



# Finance Act 1972

## 1972 CHAPTER 41

An Act to grant certain duties, to alter other duties, and to amend the law relating to the National Debt and the Public Revenue, and to make further provision in connection with Finance. [27th July 1972]

Most Gracious Sovereign

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and to grant unto your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I

#### VALUE ADDED TAX

##### *Imposition and extent of tax*

#### **1 Value added tax**

- (1) A tax, to be known as value added tax, shall be charged in accordance with the provisions of this Part of this Act on the supply of goods and services in the United Kingdom (including anything treated as such a supply) and on the importation of goods into the United Kingdom.
- (2) The tax shall be under the care and management of the Commissioners.
- (3) All money and securities for money collected or received for or on account of the tax shall—

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- (a) if collected or received in Great Britain, be placed to the general account of the Commissioners kept at the Bank of England under section 11 of the Customs and Excise Act 1952 ;
  - (b) if collected or received in Northern Ireland, be paid into the Consolidated Fund of the United Kingdom in such manner as the Treasury may direct.
- (4) The Government of Ireland Act 1920 shall have effect as if the tax were one of the taxes mentioned in section 22(1) of that Act (reserved taxes).
- (5) The Provisional Collection of Taxes Act 1968 shall be amended by inserting in subsection (1) of section 1, after the words " income tax " , the words " value added tax " ; and the Act as so amended shall apply in relation to a resolution of the House of Commons passed before 1st April 1974 and providing for any variation of that tax as it applies in relation to such a resolution as is mentioned in subsection (2)(a) of that section.

## **2 Scope of tax**

- (1) Except as otherwise provided by this Part of this Act the tax shall be charged and payable as follows.
- (2) Tax on the supply of goods or services shall be charged only where—
- (a) the supply is a taxable supply; and
  - (b) the goods or services are supplied by a taxable person in the course of a business carried on by him;
- and shall be payable by the person supplying the goods or services.
- (3) Tax on the importation of goods shall be charged and payable as if it were a duty of customs.
- (4) Any reference in the following provisions of this Part of this Act to the supply by any person of goods or services is a reference to such a supply in the United Kingdom in the course of a business carried on by him.

## **3 Deduction of input tax**

- (1) The following tax (in this Part of this Act referred to as " input tax " ), that is to say—
- (a) tax on the supply to a taxable person of any goods or services for the purpose of a business carried on or to be carried on by him; and
  - (b) tax paid or payable by a taxable person on the importation of any goods used or to be used for the purpose of a business carried on or to be carried on by him;
- may, at the end of any prescribed accounting period, be deducted by him, so far as not previously deducted and to the extent and subject to the exceptions provided for by or under this section, from the tax chargeable on supplies by him (in this section referred to as " output tax " ).
- (2) Where the amount of input tax that may be so deducted by any person exceeds the amount of the output tax due from him, the amount of the excess shall be paid to him by the Commissioners.
- (3) Subject to subsection (6) of this section, the input tax that may be deducted by a taxable person shall be—

- (a) the whole of that tax, if all his supplies of goods or services are taxable supplies ; and
- (b) such part of that tax as, in accordance with regulations under this section, is attributable to taxable supplies, if some but not all of his supplies of goods or services are taxable supplies;

and any such regulations may provide for treating all supplies of goods or services by any person as taxable supplies where the tax attributable to exempt supplies would be less than such amount or less than such part of the whole of the tax as may be specified in the regulations or in such other circumstances as may be so specified.

- (4) The Commissioners shall make regulations for securing a fair and reasonable attribution of input tax to taxable supplies, and any such regulations may provide for—
  - (a) determining a proportion of supplies in any prescribed accounting period which is to be taken as consisting of taxable supplies; and
  - (b) provisionally attributing input tax in accordance with the proportion so determined and adjusting the attribution for periods comprising two or more prescribed accounting periods or parts thereof ;

and may make different provision for different circumstances and, in particular (but without prejudice to the generality of this provision) for different descriptions of goods or services; and may contain such incidental and supplementary provisions as appear to the Commissioners necessary or expedient.

- (5) Regulations under this section may include provision for enabling a taxable person to deduct as input tax, in such circumstances, to such extent and subject to such conditions as may be specified in the regulations, tax on the supply to him, or paid by him on the importation, of goods notwithstanding that he was not a taxable person at the time of the supply or payment.
- (6) The Treasury may by order make provision for excepting from the preceding provisions of this section input tax chargeable on such supplies and importations as may be specified in the order, and any such provision may be framed by reference to the description of goods or services supplied or goods imported, the persons by whom they are supplied or imported or to whom they are supplied, the purposes for which they are supplied or imported, or any circumstances whatsoever; and any such order may contain provision for consequential relief from output tax.

#### **4 Taxable persons**

- (1) A person who makes or intends to make taxable supplies is a taxable person while he is or is required to be registered under this Part of this Act.
- (2) Schedule 1 to this Act shall have effect with respect to the registration of persons under this Part of this Act.

#### *Supply*

#### **5 Supply of goods and services**

- (1) The following provisions apply for determining for the purposes of this Part of this Act what is a supply of goods or services.

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- (2) Supply of goods includes all forms of supply and, in particular, the letting of goods on hire and the making of a gift or loan of goods; but supply of services does not include anything done otherwise than for a consideration.
- (3) Where a person produces goods by applying to another person's goods a treatment or process he is treated as supplying goods and not as supplying services.
- (4) The supply of any form of power, heat, refrigeration or ventilation is a supply of goods and not of services.
- (5) Schedule 2 to this Act shall have effect with respect to matters to be treated as a supply of goods.
- (6) The granting, assignment or surrender of a major interest in land shall be treated as a supply of goods.

In this subsection "major interest" means the fee simple or a tenancy for a term certain exceeding twenty-one years, and, in relation to Scotland, means the estate or interest of the proprietor of the dominium utile, or in the case of land not held on feudal tenure, the estate or interest of the owner, or the lessee's interest under a lease for a period exceeding twenty-one years.

- (7) Subject to the preceding provisions of this section, the Treasury may by order provide with respect to any description of transaction—
  - (a) that it is to be treated as a supply of goods and not as a supply of services ; or
  - (b) that it is to be treated as a supply of services and not as a supply of goods ; or
  - (c) that it is to be treated as neither a supply of goods nor a supply of services.
- (8) Subject to the preceding provisions of this section, anything which is not a supply of goods but is done for a consideration (including, if so done, the granting, assignment or surrender of the whole or part of any right) is a supply of services.

## 6 Self-supply

- (1) The Treasury may by order make provision for securing, subject to any exceptions provided for by or under the order, that, where in such circumstances as may be specified in the order goods of a description so specified are acquired or produced by a person in the course of a business carried on by him and—
  - (a) are neither supplied to another person nor incorporated in other goods produced in the course of that business; but
  - (b) are used by him for the purpose of a business carried on by him;
 the goods are treated for the purposes of this Part of this Act as both supplied to him for the purpose of that business and supplied by him in the course of that business.
- (2) The Treasury may by order make provision for securing, with respect to services of any description specified in the order, that, where—
  - (a) a person, in the course of a business carried on by him, does anything for the purpose of that business which is not a supply of services but would, if done for a consideration, be a supply of services of a description specified in the order ; and
  - (b) such other conditions as may be specified in the order are satisfied;

such services are treated for the purposes of this Part of this Act as being both supplied to him for the purpose of that business and supplied by him in the course of that business.

- (3) For the purposes of this section, where goods are manufactured or produced from any other goods those other goods shall be treated as incorporated in the first-mentioned goods.

## **7 Time of supply**

- (1) The following provisions of this section shall apply for determining the time when a supply of goods or services is to be treated as taking place for the purposes of the charge to tax.
- (2) Subject to the following provisions of this section, a supply of goods shall be treated as taking place—
- (a) if the goods are to be removed, at the time of the removal;
  - (b) if the goods are not to be removed, at the time when they are made available to the person to whom they are supplied;
  - (c) if the goods (being sent or taken on approval or sale or return or similar terms) are removed before it is known whether a supply will take place, at the time when it becomes certain that the supply has taken place, but not later than twelve months after the removal.
- (3) Subject to the following provisions of this section, a supply of services shall be treated as taking place at the time when the services are performed.
- (4) If, before the time applicable under subsection (2) or subsection (3) of this section, the person making the supply issues a tax invoice in respect of it or if, before the time applicable under paragraph (a) or (b) of subsection (2) or subsection (3) of this section, he receives a payment in respect of it, the supply shall, to the extent covered by the invoice or payment, be treated as taking place at the time the invoice is issued or the payment is received.
- (5) If, within fourteen days after the time applicable under subsection (2) or subsection (3) of this section, the person making the supply issues a tax invoice in respect of it, then, unless he has notified the Commissioners in writing that he elects not to avail himself of this subsection, the supply shall (notwithstanding the preceding provisions of this section) be treated as taking place at the time the invoice is issued.
- (6) The Commissioners may, at the request of a taxable person, direct that subsection (5) of this section shall apply in relation to supplies made by him (or such supplies made by him as may be specified in the direction) as if for the period of fourteen days there were substituted such longer period as may be specified in the direction.
- (7) Where goods are deemed to be supplied by virtue of paragraph 1 of Schedule 2 to this Act or section 6 of this Act, the supply shall be treated as taking place when they are applied or used as mentioned in that paragraph or section.
- (8) The Commissioners may by regulation make provision with respect to the time at which, notwithstanding the preceding provisions of this section, a supply is to be treated as taking place in cases where goods or services are supplied for a consideration the whole or part of which is determined or payable periodically or at the end of any period or where goods are supplied for a consideration the whole or part of which is

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determined at the time when the goods are appropriated for any purpose ; and any such regulations may provide—

- (a) for treating goods supplied on hire for any period as being successively supplied on hire for successive parts of that period ; and
  - (b) for treating services supplied for any period as being successively supplied for successive parts of that period.
- (9) In this section " tax invoice " means such an invoice as is required under section 30(2) of this Act or would be so required if the person to whom the supply is made were a taxable person.

## **8 Place of supply**

- (1) The following provisions of this section shall apply for determining, for the purposes of the charge to tax, whether goods or services are supplied in the United Kingdom.
- (2) If the supply of any goods does not involve their removal from or to the United Kingdom they shall be treated as supplied in the United Kingdom if they are in the United Kingdom and otherwise shall be treated as supplied outside the United Kingdom.
- (3) If the supply of any goods involves their removal from the United Kingdom they shall be treated as supplied in the United Kingdom and if it involves their removal to the United Kingdom they shall be treated as supplied outside the United Kingdom.
- (4) Subject to subsection (5) of this section, if services might be considered as supplied either in or outside the United Kingdom or as supplied both in and outside the United Kingdom, they shall be treated as supplied in the United Kingdom if the person supplying them has his place of business or principal place of business in the United Kingdom and otherwise shall be treated as supplied outside the United Kingdom; but for the purposes of this subsection any person carrying on a business through a branch or agency in the United Kingdom shall be treated as having his principal place of business in the United Kingdom.
- (5) Where services consist of transport between places of which one is and the other is not in the United Kingdom, so much of the services as consists of transport within the United Kingdom shall be treated as supplied in the United Kingdom and the remainder as supplied outside the United Kingdom.
- (6) The Treasury may by order make provision, with respect to such services as may be specified in the order, for substituting for the provisions contained in subsection (4) or (5) of this section such other provisions as may be specified in the order, either generally or in such circumstances as may be so specified.
- (7) Where a supply of goods is such that subsections (2) and (3) of this section cannot be applied to it, subsections (4) and (6) of this section shall apply to it as they apply to a supply of services.
- (8) For the purposes of this section, where goods, in the course of their removal from a place in the United Kingdom to another place in the United Kingdom, leave and re-enter the United Kingdom the removal shall not be treated as a removal from or to the United Kingdom.

### *Rate of tax and determination of value*

#### **9 Rate of tax**

- (1) Subject to the following provisions of this section, tax shall be charged at the rate of ten per cent., and shall be charged—
  - (a) on the supply of goods or services, by reference to the value of the supply as determined under this Part of this Act; and
  - (b) on the importation of goods, by reference to the value of the goods as determined under this Part of this Act.
- (2) The Treasury may by order made before 1st April 1973 substitute for the rate of ten per cent. a rate not lower than seven and a half per cent. nor higher than twelve and a half per cent.
- (3) The Treasury may by order increase or decrease the rate for the time being in force by such percentage thereof, not exceeding 20 percent., as may be specified in the order, but any such order shall cease to be in force at the expiration of a period of one year from the date on which it takes effect, unless continued in force by a further order under this subsection.
- (4) In relation to an order made under subsection (3) of this section to continue, vary or replace a previous order, the reference in that subsection to the rate for the time being in force is a reference to the rate that would be in force if no order under that subsection had been made.

#### **10 Value of supply of goods or services**

- (1) For the purposes of this Part of this Act the value of any supply of goods or services shall be determined as follows.
- (2) If the supply is for a consideration in money its value shall be taken to be such amount as, with the addition of the tax chargeable, is equal to the consideration.
- (3) If the supply is not for a consideration or is for a consideration not consisting or not wholly consisting of money, the value of the supply shall be taken to be its open market value.
- (4) Where a supply of any goods or services is not the only matter to which a consideration in money relates the supply shall be deemed to be for such part of the consideration as is properly attributable to it.
- (5) For the purposes of this Part of this Act the open market value of a supply of goods or services shall be taken to be the amount that would fall to be taken as its value under subsection (2) of this section if the supply were for such consideration in money as would be payable by a person standing in no such relationship with any person as would affect that consideration.
- (6) This section has effect subject to Schedule 3 to this Act

#### **11 Value of imported goods**

For the purposes of this Part of this Act the value of any imported goods shall be taken to be the aggregate of the following, that is to say,—

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- (a) the amount that would fall to be taken as their value under section 258 of the Customs and Excise Act 1952 if value added tax were a duty of customs; and
- (b) the amount of any customs duty payable on the goods or of any payment or repayment made in order to secure relief from such customs duty under section 35 or section 36 of the Customs and Excise Act 1952 (relief on re-importation); and
- (c) any amount payable on the goods by way of surcharge under section 7 of the Sugar Act 1956 or a levy under section 1 of the Agriculture and Horticulture Act 1964 or payable on the goods under section 6(5) of the European Communities Act 1972 or that section as applied by section 7(1) of that Act.

