 1965 in computing a gain accruing to the company on the disposal of the building, structure or work, or of any asset comprising it, and
 - (b) that expenditure was defrayed out of borrowed money, and
 - (c) the company charged to capital all or any of the interest on that borrowed money referable to a period or part of a period ending on or before the disposal,
- the sums so allowable under the said paragraph 4 shall include the amount of that interest charged to capital.
- (2) Paragraph 3 of Schedule 14 to the Finance Act 1967 (restriction on deductions where gain computed by reference to current use value of land) shall not restrict the sums allowable under subsection (1) above.

Gilt-edged securities: restrictions on exemptions

270 Charge to tax on certain disposals of United Kingdom securities

- (1) Subsection (1) of section 41 of the Finance Act 1969 (gilt-edged securities exempt from tax on capital gains) does not apply in the case of a disposal by a company of any specified securities unless the disposal occurs more than twelve months after the acquisition of the securities, and in this section "specified securities" has the same meaning as in the said section 41.
- (2) For the purposes of subsection (1) above—
- (a) if in consequence of a conversion on their redemption of any specified securities, those securities and a new holding of specified securities are, under paragraph 4(2) of Schedule 7 to the Finance Act 1965, as applied by paragraph 5 of that Schedule, to be treated as the same asset acquired as the converted securities were acquired, the date of acquisition of the new holding shall be deemed to be the date of the acquisition of the converted securities ; and
 - (b) the rules of identification in paragraph 8 of Schedule 7 to this Act shall apply, and
 - (c) in relation to a disposal of specified securities to which, by virtue of subsection (1) above, the said section 41(1) does not apply, the expenditure allowable under paragraph 4 of Schedule 6 to the Finance Act 1965 (cost of acquisition, etc.) shall, notwithstanding the provisions as to the pooling of securities in Schedule 7 to that Act, be determined by reference to the acquisition of the securities identified in accordance with paragraph (b) above.
- (3) Where under section 273 below the companies disposing of and acquiring an asset are to be treated as if the consideration were of such an amount that neither a gain nor a loss accrues on the disposal, the company acquiring the asset shall be treated for the purposes of subsections (1) and (2) above (and of the enactments referred to in subsection (2) above so far as applied for the purposes of subsection (1) above) as acquiring it at the time when the other acquired it.
- (4) In any case where—
- (a) at 3.30 p.m. on 15th April 1969 (in the following provisions of this section referred to as "the relevant time") or at any time thereafter (whether before or after the commencement of this Act) any specified securities were held by a

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company in such circumstances that any gain or loss on their disposal would, apart from section 41 of the Finance Act 1969 (and Schedule 9 to the Finance Act 1965), have been taken into account in determining the company's liability to corporation tax on chargeable gains, and

- (b) those securities are subsequently appropriated by the company in such circumstances that if they were disposed of after the appropriation, any profit accruing on their disposal would be brought into account in computing the company's income for corporation tax,

then for the purposes of corporation tax any loss incurred by the company on the disposal of those securities shall not exceed the loss which would have been incurred on that disposal if the amount or value of the consideration for the acquisition of the securities had been equal to their market value at the time of the appropriation.

- (5) In any case where—

- (a) at the relevant time or at any time thereafter (whether before or after the commencement of this Act) any specified securities were held by a company in such circumstances that any profit accruing on their disposal would be brought into account in computing the company's income for corporation tax, and
- (b) those securities are subsequently appropriated by the company in such circumstances that any gain accruing on their disposal would, by virtue of section 41 of the Finance Act 1969, be exempt from corporation tax on chargeable gains,

then for the purposes of corporation tax the company shall be treated as if, immediately before the appropriation, it had sold and repurchased the specified securities at their market value at the time of the appropriation.