### *Reliefs*

## **12 Zero-rating**

- (1) Where a taxable person supplies goods or services and the supply is zero-rated, then, whether or not tax would be chargeable on the supply apart from this section,—
  - (a) no tax shall be charged on the supply; but
  - (b) it shall in all other respects be treated as a taxable supply;
 and accordingly the rate at which tax is treated as charged on the supply shall be nil.
- (2) A supply of goods or services is zero-rated by virtue of this subsection if the goods or services are of a description for the time being specified in Schedule 4 to this Act or the supply is of a description for the time being so specified.
- (3) Where goods of a description for the time being specified in Schedule 4 to this Act, or of a description forming part of a description of supply for the time being so specified, are imported into the United Kingdom no tax shall be chargeable on their importation, except as otherwise provided in that Schedule.
- (4) The Treasury may by order vary Schedule 4 to this Act by adding to or deleting from it any description or by varying any description for the time being specified in it.
- (5) Where a description included in Schedule 4 to this Act (whether by virtue of an order under the preceding subsection or otherwise) is of a supply of goods or services outside the United Kingdom or of a transaction which would not otherwise be a supply of goods or services the supply or transaction shall for the purposes of this Part of this Act be treated as a supply of goods or services in the United Kingdom.
- (6) A supply of goods is zero-rated by virtue of this subsection if the Commissioners are satisfied that the person supplying the goods—
  - (a) has exported them; or
  - (b) has shipped them for use as stores on a voyage or flight to an eventual destination outside the United Kingdom, or as merchandise for sale by retail to persons carried on such a voyage or flight in a ship or aircraft.
- (7) The Commissioners may by regulations make provision for the zero-rating of supplies of goods, or of such goods as may be specified in the regulations, in cases where the Commissioners are satisfied that the goods have been or are to be exported and such other conditions, if any, as may be specified in the regulations or the Commissioners may impose are fulfilled.



- (8) Where the supply of any goods has been zero-rated in pursuance of regulations made under the preceding subsection and—
- (a) the goods are found in the United Kingdom after the date on which they were alleged to have been or were to be exported ; or
  - (b) any condition specified in the regulations or imposed by the Commissioners is not complied with ;
- and the presence of the goods in the United Kingdom after that date or the non-observance of the condition has not been authorised for the purposes of this subsection by the Commissioners, the goods shall be liable to forfeiture under the Customs and Excise Act 1952 and the tax that would have been chargeable on the supply but for the zero-rating shall become payable forthwith by the person to whom the goods were supplied or by any person in whose possession the goods are found in the United Kingdom; but the Commissioners may, if they think fit, waive payment of the whole or part of that tax.

### **13 Exemptions**

- (1) A supply of goods or services is an exempt supply if it is of a description for the time being specified in Schedule 5 to this Act.
- (2) The Treasury may by order vary that Schedule by adding to or deleting from it any description of supply or by varying any description of supply for the time being specified in it.

### **14 Relief on supply of certain second-hand goods**

- (1) The Treasury may by order make provision for securing a reduction of the tax chargeable on the supply of goods of such descriptions as may be specified in the order in cases where no tax was chargeable on a previous supply of the goods and such other conditions are satisfied as may be specified in the order or as may be imposed by the Commissioners in pursuance of the order.
- (2) The amount of the reduction that may be secured by an order under this section shall not exceed the amount of tax that would have been chargeable on the previous supply had tax been chargeable on it at the same rate as that at which the tax to be reduced would be chargeable but for the reduction.
- (3) An order under this section making provision for reducing the tax chargeable on the supply of goods of any description may include provision—
  - (a) for giving relief from the tax chargeable on the importation of goods of that description ; and
  - (b) for securing the like reduction where no tax was chargeable on the importation of goods of that description as where no tax was chargeable on a previous supply of the goods.
- (4) An order under this section may extend to cases where the previous supply or the importation took place before tax was chargeable on any supply or importation.
- (5) The preceding provisions of this section shall, with the necessary modifications, apply in relation to cases where consequential relief from tax was given on a previous supply by an order under section 3(6) of this Act but the relief did not extend to the whole amount of the tax.

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- (6) An order under this section may make different provision for goods of different descriptions and for different circumstances.

## **15 Refund of tax in certain cases**

- (1) Subject to the following provisions of this section, where tax is chargeable on the supply of goods or services to, or on the importation of goods by, a body to which this section applies and the supply or importation is not for the purpose of any business carried on by the body, the Commissioners shall, on a claim made by the body at such time and in such form and manner as the Commissioners may determine, refund to it the amount of the tax so chargeable.
- (2) Where goods or services so supplied to or imported by the body cannot be conveniently distinguished from goods or services supplied to or imported by it for the purpose of a business carried on by it, the amount to be refunded under this section shall be such amount as remains after deducting from the whole of the tax chargeable on any supply to or importation by the body such proportion thereof as appears to the Commissioners to be attributable to the carrying on of the business; but where the tax so attributable is or includes tax attributable, in accordance with regulations under section 3 of this Act, to exempt supplies by the body and the tax attributable to the exempt supplies is in the opinion of the Commissioners an insignificant proportion of the tax so chargeable they may include it in the tax refunded under this section.
- (3) The bodies to which this section applies are—
- (a) a local authority;
  - (b) a river authority, a river purification board, the Conservators of the River Thames and the Lee Conservancy Catchment Board;
  - (c) a drainage board within the meaning of the Land Drainage Act 1930;
  - (d) any statutory water undertakers within the meaning of the Water Act 1945, and a regional water board and water development board within the meaning of the Water (Scotland) Act 1967 ;
  - (e) the London Transport Executive and a passenger transport authority or executive established under Part II of the Transport Act 1968 ;
  - (f) a port health authority constituted under Part I of the Public Health Act 1936, and a port local authority and joint port local authority constituted under Part X of the Public Health (Scotland) Act 1897;
  - (g) a police authority and the Receiver for the Metropolitan Police District;
  - (h) a development corporation within the meaning of the New Towns Act 1965 or the New Towns (Scotland) Act 1968, a new town commission within the meaning of the New Towns Act (Northern Ireland) 1965 and the Commission for the New Towns;
  - (i) a general lighthouse authority within the meaning of Part XI of the Merchant Shipping Act 1894;
  - (j) the British Broadcasting Corporation;
  - (k) Independent Television News Limited ; and
  - (l) any body specified for the purposes of this section by an order made by the Treasury.
- (4) No tax shall be refunded under this section to a general lighthouse authority which in the opinion of the Commissioners is attributable to activities other than

those concerned with the provision, maintenance or management of lights or other navigational aids.

- (5) References in this section to any tax chargeable do not include any tax which, by virtue of an order under section 3(6) of this Act, could not be deducted as input tax.
- (6) In this section " local authority " means the council of a county, borough, county district, district, parish or group of parishes, community or group of communities, the Greater London Council, the Common Council of the City of London, the Council of the Isles of Scilly, and any joint committee or joint board established by two or more of the foregoing and, in relation to Scotland, the council of a county, county of a city, large burgh, small burgh, district and any combination and any joint committee or joint board established by two or more of the foregoing.

## **16 Relief from tax on importation of goods**

- (1) The Treasury may by order make provision for giving relief from the whole or part of the tax chargeable on the importation of goods, subject to such conditions (including conditions prohibiting or restricting the disposal of or dealing with the goods) as may be imposed by or under the order, if and so far as the relief appears to the Treasury to be necessary or expedient, having regard to any international agreement or arrangements.
- (2) The Commissioners may by regulations make provision for remitting or repaying, if they think fit, the whole or part of the tax chargeable on the importation of any goods which are shown to their satisfaction to have been previously exported from the United Kingdom.
- (3) The Commissioners may by regulations make provision for remitting or repaying the whole or part of the tax chargeable on the importation of any goods if they are satisfied that the goods have been or are to be re-exported and they think fit to do so in all the circumstances and having regard to the tax chargeable on the supply of like goods in the United Kingdom.

### *Further provisions as to importation of goods*

## **17 Application of customs enactments**

- (1) Subject to the provisions of this section, the Customs and Excise Act 1952 and, except where the contrary intention appears, any other enactments (including provisions of regulations or other instruments having statutory effect) relating to customs generally, whether passed or made before or after the passing of this Act, shall have effect, with such exceptions and adaptations as the Commissioners may by regulations prescribe, as if all goods imported into the United Kingdom were liable to duties of customs and as if those duties included value added tax chargeable on the importation of goods.
- (2) The following provisions of the Customs and Excise Act 1952, that is to say—
  - (a) sections 34(4), 35 and 36 (reimportation);
  - (b) A charge taking effect by virtue of subsection (4) above shall, notwithstanding subsection (5) of section 59 of the Land Registration Act 1925, be a land charge for the purposes of that section, and subsection (2) of that section shall apply accordingly with respect to its protection and realisation.
  - (c) section 43(a) (relief from duty of antiques);
  - (d) section 221(2) (exemption of certain mechanical lighters);

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- (e) section 259 (charge of duty on manufactured or composite articles);
- (f) section 260(1)(b) (declaration as to duty payable);
- (g) section 272 (supply of goods without payment of duty to Her Majesty's ships);  
and
- (h) sections 308 to 311 (Isle of Man);

shall be excepted from the enactments which are to have effect as mentioned in subsection (1) of this section.

- (3) Section 258(1) of the Customs and Excise Act 1952 shall have effect, in its application by virtue of subsection (1) of this section, in a case where paragraph (b) or (c) of section 11 of this Act applies, as if the value to be taken as the value of imported goods were increased by the amount mentioned in that paragraph.
- (4) Regulations under section 16 of the Post Office Act 1953 (which provides for the application of customs enactments to postal packets) may make special provision in relation to value added tax.

## **18 Importation of goods by taxable persons**

The Commissioners may by regulations make provision for enabling goods imported by a taxable person in the course of a business carried on by him to be delivered or removed, subject to such conditions or restrictions as the Commissioners may impose for the protection of the revenue, without payment of the tax chargeable on the importation, and for that tax to be accounted for together with the tax chargeable on the supply of goods or services by him.

### *Special cases*

## **19 Application to Crown**

- (1) This Part of this Act shall apply in relation to taxable supplies by the Crown as it applies in relation to taxable supplies by taxable persons.
- (2) Where the supply by a Government department of any goods or services does not amount to the carrying on of a business but it appears to the Treasury that similar goods or services are or might be supplied by taxable persons in the course of a business, then, if and to the extent that the Treasury so directs, the supply of those goods or services by that department shall be treated for the purposes of this Part of this Act as a supply in the course of a business carried on by it.
- (3) For the purposes of this section goods or services obtained by one Government department from another Government department shall be treated, if and to the extent that the Treasury so directs, as supplied by that other department and similarly as regards goods or services obtained by or from the Crown Estate Commissioners.
- (4) In this section " Government department " includes a department of the Government of Northern Ireland, any body of persons exercising functions on behalf of a Minister of the Crown, and any part of a Government department (as defined in the foregoing) designated for the purposes of this subsection by a direction of the Treasury.

## **20 Local authorities**

- (1) A local authority which makes taxable supplies is liable to be registered under this Part of this Act, whatever the value of the supplies; and accordingly Schedule 1 to this Act shall apply, in a case where the value of the taxable supplies made by a local authority in any period of one year is £5,000 or less, as if that value exceeded £5,000.
- (2) In this section " local authority " has the same meaning as in section 15 of this Act.

## **21 Groups of companies**

- (1) Where, under the following provisions of this section, any bodies corporate are treated as members of a group any business carried on by a member of the group shall be treated as carried on by the representative member, and—
  - (a) any supply of goods or services by a member of the group to another member of the group shall be disregarded ; and
  - (b) any other supply of goods or services by or to a member of the group shall be treated as a supply by or to the representative member; and
  - (c) any tax paid or payable by a member of the group on the importation of any goods shall be treated as paid or payable by the representative member and the goods shall be treated for the purposes of sections 18 and 31(3) of this Act as imported by the representative member;and all members of the group shall be liable jointly and severally for any tax due from the representative member.
- (2) An order under section 6 of this Act may make provision for securing that any goods or services which, if all the members of the group were one person, would fall to be treated under that section as supplied to and by that person, are treated as supplied to and by the representative member.
- (3) Two or more bodies corporate resident in the United Kingdom are eligible to be treated as members of a group if—
  - (a) one of them controls each of the others; or
  - (b) one person (whether a body corporate or an individual) controls all of them ; or
  - (c) two or more individuals carrying on a business in partnership control all of them.
- (4) Where an application to that effect is made to the Commissioners with respect to two or more bodies corporate eligible to be treated as members of a group, then, from the beginning of a prescribed accounting period they shall be so treated, and one of them shall be the representative member, unless the Commissioners refuse the application; but they shall not refuse it unless it appears to them necessary to do so for the protection of the revenue.
- (5) Where any bodies corporate are treated as members of a group and an application to that effect is made to the Commissioners, then, from the beginning of a prescribed accounting period—
  - (a) a further body eligible to be so treated shall be included among the bodies so treated ; or
  - (b) a body corporate shall be excluded from the bodies so treated; or
  - (c) another member of the group shall be substituted as the representative member; or
  - (d) the bodies corporate shall no longer be treated as members of a group ;

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unless the application is to the effect mentioned in paragraph (a) or paragraph (c) above and the Commissioners refuse the application ; but they shall not refuse it unless it appears to them necessary to do so for the protection of the revenue.

- (6) Where a body corporate is treated as a member of a group as being controlled by any person and it appears to the Commissioners that it has ceased to be so controlled, they shall, by notice given to that person, terminate that treatment from such date as may be specified in the notice.
- (7) An application under this section with respect to any bodies corporate must be made by one of those bodies or by the person controlling them and must be made not less than ninety days before the date from which it is to take effect, or at such later time as the Commissioners may allow.
- (8) For the purposes of this section a body corporate shall be taken to control another body corporate if it is empowered by statute to control that body's activities or if it is that body's holding company within the meaning of the Companies Act 1948 ; and an individual or individuals shall be taken to control a body corporate if he or they, were he or they a company, would be that body's holding company within the meaning of that Act.

## **22 Partnerships**

- (1) The registration under this Part of this Act of persons carrying on a business in partnership may be in the name of the firm; and no account shall be taken, in determining whether goods or services are supplied to or by such persons, of any change in the partnership or of a change from the business being carried on by a person on his own to its being carried on by him in partnership or from the business being carried on in partnership to its being carried on by one of the former partners on his own.
- (2) Subsection (1) of this section shall not affect the extent to which, under section 9 of the Partnership Act 1890, a partner is liable for tax owed by the firm; but where a person is a partner in a firm during part only of a prescribed accounting period his liability for tax on the supply by the firm of goods or services during that accounting period shall be such proportion of the firm's liability as may be just.

## **23 Business carried on in divisions or by unincorporated bodies, personal representatives, etc.**

- (1) The registration under this Part of this Act of a body corporate carrying on a business in several divisions may, if the body corporate so requests and the Commissioners see fit, be in the names of those divisions.
- (2) The Commissioners may by regulations make provision for determining by what persons anything required by or under this Part of this Act to be done by a person carrying on a business is to be done where a business is carried on in partnership or by a club or association the affairs of which are managed by its members or a committee or committees of its members.
- (3) The Commissioners may by regulations make provision for persons who carry on a business of a taxable person who has died or become bankrupt or incapacitated to be treated for a limited time as taxable persons, and for securing continuity in the application of this Part of this Act in cases where persons are so treated.

## **24 Agents, etc.**

- (1) Where a person who is accountable for any tax, or on whom any duties are imposed by or under this Part of this Act, is not resident in the United Kingdom, the Commissioners may by notice in writing served on any agent, manager or factor who is resident in the United Kingdom and has acted on behalf of that person in matters by reference to which that person is accountable or the duties are imposed, direct that he shall be substituted for that person as the person accountable for the tax or that he shall be under an obligation to discharge those duties or any of them.
- (2) For the purposes of this Part of this Act goods imported by a taxable person and supplied by him as agent for a person who is not a taxable person may be treated as imported and supplied by the taxable person as principal.
- (3) Where goods or services are supplied through an agent who acts in his own name the Commissioners may, if they think fit, treat the supply both as a supply to the agent and as a supply by the agent.

## **25 Transfers of going concerns**

Where a business carried on by a taxable person is transferred to another person as a going concern, then—

- (a) for the purpose of determining whether the transferee is liable to be registered under this Part of this Act he shall be treated as having carried on the business before as well as after the transfer; and supplies by the transferor shall be treated accordingly ; and
- (b) any records relating to the business which, under section 34 of this Act, are required to be preserved for any period after the transfer shall be preserved by the transferee instead of by the transferor, unless the Commissioners, at the request of the transferor, otherwise direct.

## **26 Terminal markets**

- (1) The Treasury may by order make provision for modifying the provisions of this Part of this Act in their application to dealings on terminal markets and such persons ordinarily engaged in such dealings as may be specified in the order, subject to such conditions as may be so specified.
- (2) Without prejudice to the generality of subsection (1) of this section, an order under this section may include provision—
  - (a) for zero-rating the supply of any goods or services or for treating the supply of any goods or services as exempt;
  - (b) for the registration under this Part of this Act of any body of persons representing persons ordinarily engaged in dealing on a terminal market and for disregarding such dealings by persons so represented in determining liability to be registered under this Part of this Act, and for disregarding such dealings between persons so represented for all the purposes of this Part of this Act;
  - (c) for refunding, to such persons as may be specified by or under the order, input tax attributable to such dealings on a terminal market as may be so specified;and may contain such incidental and supplementary provisions as appear to the Treasury to be necessary or expedient.

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- (3) An order under this section may make different provision with respect to different terminal markets and with respect to different commodities.

## **27 Supplies of dutiable goods in warehouse**

- (1) Where goods subject to a duty of customs are supplied while warehoused and before payment of the duty the supply shall be disregarded for the purposes of this Part of this Act.
- (2) Where goods subject to a duty of excise or such goods mixed with goods subject to a duty of customs are supplied while warehoused and before payment of the duty, then—
- (a) if there is more than one such supply any but the last such supply shall be disregarded for the purposes of this Part of this Act; and
  - (b) the supply or, if more than one, the last such supply shall be treated for the purposes of this Part of this Act as taking place when the duty is paid and the value of the supply shall be treated as including the duty; and
  - (c) the tax on the supply shall be payable, together with the duty, by the person by whom the duty is paid, except as otherwise provided by regulations under this section;

except that, if the goods are permitted to be removed from warehouse without payment of the duty, the supply (or last supply) shall be treated as taking place when the goods are so removed, the value of the supply shall not be treated as including the duty and the tax on the supply shall be payable by the person by whom the goods are removed.

- (3) The Commissioners may by regulations make provision for enabling goods which are supplied as mentioned in subsection (2) of this section, and are so supplied to a taxable person for the purpose of a business carried on by him, to be removed from warehouse without payment of the tax on the supply and for that tax to be accounted for together with the tax chargeable on the supply of goods or services by him.
- (4) Subsection (1) of this section applies in relation to a surcharge under section 7 of the Sugar Act 1956 or any amount payable under section 6(5) of the European Communities Act 1972 or that section as applied by section 7(1) of that Act as it applies in relation to a duty of customs.

## **28 Capital goods**

- (1) The Treasury may by order make provision for the giving of relief, in such cases, to such extent and subject to such exceptions as may be specified in the order, from tax paid on the supply or importation for the purpose of a business carried on by any person of machinery or plant or any specified description of machinery or plant in cases where that tax or part of that tax cannot be deducted under section 3 of this Act and such other conditions are satisfied as may be specified in the order.
- (2) Without prejudice to the generality of subsection (1) of this section, an order under this section may provide for relief to be given by deduction or refunding of tax and for aggregating or excluding the aggregation of value where goods of the same description are supplied or imported together.
- (3) An order under this section may substitute a period exceeding three years but not exceeding six years as the period for which records relating to goods in respect of which relief is given under the order may be required to be preserved under section 34(2) of this Act.



## **29 Trading stamp schemes**

The Commissioners may by regulations make provision for modifying section 10 of this Act and paragraph 5 of Schedule 3 to this Act in their application to the supply of goods under trading stamp schemes within the meaning of the Trading Stamps Act 1964 or the Trading Stamps Act (Northern Ireland) 1965.

### *Collection and enforcement*

## **30 Accounting for and payment of tax**

- (1) Tax on the supply of goods or services shall be accounted for and paid by reference to such periods (in this Part of this Act referred to as "prescribed accounting periods") at such time and in such manner as may be determined by or under regulations made by the Commissioners; and claims for deduction of input tax or for payments under section 3(2) of this Act shall be made in such manner as may be so determined.
- (2) Regulations under this section may require the keeping of accounts and the making of returns in such form and manner as may be specified in the regulations and may require taxable persons supplying goods or services to other taxable persons to provide them with invoices (to be known as "tax invoices") containing statements of such particulars as may be so specified of the supply, the tax chargeable on it and the persons by and to whom the goods or services are supplied.
- (3) Regulations under this section may make special provision for such taxable supplies by retailers of any goods or of any description of goods or of services or any description of services as may be determined by or under the regulations and, in particular,—
  - (a) for permitting the value which is to be taken as the value of the supplies in any prescribed accounting period or part thereof to be determined, subject to any limitations or restrictions, by such method or one of such methods as may have been described in any notice published by the Commissioners in pursuance of the regulations and not withdrawn by a further notice or as may be agreed with the Commissioners; and
  - (b) for determining the proportion of the value of the supplies which is to be attributed to any description of supplies; and
  - (c) for adjusting that value and proportion for periods comprising two or more prescribed accounting periods or parts thereof.
- (4) Regulations under this section may make provision—
  - (a) for treating tax chargeable in one prescribed accounting period as chargeable in another such period; and
  - (b) for the adjustment of accounts in cases where tax has become chargeable by reference to a consideration and the amount of the consideration is reduced or no consideration becomes payable and in such other circumstances as may be specified in the regulations; and
  - (c) for the correction of errors.
- (5) Regulations under this section may make different provision for different circumstances and may provide for different dates as the commencement of prescribed accounting periods applicable to different persons.
- (6) The provisions made by regulations under this section for cases where goods are treated as supplied by a taxable person by virtue of paragraph 2 of Schedule 2 to this

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Act may require the tax chargeable on the supply to be accounted for and paid, and particulars thereof to be provided, by such other person and in such manner as may be specified by the regulations.

- (7) Where, at the end of a prescribed accounting period, the amount of tax due from any person or the amount due to any person under section 3(2) of this Act would be less than £1 that amount shall be treated as nil.

### **31 Power of Commissioners to assess tax due**

- (1) Where a taxable person has failed to make any returns required under this Part of this Act or to keep any documents and afford the facilities necessary to verify such returns or where it appears to the Commissioners that such returns are incomplete or incorrect they may assess the amount of tax due from him to the best of their judgment and notify it to him.
- (2) An assessment under subsection (1) of this section of an amount of tax due for any prescribed accounting period shall not be made after the later of the following:—
- (a) two years after the end of the prescribed accounting period; or
  - (b) one year after evidence of facts, sufficient in the opinion of the Commissioners to justify the making of the assessment, comes to their knowledge ;
- but may, where further such evidence comes to their knowledge after the making of such an assessment, be made in addition to that assessment.
- (3) Where a taxable person has acquired or imported any goods in the course of a business carried on by him the Commissioners may require him from time to time to account for the goods; and if he fails to prove that the goods have been or are available to be supplied by him or have been lost or destroyed they may assess to the best of their judgment and notify to him the amount of tax that would have been chargeable in respect of the supply of the goods if they had been supplied by him.
- (4) An assessment under subsection (1) or subsection (3) of this section shall not be made more than six years after the end of the prescribed accounting period or importation concerned, nor, if the taxable person has died, more than three years after his death; except that if the Commissioners satisfy a value added tax tribunal that there are reasonable grounds for believing that tax has been or may have been lost through the fraud or wilful default or neglect of any person an assessment may, with the leave of the tribunal, be made at any time, or, if the taxable person has died, at any time not later than six years after the death.
- (5) Members of a value added tax tribunal giving leave for an assessment shall not take part in the proceedings or be present when an appeal against the assessment or against the amount of the assessment is heard or determined.
- (6) Where an amount has been assessed and notified to any person under subsection (1) or subsection (3) of this section it shall, subject to the provisions of this Part of this Act as to appeals, be deemed to be an amount of tax due from him and may be recovered accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.

### **32 Power to require security and production of evidence**

- (1) The Commissioners may, as a condition of allowing or repaying any input tax to any person, require the production of such documents relating to the tax as may have been

supplied to him and may, if they think it necessary for the protection of the revenue, require as a condition of making any payment under section 3(2) of this Act the giving of such security for the amount of the payment as appears to them appropriate.

- (2) Where it appears to the Commissioners requisite to do so for the protection of the revenue they may require a taxable person, as a condition of his supplying goods or services under a taxable supply, to give security, or further security, of such amount and in such manner as they may determine, for the payment of any tax which is or may become due from him.

### **33 Recovery of tax, etc.**

- (1) Tax due from any person shall be recoverable as a debt due to the Crown.
- (2) Any amount shown in an invoice as tax chargeable on a supply of goods or services shall be recoverable as tax due from the person issuing the invoice, whether or not—
  - (a) the invoice is a tax invoice issued in pursuance of section 30(2) of this Act; or
  - (b) that or any amount of tax is chargeable on the supply; or
  - (c) the person issuing the invoice is a taxable person.
- (3) The Commissioners may by regulations make provision for authorising distress to be levied on the goods and chattels of any person refusing or neglecting to pay any tax due from him or any amount recoverable as if it were tax due from him, and for the disposal of any goods or chattels on which distress is levied in pursuance of the regulations.
- (4) In the application of the preceding subsection to Scotland, for the reference to the levying of distress on goods and chattels there shall be substituted a reference to the doing of diligence, and for the expression " chattels " there shall be substituted a reference to corporeal movables.

### **34 Duty to keep records**

- (1) Every taxable person shall keep such records as the Commissioners may require.
- (2) The Commissioners may require any records kept in pursuance of this section to be preserved for such period not exceeding three years as they may require.
- (3) The duty under this section to preserve records may be discharged by the preservation of the information contained therein by such means as the Commissioners may approve; and where that information is so preserved a copy of any document forming part of the records shall, subject to the following provisions of this section, be admissible in evidence in any proceedings, whether civil or criminal, to the same extent as the records themselves.
- (4) The Commissioners may, as a condition of approving under subsection (3) of this section any means of preserving information contained in any records, impose such reasonable requirements as appear to them necessary for securing that the information will be as readily available to them as if the records themselves had been preserved.
- (5) A statement contained in a document produced by a computer shall not be admissible in evidence by virtue of subsection (3) of this section unless the conditions mentioned in subsection (2) of section 5 of the Civil Evidence Act 1968 or in the corresponding Scottish enactment are satisfied in relation to the statement and the computer; and the other provisions of that section and subsections (1), (2), (3) and (5) of section 6 of that Act (supplementary provisions) and the like provisions of the corresponding Scottish

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enactment shall, with the necessary modifications, apply in relation to the giving of evidence in pursuance of this section.

- (6) Notwithstanding the preceding provisions of this section, in criminal proceedings the court may, for special cause, require oral evidence to be given of any matter of which evidence could ordinarily be given by means of a certificate under section 5<sup>(4)</sup> of the Civil Evidence Act 1968 or under the corresponding Scottish enactment as applied by the preceding subsection.
- (7) In subsections (3) and (5) of this section " document ", " copy " and " computer " have the same meanings as, by virtue of section 10 of the Civil Evidence Act 1968, they have in Part I of that Act or as they have in the corresponding Scottish enactment.
- (8) For the purposes of this section—
- (a) section 13 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 is the corresponding Scottish enactment to section 5 of the Civil Evidence Act 1968 and the provisions of the said section 13 (which are identical in number with the provisions of the said section 5) shall apply accordingly;
  - (b) section 14 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 is the corresponding Scottish enactment to subsections (1), (2), (3) and (5) of section 6 of the Civil Evidence Act 1968 ; and
  - (c) section 17 and Part III of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 are the corresponding Scottish enactments to section 10 and Part I of the Civil Evidence Act 1968.
- (9) In the application of this section to Northern Ireland, for references to any subsection of section 5 or 6 of the Civil Evidence Act 1968 or to section 10 of that Act there shall be substituted references to the same subsection of section 2 or 3 of the Civil Evidence Act (Northern Ireland) 1971 or section 6 of that Act.

### **35 Furnishing of information and production of documents**

- (1) The Commissioners may by regulations make provision for requiring taxable persons to notify to the Commissioners such particulars of changes in circumstances relating to those persons or any business carried on by them as appear to the Commissioners required for, the purpose of keeping the register kept under this Part of this Act up to date.
- (2) Every person who is concerned (in whatever capacity) in the supply of goods in the course of a business or to whom such a supply is made shall—
- (a) furnish to the Commissioners, within such time and in such form as they may require, such information relating to the goods or to the supply as the Commissioners may specify; and
  - (b) upon demand made by an authorised person, produce or cause to be produced any documents relating to the goods or to the supply for inspection by the authorised person and permit him to take copies of or to make extracts from them or to remove them at a reasonable time and for a reasonable period.
- (3) Every person who is concerned (in whatever capacity) in the taxable supply of any services or to whom such a supply is made shall—
- (a) furnish to the Commissioners, within such time and in such form as they may require, such information relating to the consideration for the supply or to the name and address of the person to whom the supply is made as the Commissioners may specify; and

- (b) upon demand made by an authorised person, produce or cause to be produced any documents relating to the consideration for inspection by the authorised person and permit him to take copies of or to make extracts from them or to remove them at a reasonable time and for a reasonable period.
- (4) For the purposes of this section, the documents relating to the supply of goods, or to the consideration for the supply of services, in the course of a business shall be taken to include any profit and loss account and balance sheet relating to that business.
- (5) Where any documents removed under the powers conferred by this section are lost or damaged the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.
- (6) In this section "document" and "copy" have the same meanings—
  - (a) in relation to England and Wales, as, by virtue of section 10 of the Civil Evidence Act 1968, they have in Part I of that Act;
  - (b) in relation to Scotland, as, by virtue of section 17 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968, they have in Part III of that Act; and
  - (c) in relation to Northern Ireland, as, by virtue of section 6 of the Civil Evidence Act (Northern Ireland) 1971, they have in Part I of that Act.

### **36 Power to take samples**

- (1) An authorised person, if it appears to him necessary for the protection of the revenue against mistake or fraud, may at any time take, from the goods in the possession of any person who supplies goods, such samples as the authorised person may require with a view to determining how the goods or the materials of which they are made ought to be or to have been treated for the purposes of tax.
- (2) Any sample taken under this section shall be disposed of and accounted for in such manner as the Commissioners may direct.
- (3) Where a sample is taken under this section from the goods in any person's possession and is not returned to him within a reasonable time and in good condition the Commissioners shall pay him by way of compensation a sum equal to the cost of the sample to him or such larger sum as they may determine.