271 Charge to tax on certain disposals of Guaranteed Stock issued at a discount

- (1) Section 27(3) of the Finance Act 1965 (gains and losses on certain Guaranteed Stock disregarded for purposes of tax on chargeable gains if within the exempt price range) shall not apply in the case of a disposal by a company unless the disposal of the securities occurs more than twelve months after their acquisition.
- (2) Paragraph 5(2) of Schedule 7 to that Act (conversion of certain Guaranteed Stock) shall not apply to a disposal of, or of part of, the new holding unless the disposal occurs more than twelve months after the acquisition of the converted securities.
- (3) The rules of identification in paragraph 8 of Schedule 7 to this Act shall apply for the purposes of this section and where this section applies in relation to any disposal, paragraph 2(4) of Schedule 7 to the Finance Act 1965 (pooling of securities: exclusion of those subject to tax under Case VII of Schedule D) shall apply as if that disposal had been chargeable to income tax under Case VII of Schedule D (tax on short-term gains).
- (4) Where under section 273 below the companies disposing of and acquiring an asset are to be treated as if the consideration were of such amount that neither a gain nor a loss accrues on the disposal, the company acquiring the asset shall be treated for the purposes of the preceding provisions of this section as acquiring it at the time when the other acquired it.

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Groups of companies

272 Groups of companies: definitions

- (1) For the purposes of this and the following sections of this Chapter—
 - (a) references to a company, subject to section 280(7) below, apply only to a company, as that expression is limited by subsection (2) below, which is resident in the United Kingdom;
 - (b) a principal company, and all its 75 per cent. subsidiaries form a group, and where a principal company is a member of a group as being itself a 75 per cent. subsidiary that group shall comprise all its 75 per cent. subsidiaries;
 - (c) " principal company" means a company of which another company is a 75 per cent. subsidiary;
 - (d) in applying the definition of " 75 per cent. subsidiary " in section 532 of this Act any share capital of a registered industrial and provident society shall be treated as ordinary share capital; and
 - (e) " group " and " subsidiary " shall be construed with any necessary modifications where applied to a company incorporated under the law of a country outside the United Kingdom.
- (2) For the purposes referred to in subsection (1) above references to a company apply only to—
 - (a) a company within the meaning of the Companies Act 1948 or the corresponding enactment in Northern Ireland, and
 - (b) a company which is constituted under any other Act or a Royal Charter or letters patent or (although resident in the United Kingdom) is formed under the law of a country or territory outside the United Kingdom, and
 - (c) a registered industrial and provident society within the meaning of section 340 of this Act.
- (3) For the purposes referred to in subsection (1) above a group remains the same group so long as the same company remains the principal company of the group, and if at any time the principal company of a group becomes a 75 per cent. subsidiary of another company the group of which it was the principal company before that time shall be regarded as the same as the group of which that other company, or one of which it is a 75 per cent. subsidiary, is the principal company, and the question whether or not a company has ceased to be a member of a group shall be determined accordingly.
- (4) For the purposes referred to in subsection (1) above the passing of a resolution or the making of an order, or any other act, for the winding-up of a company shall not be regarded as the occasion of that company, or of any 75 per cent. subsidiary of that company, ceasing to be a member of a group of companies.
- (5) The following sections of this Chapter, except in so far as they relate to recovery of tax, shall also have effect in relation to bodies from time to time established by or under any enactment for the carrying on of any industry or part of an industry, or of any undertaking, under national ownership or control as if they were companies within the meaning of those sections, and as if any such bodies charged with related functions (and in particular the Boards and Holding Company established under the Transport Act 1962 and the new authorities within the meaning of the Transport Act 1968 established under that Act of 1968) and subsidiaries of any of them formed a group, and as if also any two or more such bodies charged at different times with the same or related functions were members of a group:

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Provided that this subsection shall have effect subject to any enactment by virtue of which property, rights, liabilities or activities of one such body fall to be treated for corporation tax as those of another, including in particular any such enactment in Chapter V of Part XII of this Act.

- (6) The following sections of this Chapter, except in so far as they relate to recovery of tax, shall also have effect in relation to the Executive for a designated area within the meaning of section 9 (1) of the Transport Act 1968 as if that Executive were a company within the meaning of those sections.

273 Transfers within a group

- (1) Notwithstanding any provision in Part III of the Finance Act 1965 fixing the amount of the consideration deemed to be received on a disposal or given on an acquisition, where a member of a group of companies disposes of an asset to another member of the group, both members shall, except as provided by subsections (2) and (3) below, be treated, so far as relates to corporation tax on chargeable gains, as if the asset acquired by the member to whom the disposal is made were acquired for a consideration of such amount as would secure that on the other's disposal neither a gain nor a loss would accrue to that other; but where it is assumed for any purpose that a member of a group of companies has sold or acquired an asset, it shall be assumed also that it was not a sale to or acquisition from another member of the group.