### **37 Entry and search of premises and persons**

- (1) For the purpose of exercising any powers under this Part of this Act an authorised person may at any reasonable time enter premises used in connection with the carrying on of a business.
- (2) Where an authorised person has reasonable cause to believe that any premises are used in connection with the supply of goods under taxable supplies and that goods to be so supplied are on those premises, he may at any reasonable time enter and inspect those premises and inspect any goods found on them.
- (3) If a justice of the peace is satisfied on information on oath that there is reasonable ground for suspecting that an offence in connection with the tax is being, has been or is about to be committed on any premises or that evidence of the commission of such an offence is to be found there, he may issue a warrant in writing authorising any authorised person to enter those premises, if necessary by force, at any time within

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fourteen days from the time of the issue of the warrant and search them ; and any person who enters the premises under the authority of the warrant may—

- (a) take with him such other persons as appear to him to be necessary;
- (b) seize and remove any documents or other things whatsoever found on the premises which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of such an offence; and
- (c) search or cause to be searched any person found on the premises whom he has reasonable cause to believe to have committed or be about to commit such an offence or to be in possession of any such documents or other things;

but no woman or girl shall be searched except by a woman.

- (4) In the application of this section to Scotland, the reference to a justice of the peace includes a reference to the sheriff and a magistrate.

### **38 Offences and penalties**

- (1) If any person is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of tax by him or any other person, he shall be liable to a penalty of £1,000 or three times the amount of the tax, whichever is the greater, or to imprisonment for a term not exceeding two years, or to both.

- (2) If any person—

- (a) with intent to deceive produces, furnishes or sends for the purposes of this Part of this Act or otherwise makes use for those purposes of any document which is false in a material particular ; or
- (b) in furnishing any information for the purposes of this Part of this Act makes any statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular;

he shall be liable to a penalty of £1,000 or to imprisonment for a term not exceeding two years, or to both.

- (3) Where a person's conduct during any specified period must have involved the commission by him of one or more offences under the preceding provisions of this section, then, whether or not the particulars of that offence or those offences are known, he shall, by virtue of this subsection, be guilty of an offence and liable to a penalty of £1,000 or, if greater, three times the amount of any tax that was or was intended to be evaded by his conduct, or to imprisonment for a term not exceeding two years, or to both.

- (4) If any person acquires possession of or deals with any goods, or accepts the supply of any services, having reason to believe that tax on the supply of the goods or services or on the importation of the goods has been or will be evaded, he shall be liable to a penalty of £1,000 or three times the amount of the tax, whichever is the greater.

- (5) If any person fails to comply with the requirements of Schedule 1 to this Act or supplies goods or services in contravention of section 32(2) of this Act he shall be liable to a penalty of £1,000 or, if greater, three times the amount of the tax evaded by the failure or contravention.

- (6) If a person other than—

- (a) a person registered under this Part of this Act; or
- (b) a body corporate treated for the purposes of section 21 of this Act as a member of a group ; or

- (c) a person treated as a taxable person under regulations made under section 23(3) of this Act; or
  - (d) a person authorised to do so under regulations made under section 30(6) of this Act; or
  - (e) a person acting on behalf of the Crown ;
- issues an invoice showing an amount as being tax or as being attributable to tax he shall be liable to a penalty of £1,000 or three times the amount so shown, whichever is the greater.
- (7) If any person fails to comply with any requirement imposed under section 34 or 35 of this Act or any regulations or rules made under this Part of this Act, he shall be liable to a penalty of £100, together with a penalty of £10 for each day on which the failure continues.
- (8) Sections 281 to 291 of the Customs and Excise Act 1952 (proceedings for offences, mitigation of penalties and certain other matters) shall apply in relation to offences under this Part of this Act (which include any act or omission in respect of which a penalty is imposed) and penalties imposed under this Part of this Act as they apply in relation to offences and penalties under the customs and excise Acts as defined in that Act; and accordingly in section 290(2) as it applies by virtue of this subsection the reference to duty shall be construed as a reference to the tax.

### **39 Evidence by certificate, etc.**

- (1) A certificate of the Commissioners—
- (a) that a person was or was not, at any date, registered under this Part of this Act; or
  - (b) that any return required by or under this Part of this Act has not been made or had not been made at any date; or
  - (c) that any tax shown as due in any return or assessment made in pursuance of this Part of this Act has not been paid;
- shall be sufficient evidence of that fact until the contrary is proved.
- (2) A photograph of any document furnished to the Commissioners for the purposes of this Part of this Act and certified by them to be such a photograph shall be admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.
- (3) Any document purporting to be a certificate under subsection (1) or subsection (2) of this section shall be deemed to be such a certificate until the contrary is proved.

### *Appeals*

### **40 Appeals**

- (1) An appeal shall lie to a value added tax tribunal constituted in accordance with Schedule 6 to this Act against the decision of the Commissioners with respect to any of the following matters:—
- (a) the registration or cancellation of registration of any person under this Part of this Act;
  - (b) an assessment under section 31 of this Act or the amount of such an assessment;

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- (c) the tax chargeable on the supply of any goods or services or, subject to subsection (5) of this section, on the importation of any goods;
  - (d) the amount of any input tax which may be deducted by a person;
  - (e) the proportion of any supplies that is to be taken as consisting of taxable supplies ;
  - (f) any refusal to permit the value of supplies to be determined by a method described in a notice published under section 30(3) of this Act;
  - (g) any refusal of an application under section 21 of this Act;
  - (h) any direction under paragraph 1 or paragraph 2 of Schedule 3 to this Act;
  - (i) the requirement of any security under section 32(2) of this Act.
- (2) An appeal under this section shall not be entertained unless the appellant has made all the returns which he was required to make under section 30(2) of this Act and has paid the amounts shown in those returns as payable by him.
- (3) Where the appeal is against a decision with respect to any of the matters mentioned in paragraph (b) or (c) of subsection (1) of this section it shall not be entertained unless—
- (a) the amount which the Commissioners have determined to be payable as tax has been paid or deposited with them; or
  - (b) on being satisfied that the appellant would otherwise suffer hardship the Commissioners agree or the value added tax tribunal decides that it should be entertained notwithstanding that that amount has not been so paid or deposited.
- (4) Where on an appeal under this section it is found—
- (a) that the whole or part of any amount paid or deposited in pursuance of subsection (3) of this section is not due; or
  - (b) that the whole or part of any amount due to the appellant under section 3(2) of this Act has not been paid;
- so much of that amount as is found not to be due or not to have been paid shall be repaid (or, as the case may be, paid) with interest at such rate as the value added tax tribunal may determine; and where the appeal has been entertained notwithstanding that an amount determined by the Commissioners to be payable as tax has not been paid or deposited and it is found on the appeal that that amount is due the tribunal may, if it thinks fit, direct that that amount shall be paid with interest at such rate as may be specified in the direction.
- (5) No appeal shall lie under this section with respect to any matter that has been or could have been referred to arbitration under section 260 of the Customs and Excise Act 1952 as applied by section 17 of this Act.

### *Supplementary*

#### **41 Priority of tax in bankruptcy, winding-up, etc.**

- (1) There shall be included among the debts which—
- (a) under section 33 of the Bankruptcy Act 1914 are to be paid in priority to all other debts in the distribution of the property of a bankrupt or person dying insolvent; or
  - (b) under section 118 of the Bankruptcy (Scotland) Act 1913 are to be paid in priority to all other debts in the division of a bankrupt's estate; or



- (c) under section 1 of the Preferential Payments (Bankruptcies and Arrangements) Act (Northern Ireland) 1964 are to be paid in priority to all other debts in the distribution of the property of a bankrupt, arranging debtor or person dying insolvent; or
- (d) under section 319 of the Companies Act 1948 or section 287 of the Companies Act (Northern Ireland) 1960 are to be paid in priority to all other debts in the winding up of a company, or under section 94 of the Act of 1948 or section 92 of the Act of 1960 are on an appointment of a receiver on behalf of debenture holders or taking of possession by or on behalf of debenture holders to be paid in priority to any claim for principal or interest in respect of the debentures;

the amount of any tax due at the relevant date from the bankrupt, debtor, person dying or company and having become due within the twelve months next before that date.

- (2) In this section " the relevant date "—
- (a) in relation to section 33 of the Act of 1914, means the date of the receiving order or of the death, as the case may be;
  - (b) in relation to section 118 of the Act of 1913, means the date mentioned in subsection (4) of that section;
  - (c) in relation to section 1 of the Act of 1964, means the date of the order of adjudication, the date of the filing of a petition for arrangement or of the death, as the case may be;
  - (d) in relation to section 319 of the Act of 1948, or section 287 of the Act of 1960, has the meaning assigned to it by that section, and in relation to section 94 of the Act of 1948 or section 92 of the Act of 1960, means the date of the appointment of the receiver or taking of possession ;

and for the purposes of this section the tax having become due within the twelve months mentioned therein in respect of any prescribed accounting period falling partly within and partly outside those twelve months shall be taken to be such part of the tax due for the whole of that accounting period as is proportionate to the part of that period falling within those twelve months.

#### **42 Adjustment of contracts on changes in tax**

- (1) Where, after the making of a contract for the supply of goods or services and before the goods or services are supplied, there is a change in the tax charged on the supply, then, unless the contract otherwise provided, there shall be added to or deducted from the consideration for the supply an amount equal to the change.
- (2) References in this section to a change in the tax charged on a supply include references to a change to or from no tax being charged on the supply.

#### **43 Orders, rules and regulations**

- (1) Any order under this Part of this Act may be varied or revoked by a subsequent order.
- (2) Any order made by the Treasury and any regulations or rules under this Part of this Act shall be made by statutory instrument.
- (3) Any statutory instrument made under this Part of this Act shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament, except an Order in Council and an order making such provision as is mentioned in subsection (4) of this section.

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- (4) An order under this Part of this Act making provision—
- (a) for increasing the rate of tax in force at the time of the making of the order; or
  - (b) for excepting any input tax from the provisions of subsections (1) to (5) of section 3 of this Act; or
  - (c) for varying Schedule 4 or Schedule 5 to this Act so as to abolish the zero-rating of a supply or to abolish the exemption of a supply without zero-rating it;
- shall be laid before the Commons House of Parliament; and unless it is approved by that House before the expiration of a period of twenty-eight days beginning with the date on which it was made, it shall cease to have effect on the expiration of that period, but without prejudice to anything previously done thereunder or to the making of a new order. In reckoning any such period no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the Commons House of Parliament is adjourned for more than four days.

#### **44 Service of notices**

A notice to be served on any person for any of the purposes of this Part of this Act may be served by sending it by post in a letter addressed to that person at his last or usual residence or place of business.

#### **45 Meaning of " business ", etc.**

- (1) In this Part of this Act "business" includes any trade, profession or vocation ; and—
- (a) the provision by the Independent Broadcasting Authority of broadcasting services ; and
  - (b) the provision by a club or by an association to which this paragraph applies of the facilities available to its members; and
  - (c) the provision by an organisation to which this paragraph applies of the advantages of membership; and
  - (d) the admission, for a consideration, of persons to any premises;
- shall be deemed to be the carrying on of a business.
- (2) Paragraph (b) of the preceding subsection applies to any association providing facilities for its members but shall not be taken to apply to an organisation of workers (within the meaning of section 61 of the Industrial Relations Act 1971 as extended by section 86 of that Act); and paragraph (c) of that subsection applies to any organisation of persons carrying on a trade, profession or vocation and to any association of such organisations, but only if the organisation or association so elects by notice in writing given to the Commissioners.
- (3) Where a person, in the course of carrying on a trade, profession or vocation, accepts an office, other than a public office, any services supplied by him as holder of the office shall be treated for the purposes of this Part of this Act as supplied in the course of a business carried on by him.

#### **46 Interpretation**

- (1) In this Part of this Act—
- " assignment ", in relation to Scotland, means assignation;

" authorised person " means any person acting under the authority of the Commissioners;

" invoice " includes any document similar to an invoice;

" input tax " has the meaning assigned to it by section 3 of this Act;

" money " includes currencies other than sterling;

" prescribed accounting period " has the meaning assigned to it by section 30(1) of this Act;

" quarter " means a period of three months ending at the end of March, June, September or December;

" ship " includes hovercraft;

" tax " means value added tax ;

" taxable person " has the meaning assigned to it by section 4 of this Act;

" taxable supply " means any supply of goods or services in the United Kingdom other than an exempt supply;

" the Commissioners" means the Commissioners of Customs and Excise.

- (2) Schedules 4 and 5 to this Act shall be interpreted in accordance with the notes contained therein; and accordingly the powers conferred by this Act to vary those Schedules include a power to add to, delete or vary those notes.
- (3) The descriptions of Groups in those Schedules are for ease of reference only and shall not affect the interpretation of the descriptions of items in those Groups.
- (4) References in this Part of this Act to the United Kingdom include the territorial sea of the United Kingdom.

#### **47 Commencement**

- (1) Tax shall not be charged on any supply or importation taking place before 1st April 1973.
- (2) Notwithstanding anything in section 7 of this Act or in section 79 of the Customs and Excise Act 1952 as applied by section 17 of this Act—
  - (a) a payment made before 1st April 1973 may be disregarded in determining for the purposes of this section whether a supply takes place before that date if, or to the extent that, it appears to the Commissioners that it would not have been so made but for the tax; and
  - (b) goods of which entry is made under section 28 of the Customs and Excise Act 1952 shall be treated for the purposes of this section as imported on the date on which entry is so made, except that if the entry is for warehousing the goods shall be treated for the purposes of this section as imported on the date on which they are removed from warehouse.

#### **48 Television sets supplied on hire at commencement of tax**

The Treasury may by order make provision for securing that where a television set—

- (a) is supplied on hire for a period beginning before 1st April 1973 ; and
- (b) is treated by virtue of regulations made under section 7 of this Act as supplied for successive parts of that period;

and such other conditions are satisfied as may be specified in the order, the tax on the supply for such a part ending on or before 31st March 1975 shall be chargeable as if

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the consideration for the supply were reduced to such extent as may be specified in the order; and different provision may be so made for different parts so ending and for different circumstances.

#### **49 Vehicles brought back to U.K. after remission of purchase tax**

Where a vehicle in respect of which purchase tax has been remitted under section 23 of the Purchase Tax Act 1963 (vehicles acquired for use outside United Kingdom) is brought back to the United Kingdom, the vehicle shall not, when brought back, be treated as imported for the purpose of value added tax chargeable on the importation of goods.

#### **50 Isle of Man**

(1) If an Act of Tynwald makes provision similar to the provision made with respect to value added tax by this Act, Her Majesty may by Order in Council make provision for securing that—

- (a) tax is charged under either Act as if references therein to the United Kingdom or the Isle of Man included both the United Kingdom and the Isle of Man, but is not charged under both Acts in respect of the same transaction; and
- (b) persons who are taxable persons for the purposes of either Act are treated as taxable persons for the purposes also of the other; and
- (c) a removal of goods from the United Kingdom into the Isle of Man or from the Isle of Man into the United Kingdom is not treated for the purposes of either Act as an importation or exportation of the goods;

and for making such modifications in those Acts and orders rules and regulations made thereunder as may be requisite for those purposes; and similarly with respect to any Act passed after this Act and relating to value added tax.

(2) An Order in Council under this section may include provision for section 2 of the Isle of Man Act 1958 (Isle of Man share of certain duties) to apply as if value added tax and the tax for which provision is made by Act of Tynwald were included among the duties mentioned in subsection (4) of that section and as if the reference in subsection (2)(a) of that section to goods consumed or used in the Isle of Man included a reference to services supplied in the Island.

#### **51 Refund of tax to Government of Northern Ireland**

The Commissioners shall refund to the Government of Northern Ireland the amount of the tax charged on the supply of goods or services to, or on the importation of goods by, that Government, after deducting therefrom so much of that amount as may be agreed between them and the Ministry of Finance for Northern Ireland as attributable to supplies and importations for the purpose of a business carried on by the Government of Northern Ireland.

## PART II

### CAR TAX AND PURCHASE TAX

#### 52 Car tax

- (1) A tax, to be known as car tax, shall be charged after 31st March 1973 on all chargeable vehicles made or registered in the United Kingdom.
- (2) Car tax on any vehicle shall be charged at the rate of 10 per cent. of the wholesale value of the vehicle.
- (3) In this section "chargeable vehicle" means, subject to the following provisions of this section, any vehicle of a kind normally used on public roads which is propelled by an internal combustion engine, has three or more wheels and either—
  - (a) is constructed or adapted solely or mainly for the carriage of passengers; or
  - (b) has to the rear of the driver's seat roofed accommodation which is fitted with side windows or which is constructed or adapted for the fitting of side windows.
- (4) The following are not chargeable vehicles—
  - (a) vehicles capable of accommodating only one person or suitable for carrying twelve or more persons;
  - (b) vehicles of not less than three tons unladen weight;
  - (c) caravans, ambulances and prison vans;
  - (d) vehicles of a type approved by the Assistant Commissioner of Police of the Metropolis as conforming to the conditions of fitness for the time being laid down by him for the purposes of the London Cab Order 1934;
  - (e) vehicles constructed for a special purpose other than the carriage of persons and having no other accommodation for carrying persons than such as is incidental to that purpose.
- (5) The Treasury may by order made by statutory instrument delete or vary any description of vehicle for the time being specified in subsection (4) of this section or add a description of vehicle to those so specified; and any such order may contain such transitional provisions as appear to the Treasury to be necessary or expedient.

A statutory instrument made under this subsection shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament except such an order as is mentioned in subsection (6) of this section.
- (6) An order under subsection (5) of this section the effect of which is to include any description of vehicle among those which are chargeable vehicles shall be laid before the Commons House of Parliament; and unless it is approved by that House before the expiration of a period of twenty-eight days beginning with the date on which it was made it shall cease to have effect on the expiration of that period, but without prejudice to anything previously done thereunder or to the making of a new order.

In reckoning any such period no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the Commons House of Parliament is adjourned for more than four days.
- (7) A vehicle is not a chargeable vehicle if it is more than twenty years old.

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- (8) A vehicle is not a chargeable vehicle if purchase tax has been paid in respect of it.
- (9) References in this section to the making of a chargeable vehicle include references to the conversion into a chargeable vehicle of a vehicle of any other description.
- (10) In this section " registered " means registered under the Vehicles (Excise) Act 1971 or any corresponding enactment of the Parliament of Northern Ireland for the time being in force.
- (11) Schedule 7 to this Act shall have effect in relation to the car tax.

### **53 Purchase tax: alteration of rates**

Subject to any new order of the Treasury under section 2 of the Purchase Tax Act 1963, Part I of Schedule 1 to that Act (chargeable and exempt goods and rates of tax) as amended shall have effect as from 22nd March 1972 with the substitution for any reference to 45 per cent. or 30 per cent. of a reference to 25 per cent.

### **54 Abolition of purchase tax**

- (1) Purchase tax shall not be charged in any case where, under the provisions of the Purchase Tax Act 1963, it would become due after 31st March 1973 or where, under the enactments applied by section 25 of that Act to tax chargeable under section 11 thereof, it would be payable after that date.
- (2) Subsection (1) of this section shall not affect—
  - (a) the operation of section 13(4) of the Purchase Tax Act 1963 (tax on imported goods not accounted for to satisfaction of Commissioners) in relation to goods deemed to be imported as mentioned in subsection (3) of that section on a representation made before April 1973; or
  - (b) any liability to tax arising on the breach of a condition subject to which relief from purchase tax was given.
- (3) Where a person carries on a business before 1st April 1973 in such circumstances that he is required under section 4(1) of the Purchase Tax Act 1963 to be registered but the relevant date mentioned in section 5(1) of that Act (applications for registration) falls not earlier than fourteen days before that day, that section shall have effect as if it required him to give to the Commissioners of Customs and Excise, before the expiration of fourteen days from the relevant date, notice in writing of his so carrying on the business.
- (4) Notwithstanding anything in section 14 of the Purchase Tax Act 1963, no process completed after 31st March 1973 shall be a chargeable process within the meaning of that Act.
- (5) Where a person is, on 31st March 1973, under a duty to preserve records and accounts kept under section 24 of the Purchase Tax Act 1963, that duty, and his obligation to produce them for inspection, shall continue after that date, notwithstanding that he is no longer registered or required to be registered under that Act.
- (6) In relation to any time falling after 31st March 1973 references to registered persons in section 31 of the Purchase Tax Act 1963 and in any regulations made under that section before the passing of this Act shall have effect as references to persons who

were registered persons before 1st April 1973 ; and the reference to a registered person in section 12(3) of that Act shall be construed accordingly.

- (7) Regulations under section 31 of the Purchase Tax Act 1963 may make provision for requiring persons—
- (a) to keep, on and after 1st October 1972, and preserve for such period as may be specified in the regulations, records in such form and containing such particulars as may be so specified of chargeable goods in their possession in circumstances where the delivery of the goods is liable, under section 40(4) of that Act, to be treated as a delivery under a chargeable purchase, and of such purchases made of such goods, and to produce the records for inspection by any officer or other person authorised in that behalf by the Commissioners of Customs and Excise at such time and at such place as that officer or person may require; and
  - (b) to furnish, at such times and places as may be specified in the regulations, to persons who have delivered such goods statements in such form and containing such particulars of goods remaining in the possession of the persons furnishing the statements and of purchases made of the goods as may be so specified, and to require such statements to contain a declaration, signed by the person to whom the goods were delivered, or on his behalf, by such persons as may be specified in the regulations, that the statement is to the best of his knowledge correct and complete.
- (8) The enactments mentioned in Part I of Schedule 28 to this Act are hereby repealed, to the extent specified in the third column of that Part, as from the end of March 1973 ; and the enactments mentioned in Part II of that Schedule are hereby repealed, to the extent specified in the third column of that Part, as from such date as the Treasury may by order made by statutory instrument appoint, and different dates may be so appointed for different enactments.

## **55 Amendments consequential on replacement of purchase tax**

- (1) In section 14(2) of the Crown Proceedings Act 1947 (summary applications to High Court for payment of purchase tax and furnishing of information relating thereto) and in section 14 of that Act as it applies in Northern Ireland for the words " purchase tax " in paragraphs (c) and (d) there shall be substituted the words " value added tax " ; but without prejudice to the operation of that section as originally enacted (or of the section substituted for Northern Ireland) with respect to purchase tax becoming due before the coming into force of this section or with respect to so much of the enactments relating to purchase tax as remains in force thereafter.
- (2) In subsections (1) and (2) of section 7 of the Finance Act 1968 (relief from customs duty and purchase tax payable by persons entering the United Kingdom and simplified computation of duty and tax) for the words " purchase tax ", wherever they occur, there shall be substituted the words " value added tax " .
- (3) For subsection (6) of that section there shall be substituted the following subsection—
- “(6) In this section " value added tax " means value added tax chargeable on the importation of goods and references to customs duty include any addition thereto by virtue of section 9 of the Finance Act 1961”.
- (4) In section 6(1) of the Finance Act 1968 for the words following paragraph (a) there shall be substituted the following words—

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“(b) being dutiable goods or chargeable goods, he has obtained in the United Kingdom without payment of duty or tax;

and in respect of which he is not entitled to exemption from duty and tax by virtue of any order under section 7 of this Act.

In this subsection 'chargeable goods' means goods on the importation of which value added tax is chargeable or goods obtained in the United Kingdom before 1st April 1973 which are chargeable goods within the meaning of the Purchase Tax Act 1963 ; and ' tax' means value added tax or purchase tax.”

- (5) In section 9 of the International Organisations Act 1968 for the words " or of purchase tax " there shall be substituted the words " value added tax or car tax " and in paragraph 7 of Schedule 1 to that Act for the words " purchase tax paid on any goods " there shall be substituted the words " car tax paid on any vehicles and value added tax paid on the supply of any goods or services " ; but without prejudice to the operation of that section or paragraph as originally enacted with respect to purchase tax becoming due before the coming into force of this section.
- (6) In section 6 of the Vehicles (Excise) Act 1971 (exemption from vehicles excise duty of vehicles acquired by overseas residents) the following shall be substituted for subsection (1), but without prejudice to the operation of that subsection as originally enacted in relation to purchase tax remitted under section 23 of the Purchase Tax Act 1963:—
- “(1) A mechanically propelled vehicle shall not be chargeable with any duty under this Act if it has been supplied to the person keeping it by a taxable person within the meaning of section 4 of the Finance Act 1972 and the supply has been zero-rated in pursuance of subsection (7) of section 12 of that Act; but if, at any time, the value added tax that would have been chargeable on the supply but for the zero-rating becomes payable under subsection (8) of that section, or would have become so payable but for any authorisation or waiver under that subsection, then the provisions of subsection (3) below shall apply in relation to that vehicle”.
- (7) This section shall come into force on 1st April 1973.

### PART III

#### CUSTOMS AND EXCISE

##### **56 Spirits and mechanical lighters (Kennedy round reductions)**

- (1) The following provisions of this section (which, in pursuance of the international obligations of the United Kingdom, reduce certain rates of customs duties) shall have effect as from 8th August 1972.
- (2) For Table 1 in Schedule 1 to the Finance Act 1964 (rates of customs and excise duties on spirits other than imported perfumed spirits) as substituted by section 1(2) of the Finance Act 1969 there shall be substituted the Table set out in Schedule 8 to this Act.
- (3) The duty of customs charged on mechanical lighters by section 6 of the Finance Act 1928 shall be charged (except where, by virtue of section 3 of the Finance Act 1963 (E.F.T.A.) or section 3 of the Finance Act 1968 (Republic of Ireland) it is charged



at the corresponding rates of excise duty) at the rate of 32½ p or, in the case of gas lighters within the meaning of section 8 of the Finance Act 1949, 22½ p, a lighter, instead of at the rates specified in subsection (1) of that section.

## **57 Spirits-compounding and rectifying in warehouse and use for medical purposes**

- (1) The operations that may be permitted on warehoused goods under section 84 of the Customs and Excise Act 1952 shall include the rectifying and compounding of spirits; and accordingly—
  - (a) spirits used in warehouse in pursuance of a permission given by virtue of this section shall be treated for the purposes of section 102 of that Act (restrictions relating to rectifiers) as spirits on which duty has been duly paid and section 101 of that Act (penalty for excess or deficiency in stock) shall not apply to spirits so used; and
  - (b) no allowance shall be paid under section 104 of that Act in respect of spirits compounded in pursuance of such a permission and section 109(1) of that Act (restrictions on delivery of immature spirits) shall not apply to spirits so compounded.
- (2) Where the Commissioners approve as a warehouse in which operations permitted by virtue of this section may be carried out the premises or part of the premises of a rectifier or compounder and at the time of the approval there are on the premises or part any spirits on which duty has been duly paid, then—
  - (a) if those spirits are British compounded spirits section 103 of the Customs and Excise Act 1952 (warehousing on drawback) shall apply as if the spirits had been warehoused at that time; and
  - (b) if those spirits are not British compounded spirits the Commissioners may repay the duty paid on them.
- (3) Duty shall not be payable on any spirits contained in an article imported or delivered from warehouse which is recognised by the Commissioners as being used for medical purposes; and—
  - (a) in relation to spirits used after the coming into operation of this section, section 112(1) of the Customs and Excise Act 1952 (repayment of duty) shall have effect as if for the words following "repayment" there were substituted the words "of the duty paid thereon"; and
  - (b) in relation to spirits in respect of which a repayment has been made after the coming into operation of this section, paragraph (a) of the proviso to section 103(5) of that Act shall have effect as if for the words following "this Act" there were substituted the words "no drawback shall be payable"; and
  - (c) in section 113(1)(b) of that Act after the words "the last foregoing section" there shall be inserted the words "or which were exempted from duty under section 57 of the Finance Act 1972".
- (4) This section shall have effect as from 8th August 1972.

## **58 Reduction of general betting duty on on-course bets**

- (1) In section 1(2)(a) of the Betting and Gaming Duties Act 1972 (general betting duty on on-course bets) for the words "5 per cent." there shall be substituted the words "4 per cent."
- (2) This section shall come into force on 31st July 1972.

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## 59 Gaming licence duty

In paragraph 18(1) of Schedule 2 to the Betting and Gaming Duties Act 1972 (provisions as to rateable values in Scotland) the words " but before 1st April 1973 " shall be omitted and after that paragraph there shall be inserted the following:—

*“Provisions as to rateable values in England and Wales*

- 19 (1) For the purpose of determining the amount of the duty chargeable on a gaming licence in respect of premises in England and Wales for a period beginning after 31st March 1973 the rateable value of any hereditament shall be ascertained in accordance with the following provisions of this paragraph in any case where a rateable value is shown for it in the valuation list then in force and either a lower value or no value is shown for it in the valuation list in force on 31st March 1973.
- (2) Where the rateable value of any hereditament falls to be ascertained in accordance with this paragraph, then—
- (a) if a rateable value is shown for it in the valuation list in force on 31st March 1973, its rateable value shall be taken to be the value so shown, but subject to paragraph (b) below;
  - (b) if, since the time of valuation, there has been a change of use or a material change of circumstances affecting the value of the hereditament its rateable value shall be taken to be the value determined under this paragraph as the rateable value that would have been shown for it in that valuation list if the change had been given effect to in the preparation of that list;
  - (c) if no value is shown for the hereditament in the valuation list in force on 31st March 1973 its rateable value shall be taken to be the value determined under this paragraph as the value that would have been so shown if, at the time of the valuation for the purposes of that list, the premises in respect of which the licence is to be granted had been in existence and all relevant circumstances had been the same as at the time the value of the hereditament is determined under this paragraph.
- (3) Any determination under this paragraph shall be made by the Commissioners after consultation with the valuation officer; but an appeal shall lie to the Lands Tribunal from their determination.
- (4) If the amount of duty chargeable is reduced in consequence of such an appeal, any amount overpaid shall be repaid.
- (5) In this paragraph 'valuation officer' has the same meaning as in the General Rate Act 1967 and 'material change of circumstances' and 'the time of valuation' have the meanings assigned to them by section 68(4) of that Act.”