- (2) Subsection (1) above shall not apply where the disposal is—
- (a) a disposal of a debt due from a member of a group of companies effected by satisfying the debt or part of it; or
 - (b) a disposal of redeemable shares in a company on the occasion of their redemption ;

and the reference in that subsection to a member of a group of companies disposing of an asset shall not apply to anything which under Schedule 7 to the Finance Act 1965 is to be treated as a disposal of an interest in shares in a company in consideration for a capital distribution (as defined in paragraph 3 of that Schedule) from that company, whether or not involving a reduction of capital.

- (3) For the purposes of subsection (1) above, so far as the consideration for the disposal consists of money or money's worth by way of compensation for any kind of damage or injury to assets, or for the destruction or dissipation of assets or for anything which depreciates or might depreciate an asset, the disposal shall be treated as being to the person who, whether as an insurer or otherwise, ultimately bears the burden of furnishing that consideration.

274 Transfers within a group: trading stock

- (1) Where a member of a group of companies acquires an asset as trading stock from another member of the group, and the asset did not form part of the trading stock of any trade carried on by the other member, the member acquiring it shall be treated for purposes of paragraph 1 of Schedule 7 to the Finance Act 1965 as having acquired the asset otherwise than as trading stock and immediately appropriated it for the purposes of the trade as trading stock.
- (2) Where a member of a group of companies disposes of an asset to another member of the group, and the asset formed part of the trading stock of a trade carried on by the member disposing of it but is acquired by the other member otherwise than as trading

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stock of a trade carried on by it, the member disposing of the asset shall be treated for purposes of paragraph 1 of Schedule 7 to the Finance Act 1965 as having immediately before the disposal appropriated the asset for some purpose other than the purpose of use as trading stock.

275 Disposal or acquisition outside a group

- (1) Where a company which is or has been a member of a group of companies disposes of an asset which it acquired from another member of the group at a time when both were members of the group, paragraph 6 of Schedule 6 to the Finance Act 1965 (restriction of losses by reference to capital allowances) shall apply in relation to any capital allowances made to the other member (so far as not taken into account in relation to a disposal of the asset by that other member), and so on as respects previous transfers of the asset between members of the group (but this shall not be taken as affecting the consideration for which an asset is deemed under section 273(1) above to be acquired).
- (2) Part II of Schedule 6 to the Finance Act 1965 (assets acquired before 6th April 1965) shall apply in relation to a disposal of an asset by a company which is or has been a member of a group of companies, and which acquired the asset from another member of the group at a time when both were members of the group, as if all members of the group for the time being were the same person, and as if the acquisition or provision of the asset by the group, so taken as a single person, had been the acquisition or provision of it by the member disposing of it.

276 Replacement of business assets by members of a group

- (1) For the purposes of section 33 of the Finance Act 1965 (replacement of business assets) all the trades carried on by members of a group of companies shall be treated as a single trade (unless it is a case of one member of the group acquiring, or acquiring the interest in, the new assets from another or disposing of, or of the interest in, the old assets to another).
- (2) Paragraph 16(2) of Schedule 19 to the Finance Act 1969 (special rules for depreciating assets) shall apply where the company making the claim is a member of a group of companies as if all members of the group for the time being were the same person (and, in accordance with subsection (1) above, as if all trades carried on by members were the same trade) and so that the gain shall accrue to the member of the group holding the asset concerned on the occurrence of the event mentioned in the said paragraph 16(2).

277 Tax on company recoverable from other members of group

- (1) If at any time a chargeable gain accrues to a company which at that time is a member of a group of companies and any of the corporation tax assessed on the company for the accounting period in which the chargeable gain accrues is not paid within six months from the date when it becomes payable by the company, then, if the tax so assessed included any amount in respect of chargeable gains.—
 - (a) a company which was at the time when the gain accrued the principal company of the group ; and
 - (b) any other company which in any part of the period of two years ending with that time was a member of the said group of companies and owned the asset disposed of or any part of it, or where that asset is an interest or right in or over another asset, owned either asset or any part of either asset;

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may at any time within two years from the time when the tax became payable be assessed and charged (in the name of the company to whom the chargeable gain accrued) to an amount of that corporation tax not exceeding corporation tax on the amount of that gain at the rate in force when the gain accrued.