## 60 Continuation of powers under section 9 of Finance Act 1961

The period after which orders of the Treasury under section 9 of the Finance Act 1961 may not be made or continue in force (which, by section 12 of the Finance Act 1971, was extended until the end of August 1972) shall extend until the end of August 1973 or such later date as Parliament may hereafter determine.

## **61 Temporary power to reduce certain revenue duties**

- (1) The Treasury may by order made before 1st April 1973 substitute for any of the rates at which any duty of customs or excise is chargeable on—
  - (a) spirits, other than power methylated spirits;
  - (b) beer;
  - (c) wine;
  - (d) British wine;
  - (e) tobacco;
  - (f) matches; or
  - (g) mechanical fighters;such lower rate as may be specified in the order and may substitute a correspondingly lower rate for any rate of drawback payable.
- (2) An order under subsection (1) of this section shall be made by statutory instrument and may be varied or revoked by a further order under that subsection.
- (3) Any statutory instrument made by virtue of this section shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

## **PART IV**

### **INCOME TAX AND CORPORATION TAX**

## **62 Charge of income tax for 1972-73**

Income tax for the year 1972-73 shall be charged at the standard rate of 38.75 per cent. and, in the case of an individual whose total income exceeds £3,000, at such higher rates in respect of the excess over £2,000 as Parliament may hereafter determine.

## **63 Surtax rates for 1971-72**

- (1) Subject to subsection (2) below, income tax for the year 1971-72 shall be charged, in the case of an individual whose total income exceeded £3,000, at rates in respect of the excess of that income over £2,000 which respectively exceed the standard rate by the amounts by which the higher rates for the year 1970-71 exceeded the standard rate for that year.
- (2) An individual whose total income for the year 1971-72 did not exceed £3,500 shall be entitled to have the surtax chargeable by virtue of subsection (1) above reduced to an amount equal to 40 per cent. of the difference between his total income and £3,000.

## **64 Charge of corporation tax for financial year 1971**

Corporation tax shall be charged for the financial year 1971 at the rate of 40 per cent.

## **65 Alterations of personal reliefs**

- (1) The deductions from tax to be made under section 8 of the Taxes Act (personal relief) shall be increased by the substitution—
  - (a) in subsection (1)(a) (married) of £600 for £465;

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- (b) in subsection (1)(b) (single) of £460 for £325 ; and
- (c) in subsection (2) (wife's earned income relief) of £460 for £325;

and accordingly that section shall have effect for the year 1973-74 and subsequent years of assessment as if in the third column of the Table set out in section 33(2) of the Finance Act 1971 the amounts to be deducted from total income under section 8 were £775, £595 and £595 instead of £600, £420 and £420, and that Table shall have effect as if the amounts substituted by paragraphs (a) to (c) above were also substituted in the second column for the amounts shown as previous deductions under section 8; and paragraph 5 of Schedule 6 to the Finance Act 1971 shall have effect with corresponding substitutions.

- (2) In section 7 of the Taxes Act (relief for persons over sixty-five with small incomes)—
  - (a) for the references to £530 and £825 (income limits for exemption) there shall be substituted references to £634 and £929 ; and
  - (b) for the reference to £345 (excess over those limits beyond which relief by reduction of tax is excluded) there shall be substituted a reference to £245.
- (3) In section 6 of the Taxes Act (relief for small incomes)—
  - (a) for the references to £450 (income limit for full relief) there shall be substituted references to £550; and
  - (b) for the reference to £750 (income limit for marginal relief) there shall be substituted a reference to £805.

## 66 Income tax rates for 1973-74

Income tax for the year 1973-74 shall, unless Parliament otherwise determines, be charged at the basic rate of 30 per cent.; and

- (a) in respect of so much of an individual's total income as exceeds £5,000 at such higher rates as are specified in the Table below; and
- (b) in respect of so much of the investment income included in an individual's total income as exceeds £2,000 at the additional rate of 15 per cent.

TABLE

<i>Part of excess over £5,000</i>	<i>Higher rate</i>
The first £1,000	40 per cent.
The next £1,000	45 per cent.
The next £1,000	50 per cent.
The next £2,000	55 per cent.
The next £2,000	60 per cent.
The next £3,000	65 per cent.
The next £5,000	70 per cent.
The remainder	75 per cent.

## 67 Capital allowances

(1) In relation to expenditure incurred after 19th July 1971 and before 22nd March 1972 section 42 of the Finance Act 1971 (first-year allowances) shall have effect as if—

- (a) in subsection (1) 80 per cent. were substituted for 60 per cent.;
- (b) in subsection (2)(b) the words " for industrial purposes ", in subsection (4) paragraphs (ii) and (iii), and, in subsection (6), the definition of " industrial purposes " were omitted; and
- (c) in the definition of " mobile equipment" for the words " in or about a building or structure used for industrial purposes " there were substituted the words " in or about premises used for the purposes of a trade, or on agricultural, forestry or amenity land or ".

(2) In relation to expenditure incurred after 21st March 1972—

- (a) that section shall have effect as if in subsection (1) the words "the whole" were substituted for the words " 60 per cent. " and subsections (2) to (6) were omitted ;
- (b) paragraph 8 of Schedule 8 to that Act shall have effect as if at the end there were added the following sub-paragraph—

“(5) Where a first-year allowance in respect of a person's expenditure on the provision of a ship falls to be withheld or withdrawn by virtue of section 41(2) of this Act, that person's ownership of the ship shall be disregarded in determining for the purposes of this paragraph whether the ship is new.”;

- (c) section 177(3A) of the Taxes Act shall have effect as if the words " within section 42(2)(b) of that Act" were omitted and after the word " disclaimed "there were inserted the words " or postponed " ; and
- (d) section 1(2) of the Capital Allowances Act 1968 (initial allowances for industrial buildings and structures, etc.) shall have effect as if for the words " three-twentieths " there were substituted the words " two-fifths " ;

and accordingly subsection (1)(b) of section 15 of the Finance Act 1970 shall not apply to expenditure so incurred.

(3) At the end of section 84(1) and of section 95(6) of the Capital Allowances Act 1968 there shall be added the words " unless it is so met by a grant made under Part I of the Industry Act 1972 or such grant made under an enactment of the Parliament of Northern Ireland as may be declared by the Treasury by order made by statutory instrument to correspond to a grant made under the said Part I.

A statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament. "

(4) Expenditure shall not be treated for the purposes of this section as having been incurred after the date on which it was in fact incurred by reason only of section 1(6) of the Capital Allowances Act 1968 (expenditure incurred before trade began) or section 5(1) of that Act (purchase of unused buildings) or so much of section 50(4) of the Finance Act 1971 as relates to expenditure incurred before trade began.

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## 68 Restriction of capital allowances in respect of machinery and plant

- (1) Chapter I of Part III of the Finance Act 1971 shall not apply to capital expenditure on the provision of second-hand machinery or plant incurred by any person on or after 14th June 1972 if—
- (a) the machinery or plant belonged to him at any time before 27th October 1970 or fell to be treated as belonging to him at any such time for the purposes of any provision of Chapter II of Part I of the Capital Allowances Act 1968 ; or
  - (b) capital expenditure on providing the machinery or plant was incurred by another person before the said 27th October and the machinery or plant continues after the date of the transaction under which the first-mentioned expenditure is incurred to be used for the purposes of a trade carried on by that other person.
- (2) Where on or after 14th June 1972 a person disposes of any machinery or plant to another person who is connected with him and the disposal value falls to be treated under subsection (6) of section 44 of the said Act of 1971 as equal to the open market value of the machinery or plant, the proviso to that subsection shall have effect as if the reference to the capital expenditure incurred by the person there mentioned were a reference to that capital expenditure or to the capital expenditure on the provision of the machinery or plant incurred by any other person who is connected with him, whichever is the greater.
- (3) Paragraph 3 of Schedule 8 to the said Act of 1971 shall be amended as follows—
- (a) in sub-paragraph (1) the words " which has been in use for the purposes of a trade carried on by the seller " shall be omitted ;
  - (b) in sub-paragraph (2) for the words " which has been in use for the purposes of a trade carried on by the person to whom the machinery or plant belongs " there shall be substituted the words " belonging to another person " ;
  - (c) in sub-paragraph (3) the words " which has been in use for the purposes of his trade " shall be omitted;
- and paragraph (b) of each of those sub-paragraphs shall have effect as if the reference to the machinery or plant continuing to be used for the purposes of a trade carried on by the person there mentioned included a reference to its being used after the date of the sale, the making of the contract or the assignment of the benefit of the contract (as the case may be) for the purposes of a trade carried on by that person or another person who is connected with him (other than the buyer, the person entering into the contract or the assignee) without having been used since that date for the purposes of any other trade except that of leasing machinery or plant.
- (4) In a case in which no disposal value falls to be brought into account as mentioned in sub-paragraph (1) of the said paragraph 3, that sub-paragraph shall have effect as if for the reference to the disposal value to be so brought into account there were substituted a reference to an amount equal to whichever of the following is the smallest—
- (a) the open market value of the machinery or plant;
  - (b) the capital expenditure incurred by the seller on the provision of the machinery or plant;
  - (c) the capital expenditure so incurred by any person who is connected with the seller.
- (5) The said sub-paragraph (1) shall not by virtue of paragraph (a) or (b) thereof deny a first-year allowance if the machinery or plant has not before the sale been used for the purposes of a trade by the seller or any person connected with him but for the purposes

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of that allowance there shall be disregarded so much (if any) of the expenditure as exceeds whichever is the smallest of the amounts mentioned in subsection (4)(a), (b) and (c) above.

- (6) Subsections (4) and (5) above shall apply in relation to sub-paragraphs (2) and (3) of the said paragraph 3 as they apply in relation to sub-paragraph (1) of that paragraph but taking references—
- (a) to the sale as references to the making of the contract and to the assignment of the benefit of the contract respectively;
  - (b) to the seller as references to the person to whom the machinery or plant belongs and to the assignor respectively.
- (7) Neither sub-paragraph (1) nor sub-paragraph (2) of the said paragraph 3 shall apply in relation to a sale or contract if the machinery or plant has never been used before the sale or the making of the contract and the business or part of the business of the seller or owner was the manufacture or supply of machinery or plant of that class and the sale was effected or the contract was made in the ordinary course of that business.
- (8) In paragraph 4 of Schedule 8 to the said Act of 1971, sub-paragraph (1)(b) and sub-paragraph (2)(b), together with the word " and " preceding the latter, shall be omitted.
- (9) Subsections (3) to (7) above apply in relation to cases where the incurring of the capital expenditure, the making of the contract or the assignment of the benefit of the contract mentioned in the said paragraph 3(1), (2) or (3) occurs on or after 14th June 1972, and subsection (8) above has effect from that date.
- (10) This section shall be construed as if contained in Chapter I of Part III of the said Act of 1971 ; and in this section " open market value " in relation to any machinery or plant means an amount equal to the price which the machinery or plant would have fetched if sold in the open market and references to persons connected with each other shall be construed in accordance with section 533 of the Taxes Act.

## **69 Restriction of balancing allowances on sale of industrial buildings and structures**

- (1) This section has effect where—
- (a) the relevant interest in a building or structure is sold subject to a subordinate interest; and
  - (b) a balancing allowance would, apart from this section, fall to be made to the person who is entitled to the relevant interest immediately before the sale (" the relevant person ") under section 3 of the Capital Allowances Act 1968 by virtue of the sale; and
  - (c) either—
    - (i) the relevant person, the person to whom the relevant interest is sold and the grantee of the subordinate interest, or any two of them, are connected with each other within the terms of section 533 of the Taxes Act, or
    - (ii) it appears with respect to the sale or to the grant of the subordinate interest, or with respect to transactions including the sale or grant, that the sole or main benefit which, but for this section, might have been expected to accrue to the parties or any of them was the obtaining of an allowance under Chapter I of Part I of the said Act of 1968.

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- (2) For the purposes of section 3 of the said Act of 1968 the net proceeds to the relevant person of the sale—
- (a) shall be taken to be increased by an amount equal to any premium receivable by him for the grant of the subordinate interest; and
  - (b) where no rent, or no commercial rent, is payable in respect of the subordinate interest, shall be taken to be what those proceeds would have been if a commercial rent had been payable and the relevant interest had been sold in the open market (increased by any amount to be added under paragraph (a) of this subsection) ;
- but the net proceeds of sale shall not by virtue of this subsection be taken to be greater than such amount as will secure that no balancing allowance falls to be made.
- (3) Where subsection (2) above operates, in relation to a sale, to deny or reduce a balancing allowance in respect of any expenditure the residue of that expenditure immediately after the sale shall be calculated for the purposes of Chapter I of Part I of the said Act of 1968 as if that balancing allowance had been made or, as the case may be, had not been reduced.
- (4) In this section—
- " subordinate interest " means any interest in or right over the building or structure in question (whether granted by the relevant person or by somebody else);
  - " premium " includes any capital consideration except so much of any sum as corresponds to any amount of rent or profits falling to be computed by reference to that sum under section 80 of the Taxes Act (premium treated as rent or Schedule D profits);
  - " capital consideration " means consideration which consists of a capital sum or would be a capital sum if it had taken the form of a money payment;
  - " rent " includes any consideration which is not capital consideration;
  - " commercial rent " means such rent as may reasonably be expected to have been required in respect of the subordinate interest in question (having regard to any premium payable for the grant of the interest) if the transaction had been at arm's length.
- (5) Where the terms on which a subordinate interest is granted are varied before the sale of the relevant interest any capital consideration for the variation shall be treated for the purposes of this section as a premium for the grant of the interest, and the question whether any and, if so, what rent is payable in respect of the interest shall be determined by reference to the terms as in force immediately before the sale.
- (6) This section shall be construed as if contained in Chapter I of Part I of the said Act of 1968 and applies where the relevant interest is sold on or after 14th June 1972.

## **70 Disabled persons' vehicle maintenance grant**

A grant made under section 33(3) of the Health Services and Public Health Act 1968 (cost of maintenance etc. of vehicles belonging to disabled persons) or under any corresponding enactment of the Parliament of Northern Ireland to any person owning a vehicle shall not be treated as income for any purpose of the Income Tax Acts.



## **71 Temporary disregard of increase in certain pensions and allowances**

So much of any pension or allowance—

- (a) payable under the National Insurance Act 1965 or the National Insurance (Industrial Injuries) Act 1965 or any corresponding enactment of the Parliament of Northern Ireland; or
- (b) payable under any Order in Council, Royal Warrant, order or scheme in respect of death due to service in the armed forces of the Crown or the merchant navy or to war injuries ;

as is attributable to any general increase taking effect in the year 1972-73 shall be left out of account for all the purposes of income tax charged for that year but not for the purpose of furnishing information relating to any person's income for that year.

## **72 Terminal grants to Members of Parliament**

A grant made in pursuance of a resolution of the House of Commons to a person ceasing to be a Member of that House on a dissolution of Parliament shall be exempt from income tax under Schedule E as an emolument, but without prejudice to its being taken into account, to the extent permitted by section 188(3) of the Taxes Act, under section 187 of that Act.

## **73 Compensation for premature retirement, etc.**

The exclusion, by virtue of section 188(1)(d) of the Taxes Act, of certain benefits from the charge to tax under section 187 of that Act (payments on retirement or removal from office or employment) shall not apply to any compensation paid for loss of office or employment or for loss or diminution of emoluments unless the loss or diminution is due to ill-health ; but this section shall not be taken to apply to any payment properly regarded as a benefit earned by past service.

## **74 Occupational pension schemes**

(1) The date on which—

- (a) section 22 of the Finance Act 1970 (exemptions and reliefs for certain statutory schemes) comes into force ; and
- (b) section 209 of the Taxes Act (the provision replaced by section 22) and section 211(5) of that Act cease to have effect;

shall, instead of being a date appointed under paragraph 3 of Schedule 3 to the Finance Act 1971, be 6th April 1973 ; and on that date section 210 of the Taxes Act (disallowance of certain contributions) shall cease to have effect.

- (2) Accordingly, in paragraph 3(1) of Schedule 3 to the Finance Act 1971 for the words preceding the paragraphs there shall be substituted the words " On 6th April 1973 ".
- (3) In section 22(2) of the Finance Act 1970 for the words " Any contribution " there shall be substituted the words " Any ordinary annual contribution " and for the words " for which the contribution is paid " the words " in which the contribution is paid ".

## **75 Relief for payment of interest**

(1) Where a person pays in any year of assessment—

- (a) annual interest chargeable to tax under Case III of Schedule D; or

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- (b) interest payable in the United Kingdom on an advance from a bank carrying on a bona fide banking business in the United Kingdom or from a person bona fide carrying on a business as a member of a stock exchange in the United Kingdom or bona fide carrying on the business of a discount house in the United Kingdom;

and makes a claim to relief under this subsection, then, subject to the following provisions of this section, the amount of the interest shall be deducted from or set off against his income for that year of assessment, and income tax shall be discharged or repaid accordingly.

- (2) Where interest is paid at a rate in excess of a reasonable commercial rate relief under this section shall not be given in respect of so much of the interest as represents the excess.
- (3) Relief shall not be given under this section on the first £35 of the interest paid by an individual in any year of assessment except in so far as it is protected interest as defined in Schedule 9 to this Act, that is to say, interest which would have been eligible for relief under section 57, 60 or 190 of the Taxes Act, other than interest on overdrafts.
- (4) Where the whole or part of any sum on which interest is paid by an individual in any year of assessment is outstanding in one or more other years of assessment and—
- (a) the interest is not protected interest; and
  - (b) the amount (if any) of interest other than protected interest paid by that individual on that and any other sum in that other year or any of those other years is less than £35;

subsection (2) above shall be applied as if the question whether or to what extent interest paid in any year of assessment is in excess of a reasonable commercial rate had to be decided without regard to whether or at what rate interest is payable in any other year; but the amount on which relief is given under this section shall not be reduced, by virtue of that subsection as so applied, by more than, for each of those other years in which the amount so paid is less than £35, the amount of the difference.

- (5) Where interest other than protected interest is paid after the end of the year of assessment in which it is due the amount on which relief is given under this section shall not be reduced under subsections (3) and (4) above to less than what it would have been had the interest been paid when due.
- (6) For any year in which the agreements set out in Part I of Schedule 12 to the Taxes Act are in force this section shall have effect as if the references to the United Kingdom included references to the Republic of Ireland.
- (7) This section has effect subject to Schedule 10 to this Act.
- (8) The Taxes Act shall have effect subject to the amendments specified in Schedule 11 to this Act; and the enactments mentioned in Part V of Schedule 28 to this Act are hereby repealed to the extent specified in the third column of that Part.

## **76 Securities bought with borrowed money**

- (1) The following provisions of this section shall apply where a person (in this section referred to as "the borrower ") acquires, whether before or after the passing of this Act, any securities, or an interest in any securities, which are redeemable at a specified date (in this section referred to as "the terminal date"); and—

- (a) he pays interest on a debt or other liability which he has incurred in circumstances which cannot be shown to be unconnected with the acquisition; and
  - (b) the whole or part of the debt or other liability is outstanding in any part of the period of three years ending with the terminal date (in this section referred to as " the terminal period ").
- (2) Subject to subsection (3) below, if—
- (a) the borrower is for any year of assessment entitled to relief under section 75 of this Act in respect of interest paid on the debt or liability; and
  - (b) the total amount on which he is entitled to relief under that section in that year in respect of that and any other interest exceeds £2,000;
- then, if the income arising to him from the securities in the terminal period is less than the interest payable by him in respect of so much of the debt or liability as is outstanding in any part of that period, the amount of the difference shall be chargeable to tax under Case VI of Schedule D as if it were income arising to him in the year of assessment in which the securities are redeemed or the securities are or the interest is disposed of by him.
- (3) If the borrower is a close company which is not a trading company, subsection (2) above shall have effect as if—
- (a) the references to a year of assessment were references to an accounting period;
  - (b) the reference to the borrower being entitled to relief under section 75 of this Act were a reference to the borrower being entitled to relief under the Corporation Tax Acts; and
  - (c) paragraph (b) were omitted;
- but subject to subsection (4) below.
- (4) Where a person to whom any part of the company's income is finally apportioned would not be chargeable to tax under subsection (2) above if he, instead of the company, had, to an extent proportionate to that part, acquired and retained the securities, incurred the debt or other liability, and paid the interest on it, and similarly with any other close company any of whose income is finally apportioned to him,—
- (a) the amount finally apportioned to him shall not be increased by virtue of subsection (3) above; and
  - (b) a reduction proportionate to the increase avoided by paragraph (a) above shall be made in the amount on which the company is charged to tax under that subsection, but the reduction shall not diminish the amount finally apportioned to any other person.
- (5) Where under arrangements made between connected persons (within the meaning of section 533 of the Taxes Act) or reciprocal arrangements made between any persons—
- (a) one or more of them (in this subsection referred to as " the holders ") acquire such securities or an interest in such securities as are mentioned in subsection (1) above; and
  - (b) the other or another of them (in this subsection referred to as " the claimant ") pays interest on a debt or other liability which cannot be shown to be unconnected with the holders' acquisition;

then, if subsection (1)(b) above applies to the debt or liability, subsections (2) to (4) above shall apply as if the securities or interest had been acquired and retained by the claimant instead of by the holders.

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- (6) In its application to any transaction resulting in a debt or liability falling within subsection (1) of this section, section 496(2) of the Taxes Act (annuity or other annual payment treated as interest) shall have effect as if it required the annuity or payment to be treated as annual interest on that debt or liability.
- (7) For the purposes of this section, where securities of any class are redeemable at different dates they shall be treated as redeemable at the latest of those dates.
- (8) In this section " security " includes any loan stock or similar security whether of the Government of the United Kingdom or of any other government, or of any public or local authority in the United Kingdom or elsewhere, or of any company, and whether secured or unsecured, and also includes a certificate of deposit as defined in section 55(3) of the Finance Act 1968; and references to an interest in any securities include references to an interest in the proceeds of sale of any securities.
- (9) A debt incurred for the purpose of extinguishing the whole or part of another debt or liability shall be treated for the purposes of this section as incurred for the same purpose as that other, and so on where more than two are successively incurred.
- (10) This section does not apply in relation to any interest paid or income arising before the year 1972-73.

#### **77 Share options-modification of section 186(2) of Taxes Act**

- (1) Where, on or after 11th April 1972, such a right as is mentioned in subsection (1) of section 186 of the Taxes Act is obtained as mentioned therein and the right is capable of being exercised later than seven years after it is obtained, subsection (2) of that section shall not prevent the charging of tax under any other provisions of the Tax Acts in respect of the receipt of the right; but where tax is charged under any of those provisions, it shall be deducted from any tax which, under that section, is chargeable by reference to the gain realised by the exercise, assignment or release of the right.
- (2) For the purpose of any charge to tax enabled to be made by virtue of this section, the value of a right shall be taken to be not less than the market value at the time the right is obtained of the shares which may be acquired by the exercise of the right or of shares for which shares so acquired may be exchanged, reduced by the amount or value (or, if variable, the least amount or value) of the consideration for which the shares may be so acquired.
- (3) Paragraph 6 of Part VII of Schedule 12 to this Act shall apply for the interpretation of this section.

#### **78 Approved share option schemes**

- (1) Where a person, on or after 6th April 1972, exercises a right to acquire shares in a body corporate which he obtained as a director or employee of that or any other body corporate, then, if—
  - (a) the right was obtained by him in pursuance of a scheme approved under Schedule 12 to this Act (whether before or after the right was obtained or exercised); and
  - (b) he satisfies the conditions specified in Part V of that Schedule;
 section 186 of the Taxes Act (charge to tax under Schedule E) shall not apply to any gain realised by him by the exercise and, subject to subsection (2) of this section, tax

shall not be chargeable under any other provision of the Tax Acts in respect of the receipt of the right.

- (2) Where such a right is on or after 6th April 1972 obtained by a person as a director or employee of a body corporate in pursuance of a scheme so approved and he satisfies those conditions, but the aggregate of—

- (a) the amount or value of the consideration (if any) given by him for obtaining the right; and
- (b) the price at which he may acquire the shares by exercising the right;

is less than the market value at the time he obtains the right of the same quantity of issued shares of the same class, he shall be chargeable to tax under Schedule E for the year of assessment in which he obtains the right on the amount of the difference; and the amount so chargeable shall be treated as earned income, whether or not it would otherwise fall to be so treated.

- (3) Where a person who has obtained a right to acquire any shares—

- (a) is chargeable to tax under this section on any amount; and
- (b) acquires the shares by exercising the right,

then, on the first disposal of the shares, whether by him or another person, after his acquisition, paragraph 4(1)(a) of Schedule 6 to the Finance Act 1965 (expenditure allowable in computation of chargeable gains) shall apply as if a sum equal to the amount chargeable had formed part of the consideration given by the person making the disposal for his acquisition of the shares.

- (4) Schedule 12 to this Act shall have effect for supplementing this section.

## 79 Share incentive schemes

- (1) Where a person, on or after 6th April 1972, acquires shares or an interest in shares in a body corporate in pursuance of a right conferred on him or opportunity offered to him as a director or employee of that or any other body corporate, and not in pursuance of an offer to the public, subsections (4) and (7) of this section shall apply unless their application is excluded by subsections (2) and (3) of this section respectively.

- (2) Subsection (4) below does not apply if—

- (a) the acquisition was made in pursuance of a scheme approved (whether before or after the acquisition) under Schedule 12 to this Act and the person making the acquisition satisfies the conditions specified in Part V of that Schedule; or
- (b) the acquisition was made in pursuance of such arrangements as are mentioned in subsection (8) below; or
- (c) the acquisition was of shares which were not subject to any restrictions other than restrictions attaching to all shares of the same class, and the majority of shares of that class were acquired otherwise than as mentioned in subsection (1) above.

- (3) Subsection (7) below does not apply if—

- (a) the acquisition was made and the benefit mentioned in that subsection was received in pursuance of a scheme approved (whether before or after the acquisition or receipt) under Schedule 12 to this Act; or
- (b) the acquisition was made under such arrangements as are mentioned in subsection (8) of this section.

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- (4) Where this subsection applies and the market value of the shares at the end of the period mentioned in subsection (6) below exceeds their market value at the time of the acquisition the person making the acquisition shall be chargeable to tax under Schedule E for the year of assessment in which that period ends on an amount equal, except as provided by subsection (5) below, to the excess (or, if his interest is less than the full beneficial ownership, such part of that amount as corresponds to his interest); and the amount so chargeable shall be treated as earned income, whether or not it would otherwise fall to be so treated.
- (5) The amount on which or on part of which the person making the acquisition is chargeable to tax under subsection (4) above shall, in the following cases, be reduced as follows, that is to say—
- (a) where, in accordance with the terms on which the acquisition of the shares was made, the consideration for the acquisition is subsequently increased, the said amount shall be reduced by an amount equal to the increase; and
  - (b) where, in accordance with those terms, the shares are subsequently disposed of for a consideration which is less than their market value at the time of the disposal, the said amount shall be reduced so as to be equal to the excess of that consideration over the market value of the shares at the time of the acquisition ;

and similarly where the interest acquired is less than the full beneficial ownership; and such assessments, alterations of assessments or repayments of tax shall be made as may be necessary to give effect to the reduction.

- (6) The period referred to in subsection (4) above is a period ending at the earliest of the following times:—
- (a) the expiration of seven years from the acquisition of the shares or interest in the shares;
  - (b) the time when that person ceases to have any beneficial interest in the shares; and
  - (c) in relation only to a person who acquires shares, the time when the shares cease to be subject to any restrictions other than restrictions attaching to all shares of the same class;

and for the purposes of that subsection and of paragraph (b) above a person whose beneficial interest in shares is reduced shall be treated as ceasing to have an interest in such part of the shares as is proportionate to the reduction.

- (7) Where this subsection applies and the person making the acquisition receives, by virtue of his ownership of or interest in the shares, any benefit not received by the majority of persons who—
- (a) hold shares forming part of the ordinary share capital of the same body corporate; and
  - (b) have acquired the shares otherwise than as mentioned in subsection (1) above;
- and the benefit is not otherwise chargeable to income tax, he shall be chargeable to tax under Schedule E for the year of assessment in which he receives the benefit on an amount equal to the value of the benefit; and the amount so chargeable shall be treated as earned income, whether or not it would otherwise fall to be so treated.
- (8) The arrangements referred to in subsections (2)(b) and (3)(b) of this section are arrangements under which employees of a body corporate receive as part of their emoluments shares or interests in shares of that body or of a body controlling it to an extent determined in advance by reference to the profits of either body.

- (9) Where an amount is chargeable to tax under this section on a person acquiring any shares or interest in shares, then on the first disposal of the shares (whether by him or another person) after his acquisition, paragraph 4(1)(a) of Schedule 6 to the Finance Act 1965 (expenditure allowable in computation of chargeable gains) shall apply as if a sum equal to the amount chargeable had formed part of the consideration given by the person making the disposal for his acquisition of the shares.
- (10) For the purposes of this section, where a person acquires any shares or an interest in shares in a body corporate in pursuance of a right conferred on him or opportunity offered to him as a person connected with a director or employee of that or any other body corporate, the shares or interest shall be deemed to be acquired by the director or employee, and subsection (9) above shall apply with the necessary modifications; and where that person receives a benefit as mentioned in subsection (7) above, the benefit shall be deemed to be received by the director or employee.
- (11) For the purposes of this section a person who disposes of shares or an interest in shares otherwise than by a bargain at arm's length with a person who is not connected with him shall be deemed not to cease to have a beneficial interest in the shares.
- (12) Schedule 12 to this Act shall have effect for supplementing this section.