- (2) A company paying any amount of tax under subsection (1) above shall be entitled to recover a sum of that amount—
- (a) from the company to which the chargeable gain accrued, or
 - (b) if that company is not the company which was the principal company of the group at the time when the chargeable gain accrued, from that principal company,

and a company paying any amount under paragraph (b) above shall be entitled to recover a sum of that amount from the company to which the chargeable gain accrued, and so far as it is not so recovered, to recover from any company which is for the time being a member of the group and which has while a member of the group owned the asset disposed of or any part of it (or where that asset is an interest or right in or over another asset, owned either asset or any part of it) such proportion of the amount unrecovered as is just having regard to the value of the asset at the time when the asset, or an interest or right in or over it, was disposed of by that company.

278 Company ceasing to be member of a group

- (1) If a company (in this section called the chargeable company) ceases to be a member of a group of companies, this section shall have effect as respects any asset which the chargeable company acquired from another company which was at the time of acquisition a member of that group of companies, but only if the time of acquisition fell—
- (a) on or after 6th April 1965, and
 - (b) within the period of six years ending with the time when the company ceases to be a member of the group;

and references in this section to a company ceasing to be a member of a group of companies do not apply to cases where a company ceases to be a member of a group by being wound up or dissolved or in consequence of another member of the group being wound up or dissolved.

- (2) Where two or more associated companies cease to be members of the group at the same time, subsection (1) above shall not have effect as respects an acquisition by one from another of those associated companies.
- (3) If, when the chargeable company ceases to be a member of the group, the chargeable company, or an associated company also leaving the group, owns, otherwise than as trading stock—
- (a) the asset, or
 - (b) property to which a chargeable gain has been carried forward from the asset on a replacement of business assets,

the chargeable company shall be treated for all the purposes of Part III of the Finance Act 1965 as if immediately after its acquisition of the asset it had sold, and immediately reacquired, the asset at market value at that time.

- (4) For the purposes of this section—
- (a) two or more companies are associated companies if, by themselves, they would form a group of companies,

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- (b) a chargeable gain is carried forward from an asset to other property on a replacement of business assets if, by one or more claims under section 33 of the Finance Act 1965, the chargeable gain accruing on a disposal of the asset is reduced, and as a result an amount falls to be deducted from the expenditure allowable in computing a gain accruing on the disposal of the other property,
 - (c) an asset acquired by the chargeable company shall be treated as the same as an asset owned at a later time by that company or an associated company if the value of the second asset is derived in whole or in part from the first asset, and in particular where the second asset is a freehold, and the first asset was a leasehold and the lessee has acquired the reversion.
- (5) If any of the corporation tax assessed on a company in consequence of this section is not paid within six months from the date when it becomes payable then—
- (a) a company which on the said date, or immediately after the chargeable company ceased to be a member of the group, was the principal company of the group, and
 - (b) a company which owned the asset on the said date, or when the chargeable company ceased to be a member of the group,
- may at any time within two years from the time when the tax became payable, be assessed and charged (in the name of the chargeable company) to all or any part of that tax ; and a company paying any amount of tax under this subsection shall be entitled to recover a sum of that amount from the chargeable company.
- (6) Notwithstanding any limitation on the time for making assessments, an assessment to corporation tax chargeable in consequence of this section may be made at any time within six years from the time when the chargeable company ceased to be a member of the group, and where under this section the chargeable company is to be treated as having disposed of, and reacquired, an asset, all such recomputations of liability in respect of other disposals, and all such adjustments of tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the provisions of this section shall be carried out.
- (7) The provision in subsection (3) above making the assumption that an asset is sold and re-acquired at market value shall, in accordance with paragraph 7(1) of Schedule 14 to the Finance Act 1967, have effect subject to the provisions of section 33 of that Act (current use value of land in Great Britain).
- (8) This section has effect, to the exclusion of the corresponding enactments repealed by this Act, where the chargeable company ceases to be a member of the group in an accounting period ending after 5th April 1970, and not only in respect of tax for such an accounting period but also in respect of tax for accounting periods ending on or before that date.

279 Shares in subsidiary member of a group

- (1) This section has effect if a company (in this section called " the subsidiary ") ceases to be a member of a group of companies, and on an earlier occasion shares in the subsidiary were disposed of by another company (in this section called " the chargeable company") which was then a member of that group in the course of an amalgamation or reconstruction in the group, but only if that earlier occasion fell—
- (a) on or after 6th April 1965, and
 - (b) within the period of six years ending with the date on which the subsidiary ceases to be a member of the group;

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and references in this section to a company ceasing to be a member of a group of companies do not apply to cases where a company ceases to be a member of a group by being wound up or dissolved or in consequence of another member of the group being wound up or dissolved.

- (2) The chargeable company shall be treated, for all the purposes of Part III of the Finance Act 1965, as if immediately before the earlier occasion it had sold, and immediately reacquired, the said shares at market value at that time.
- (3) If, before the subsidiary ceases to be a member of the group, the chargeable company has ceased to exist, or a resolution has been passed, or an order made, for the winding up of the company, or any other act has been done for the like purpose, any corporation tax to which, if the chargeable company had continued in existence, it would have been chargeable in consequence of this section may be assessed and charged (in the name of the chargeable company) on the company which is, at the time when the subsidiary ceases to be a member of the group, the principal company of the group.
- (4) If any of the corporation tax assessed on a company in consequence of this section, or in pursuance of subsection (3) above, is not paid within six months from the date when it becomes payable, then—
 - (a) a company which is on the said date, or was on the earlier occasion, the principal company of the group, and
 - (b) any company taking an interest in the subsidiary as part of the amalgamation or reconstruction in the group,may at any time within two years from the time when the tax became payable, be assessed and charged (in the name of the chargeable company) to all or any part of that tax; and a company paying any amount of tax under this subsection shall be entitled to recover a sum of that amount from the chargeable company, or as the case may be from the company assessed under subsection (3) above.
- (5) Notwithstanding any limitation on the time for making assessments, an assessment to corporation tax chargeable in consequence of this section may be made at any time within six years from the time when the subsidiary ceased to be a member of the group and, in relation to any disposal of the property after the earlier occasion, there shall be made all such adjustments of tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the provisions of this section.
- (6) For the purposes of this section there is a disposal of shares in the course of an amalgamation or reconstruction in a group of companies if paragraph 6 or paragraph 7 of Schedule 7 to the Finance Act 1965 (company amalgamations) applies to shares in a company so as to equate them with shares in or debentures of another company, and the companies are members of the same group, or become members of the same group as a result of the amalgamation or reconstruction.
- (7) Where by virtue of paragraph 7 of the said Schedule 7 shares are to be treated as cancelled and replaced by a new issue, references in this section to a disposal of shares include references to the occasion of their being so treated.
- (8) This section has effect, to the exclusion of the corresponding enactments repealed by this Act, where the subsidiary ceases to be a member of the group in an accounting period of the chargeable company (or, as the case may be, of the company assessable under subsection (3) above) ending after 5th April 1970, and not only in respect of tax

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for such an accounting period but also in respect of tax for accounting periods ending on or before that date.

Losses attributable to depreciatory transactions

280 Transactions in a group

- (1) This section has effect as respects a disposal of shares in, or securities of, a company (in this section referred to as an "ultimate disposal") if the value of the shares or securities has been materially reduced by a depreciatory transaction effected on or after 6th April 1965; and for this purpose "depreciatory transaction" means—
- (a) any disposal of assets at other than market value by one member of a group of companies to another, or
 - (b) unless the ultimate disposal occurred before 30th April 1969, any other transaction satisfying the conditions of subsection (2) below:

Provided that a transaction shall not be treated as a depreciatory transaction to the extent that it consists of a payment which is required to be or has been brought into account, for the purposes of corporation tax on chargeable gains, in computing a chargeable gain or allowable loss accruing to the person making the ultimate disposal.

- (2) The conditions referred to in subsection (1)(b) above are—
- (a) that the company, the shares in which, or securities of which, are the subject of the ultimate disposal, or any 75 per cent. subsidiary of that company, was a party to the transaction, and
 - (b) that the parties to the transaction were or included two or more companies which at the time of the transaction were members of the same group of companies.
- (3) Without prejudice to the generality of subsection (1) above, the cancellation of any shares in or securities of one member of a group of companies under section 66 of the Companies Act 1948 shall, to the extent that immediately before the cancellation those shares or securities were the property of another member of the group, be taken to be a transaction fulfilling the conditions in subsection (2) above.
- (4) If the person making the ultimate disposal is, or has at any time been, a member of the group of companies referred to in subsection (1) or (2) above, any allowable loss accruing on the disposal shall be reduced to such extent as appears to the inspector, or on appeal the Commissioners concerned, to be just and reasonable having regard to the depreciatory transaction :

Provided that if the person making the ultimate disposal is not a member of the said group when he disposes of the shares or securities, no reduction of the loss shall be made by reference to a depreciatory transaction which took place when that person was not a member of the said group.

- (5) The inspector or the Commissioners shall make the decision under subsection (4) above on the footing that the allowable loss ought not to reflect any diminution in the value of the company's assets which was attributable to a depreciatory transaction if and so far as the effect of the transaction was to increase the value of the assets of any other member of the group, but allowance may be made for any other transaction on or after 6th April 1965 which has enhanced the value of the company's assets and depreciated the value of the assets of any other member of the group.

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- (6) If, under subsection (4) above, a reduction is made in an allowable loss, any chargeable gain accruing on a disposal of the shares or securities of any other company which was a party to the depreciatory transaction by reference to which the reduction was made, being a disposal not later than six years after the depreciatory transaction, shall be reduced to such extent as appears to the inspector, or on appeal to the Commissioners concerned, to be just and reasonable having regard to the effect of the depreciatory transaction on the value of those shares or securities at the time of their disposal:

Provided that the total amount of any one or more reductions in chargeable gains made by reference to a depreciatory transaction shall not exceed the amount of the reductions in allowable losses made by reference to that depreciatory transaction. All such adjustments, whether by way of discharge or repayment of tax, or otherwise, as are required to give effect to the provisions of this subsection may be made at any time.

- (7) For the purposes of this section—
- " securities " includes any loan stock or similar security whether secured or unsecured,
 - references to the disposal of assets include references to any method by which one company which is a member of a group appropriates the goodwill of another member of the group,
 - a " group of companies " may consist of companies some or all of which are not resident in the United Kingdom.
- (8) References in this section to the disposal of shares or securities include references to the occasion of the making of a claim under section 23(4) of the Finance Act 1965 that the value of shares or securities has become negligible, and references to a person making a disposal shall be construed accordingly.

281 Dividend stripping

- (1) The provisions of this section apply where one company (in this section referred to as " the first company ") has a holding in another company (in this section referred to as " the second company ") and the following conditions are fulfilled—
- (a) that the holding amounts to, or is an ingredient in a holding amounting to, 10 per cent. of all holdings of the same class in the second company,
 - (b) that the first company is not a dealing company in relation to the holding,
 - (c) that a distribution is or has been made after 29th April 1969 to the first company in respect of the holding, and
 - (d) that the effect of the distribution is that the value of the holding is or has been materially reduced.
- (2) Where this section applies in relation to a holding section 280 above shall apply in relation to any disposal of any shares or securities comprised in the holding, whether the disposal is by the first company or by any other company to which the holding is transferred by a transfer to which section 273 above applies, as if the distribution were a depreciatory transaction and, if the companies concerned are not members of a group of companies, as if they were:

Provided that the distribution shall not be treated as a depreciatory transaction to the extent that it consists of a payment which is required to be or has been brought into account, for the purposes of corporation tax on chargeable gains, in computing a chargeable gain or allowable loss accruing to the person making the ultimate disposal.

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- (3) This section shall be construed as one with section 280 above.
- (4) For the purposes of this section a company is " a dealing company " in relation to a holding if a profit on the sale of the holding would be taken into account in computing the company's trading profits.
- (5) References in this section to a holding in a company refer to a holding of shares or securities by virtue of which the holder may receive distributions made by the company, but so that—
- (a) a company's holdings of different classes in another company shall be treated as separate holdings, and
 - (b) holdings of shares or securities which differ in the entitlements or obligations they confer or impose shall be regarded as holdings of different classes.
- (6) For the purposes of subsection (1) above—
- (a) all a company's holdings of the same class in another company are to be treated as ingredients constituting a single holding, and
 - (b) a company's holding of a particular class shall be treated as an ingredient in a holding amounting to 10 per cent. of all holdings of that class if the aggregate of that holding and other holdings of that class held by connected persons amounts to 10 per cent. of all holdings of that class,

and section 533 of this Act (definition of connected persons) shall have effect in relation to paragraph (b) above as if, in subsection (7) of that section, after the words " or exercise control of " in each place where they occur there were inserted the words " or to acquire a holding in ".