## **80 Land sold and leased back: taxation of consideration received**

- (1) If, in any case where a person (in this section referred to as " the lessee ") who is a lessee of land under a lease having not more than 50 years to run (in this section referred to as " the original lease ") is entitled in respect of the rent under the lease to a deduction by way of tax relief of a kind to which section 491 of the Taxes Act applies (land sold and leased back: limitation on tax reliefs),—
- (a) the lessee assigns the original lease to another person, or surrenders it to his landlord, for a consideration which apart from this section would not be taxable otherwise than as capital in the hands of the lessee, and
  - (b) there is granted or assigned to the lessee another lease (in this section referred to as " the new lease ") of or including the whole or any part of the land which was the subject of the original lease for a term not exceeding 15 years,
- then, subject to the following provisions of this section, the provisions of the Taxes Act providing for deductions or allowances by way of tax relief in respect of payments of rent shall apply in relation to the rent under the new lease, and for the purposes of the Tax Acts a proportion of the consideration received by the lessee shall be treated not as a capital receipt but in accordance with subsection (3) below.
- (2) For the purposes of this section—
- (a) if the aggregate of the rent payable under the new lease in respect of any rental period ending on a date falling before the 15th anniversary of the date on which the term of the new lease begins is greater than the aggregate of the rent payable under the new lease in respect of the period of equal duration beginning on the day following that date, then, unless the term of the new lease would be treated as ending on an earlier date by virtue of paragraph (b) below, that term shall be treated as ending on that date ; and
  - (b) if under the terms of the new lease either the lessor or the lessee has power to determine the new lease at a time before the expiry of the term for which it was granted or the lessee has power to vary his obligations under the new lease so as to reduce the rent which he would otherwise have to pay or in any

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other manner beneficial to him, then, unless the term of the new lease would be treated as ending on an earlier date by virtue of paragraph (a) above, that term shall be treated as ending on the earliest date with effect from which, in exercise of that power, the lessor or the lessee could determine the new lease or, as the case may be, the lessee could so vary his obligations;

and in any case where a rentcharge payable by the lessee is secured on the whole or any part of the property which is the subject of the new lease, the rent payable under the new lease shall be treated for the purposes of paragraphs (a) and (b) above as equal to the aggregate of the rentcharge and the rent payable under the terms of that lease.

- (3) Subject to the following provisions of this section, the proportion of the consideration received by the lessee as mentioned in subsection (1) above, or of any instalment thereof, which for the purposes of the Tax Acts is to be treated not as a capital receipt but in accordance with this subsection shall be determined by the formula—

$$\frac{16 - n}{15}$$

where " n " is the term of the new lease expressed in years or, if that term is less than a year, where " n " is 1; and that proportion shall be treated for the purposes of those Acts—

- (a) as a receipt of a trade, profession or vocation, if the rent payable by the lessee under the new lease is allowable as a deduction in computing profits or gains or losses of a trade, profession or vocation for the purposes of tax and if the consideration is received by the lessee in the course of that trade, profession or vocation, and
- (b) in any other case, as a profit or gain chargeable under Case VI of Schedule D.
- (4) In any case where the property which is the subject of the new lease does not include the whole of the property which was the subject of the original lease, the consideration received by the lessee shall be treated for the purposes of subsection (3) above as reduced to that portion thereof which is reasonably attributable to such part of the property which was the subject of the original lease as consists of, or is included in, the property which is the subject of the new lease.
- (5) Schedule 3 to the Taxes Act (relief for individuals in respect of premiums taxable under Schedules D and A) shall have effect for the purpose of giving relief, on a claim being made in that behalf, from any increase in an individual's liability to income tax which is attributable to any amount being treated, by virtue of subsection (3) above, as an income receipt for a single year of assessment rather than as a series of such receipts during the term of the new lease; and in the application of that Schedule by virtue of this subsection, for the definitions of " chargeable sum " and " relevant period " there shall be substituted the following definitions:—
- “" chargeable sum " means the amount in respect of which, by virtue of subsection (3) above, the claimant is chargeable for income tax for the year of assessment;
- " relevant period ", in relation to any chargeable sum, means the term of the new lease.”

- (6) Where, by agreement with his landlord, the lessee varies the terms of the original lease in such a manner that, in return for such a consideration as is specified in subsection (1)(a) above, the lessee undertakes to pay, during a period ending not later than 15 years after the date on which the consideration, or if the consideration is paid



in instalments, the last instalment thereof, is paid to the lessee, a rent greater than that payable under the original lease, he shall be treated for the purposes of this section as having surrendered the original lease for that consideration and as having been granted a new lease for a term not exceeding 15 years but otherwise on the terms of the original lease as so varied.

- (7) References in this section to the lessee (other than in subsection (1)(a) above) include references to a person who is a partner or associate of the lessee or an associate of a partner of the lessee; and for the purposes of this section the expression " associate " shall be construed in accordance with section 494(10) of the Taxes Act.
- (8) Subject to subsection (7) above, expressions used in this section have the meanings assigned to them by section 90 of the Taxes Act (interpretation of Part III), and in subsection (2)(a) above " rental period " means a period in respect of which a payment of rent falls to be made, and for the purposes of that subsection, in a case where the rental period is a quarter or a month, each such period shall be treated as of equal duration.
- (9) The preceding provisions of this section shall not apply if the lessee had, before 22nd June 1971, a right enforceable at law or in equity to the grant of the new lease, but in any case where, apart from this subsection, those provisions would apply, no part of the rent paid under the new lease shall be treated as a payment of capital, and the provisions of the Taxes Act providing for deductions or allowances by way of tax relief in respect of payments of rent shall apply accordingly.

## **81 Premiums for and duration of leases**

- (1) In subsection (6) of section 80 of the Taxes Act (amount payable by instalments) for the words from " shall, if he makes a claim " to the end there shall be substituted the words " may, if he satisfies the Board that he would otherwise suffer undue hardship, be paid at his option by such instalments as the Board may allow over a period not exceeding eight years and ending not later than the time at which the last of the first-mentioned instalments is payable ".
- (2) Section 84 of the Taxes Act (rules for ascertaining duration of leases) shall be amended as follows—
  - (a) in subsection (1), paragraph (a) shall be omitted and in paragraph (b) after the words " a date falling before the expiry of the term of the lease " there shall be inserted the words " and the premium was not substantially greater than it would have been (on the assumptions required by subsection (2) below) had the term been one expiring on that date ";
  - (b) at the end of subsection (1) there shall be added: "and
    - (d) where the tenant, or a person connected with him (within the meaning of section 533 of this Act) is or may become entitled to a further lease or the grant of a further lease (whenever commencing) of the same premises or of premises including the whole or part of the same premises, the term of the lease may be treated as not expiring before the term of the further lease.";
  - (c) in subsection (2) for the words " subsection (1)(b) " (in both places) there shall be substituted the words " subsection (1) " and at the end of the subsection there shall be added the words " and where, by the lease or in connection with the granting of it, benefits were conferred other than vacant possession

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and beneficial occupation of the premises or the right to receive rent at a reasonable commercial rate in respect of them, or payments were made which would not be expected to be made by parties so acting if no other benefits had been so conferred, it shall be further assumed, unless it is shown that the benefits were not conferred or the payments made for the purpose of securing a tax advantage in the application of this Part of this Act, that the benefits would not have been conferred nor the payments made had the lease been for a term ending on the date mentioned in subsection (1)(b) above. ”;

- (d) in subsection (3) for the words " subsection (1)" there shall be substituted the words " subsections (1) and (2) ".
- (3) In section 90(1) of the Taxes Act, in the definition of " premium " after the words " superior landlord " there shall be added the words " or to a person connected, within the meaning of section 533 of this Act, with the immediate or a superior landlord ".
- (4) After section 90(2) of the Taxes Act there shall be inserted the following subsections—
- “(2A) Where paragraph (d) of section 84(1) above applies, the premium, or an appropriate part of the premium, payable for or in connection with either lease mentioned in that paragraph may be treated as having been required under the other.
- (2B) References in this section to a sum shall be construed as including the value of any consideration, and references to a sum paid or payable or to the payment of a sum shall be construed accordingly.”
- (5) After section 84(3) of the Taxes Act there shall be inserted the following subsection—
- “(3A) Where an inspector has reason to believe that a person has information relevant to the ascertainment of the duration of a lease in accordance with the preceding provisions of this section, the inspector may by notice in writing require him to give, within a time specified in the notice, such information on the matters specified in the notice as is in his possession ; but a solicitor shall not be so required to do more, in relation to anything done by him on behalf of a client, than state that he is or was acting on behalf of a client and give the name and address of his client. and the subsection so inserted shall be added to the provisions of the Taxes Act specified in the second column of the Table set out in section 98 of the Taxes Management Act 1970 (penalty for failure to furnish information).”;
- (6) Subject to the transitional provisions contained in Schedule 13 to this Act, subsection (1) of this section shall be deemed to have come into force on 11th April 1972 and subsections (2) to (4) on 25th August 1971.

## **82 Appeals against determinations under sections 80 to 82 of Taxes Act**

- (1) Where it appears to the inspector that the determination of any amount on which a person may be chargeable to tax by virtue of section 80, 81 or 82 of the Taxes Act may affect the liability to tax of other persons he may give notice in writing to those persons as well as to the first-mentioned person of the determination he proposes to make and of the rights conferred on them by this section.
- (2) Any person to whom such a notice is given may, within thirty days after the date on which it is given, object to the proposed determination by notice in writing given to the inspector.

- (3) Where notices have been given under subsection (1) above and no notice of objection is duly given under subsection (2) above the inspector shall make the determination as proposed in his notices and the determination shall not be called in question in any proceedings.
- (4) Where a notice of objection is duly given the amount mentioned in subsection (1) above shall be determined in like manner as an appeal and shall be so determined by the Special Commissioners or such body of General Commissioners as may be agreed on by the person to be charged and all persons who have given notice of objection.
- (5) All persons to whom notices have been given under subsection (1) above may take part in any proceedings under subsection (4) above and in any appeal arising out of those proceedings and shall be bound by the determination made in the proceedings or on appeal, whether or not they have taken part in the proceedings; and their successors in title shall also be so bound.
- (6) A notice under subsection (1) above may, notwithstanding any obligation as to secrecy or other restriction on the disclosure of information, include a statement of the grounds on which the inspector proposes to make the determination.
- (7) An inspector may by notice in writing require any person to give, within the time specified in the notice, such information as appears to the inspector required for deciding whether to give a notice under subsection (1) above to any person.
- (8) In section 98 of the Taxes Management Act 1970 (penalty for failure to furnish information etc.) the following shall be added in the second column of the Table: "Section 82 of the Finance Act 1972".
- (9) In this section " tax " means income tax, corporation tax or capital gains tax.

### **83 Double taxation relief for underlying tax**

- (1) Subsection (4) of section 498 of the Taxes Act (relief for underlying tax where dividend is paid by overseas company to company resident in the United Kingdom if not less than 10 per cent. of voting power in the company paying the dividend is directly or indirectly controlled by the company receiving it or by that company's parent) shall apply also where the voting power controlled as mentioned in that subsection is less than 10 per cent. if—
  - (a) it has been reduced below that percentage on or after 1st April 1972; or
  - (b) it has been acquired on or after that date in exchange for voting power in another company in respect of which relief under the said subsection (4) was due prior to the exchange,and the company receiving the dividend shows that the conditions specified in subsection (2) below are satisfied.
- (2) The said conditions are—
  - (a) that the reduction below the said percentage (and any further reduction) or, as the case may be, the exchange (and any reduction thereafter) could not have been prevented by any reasonable endeavours on the part of the company receiving the dividend and was due to a cause or causes not reasonably foreseeable by it when control of the relevant voting power was acquired; and
  - (b) no reasonable endeavours on the part of that company could have restored or, as the case may be, increased the voting power to not less than 10 per cent.

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- (3) In subsection (2) above references to the company receiving the dividend include references—
- (a) to any company of which it is a subsidiary within the meaning of section 500(2) of the Taxes Act; and
  - (b) where prior to the reduction or exchange the voting power in question was controlled otherwise than directly by the company receiving the dividend, to each other company relevant for determining whether that voting power was controlled as required by the said subsection (4).
- (4) In subsection (2)(a) above " the relevant voting power " means the voting power by virtue of which relief was due under the said subsection (4) prior to the reduction or exchange or, where control of the whole of that voting power was not acquired at the same time, that part thereof of which control was last acquired.
- (5) In any case in which relief in respect of a dividend is due by virtue of the foregoing provisions of this section there shall be taken into account, as if it were tax payable under the law of the territory in which the company paying the dividend is resident, any tax that would be so taken into account under section 508 of the Taxes Act (extension of relief to U.K. and third country taxes) if the company paying the dividend and the company receiving it were related to each other within the meaning of subsection (5) of that section.
- (6) This section has effect with respect to dividends paid (within the meaning of section 527(3) of the Taxes Act) on or after 1st April 1972.

## PART V

### TAXATION OF COMPANIES AND COMPANY DISTRIBUTIONS

#### *Advance corporation tax and tax credit*

#### **84 Liability for advance corporation tax where company makes qualifying distribution**

- (1) Where a company resident in the United Kingdom makes a qualifying distribution after 5th April 1973 it shall be liable to pay an amount of corporation tax (to be known as " advance corporation tax ") in accordance with this section.
- (2) Subject to section 89 below, advance corporation tax shall be payable on an amount equal to the amount or value of the distribution, and shall be so payable at a rate (to be known as " the rate of advance corporation tax ") which for the period beginning with 6th April 1973 and ending with 31st March 1974 shall be three-sevenths and thereafter such fraction as Parliament may from time to time determine.
- (3) The sum of the amount or value of a qualifying distribution and such proportion thereof as corresponds to the rate of advance corporation tax in force for the financial year in which the distribution is made is in this Part of this Act referred to as " a franked payment ", and references to any accounting or other period in which a franked payment is made are references to the period in which the distribution in question is made.
- (4) In this Part of this Act " qualifying distribution " means any distribution other than—

- (a) a distribution which, in relation to the company making it, is a distribution by virtue only of paragraph (c) of section 233(2) of the Taxes Act (bonus redeemable share capital and bonus securities); or
  - (b) a distribution consisting of any share capital or security which the company making the distribution has directly or indirectly received from the company by which the share capital or security was issued and which, in relation to the latter company, is a distribution by virtue only of that paragraph.
- (5) Schedule 14 to this Act shall have effect for the purpose of regulating the time and manner in which advance corporation tax is to be accounted for and paid.

**85 Payments of advance corporation tax to be set against company's liability to corporation tax on its income**

- (1) Subject to subsection (2) below, advance corporation tax paid by a company (and not repaid) in respect of any distribution made by it in an accounting period shall be set against its liability to corporation tax on any income charged to corporation tax for that accounting period and shall accordingly discharge a corresponding amount of that liability.
- (2) The amount of advance corporation tax to be set against a company's liability for any accounting period under subsection (1) above shall not exceed the amount of advance corporation tax that would have been payable (apart from section 89 below) in respect of a distribution made at the end of that period of an amount which, together with the advance corporation tax so payable in respect of it, is equal to the company's income charged to corporation tax for that period.
- (3) Where in the case of any accounting period of a company there is an amount of surplus advance corporation tax (that is to say, advance corporation tax which cannot be set against the company's liability to corporation tax for that period because the company has no income charged to corporation tax for that period or because of subsection (2) above) the company may, within two years after the end of that period, claim to have the whole or any part of that amount treated for the purposes of this section (but not of any further application of this subsection) as if it were advance corporation tax paid in respect of distributions made by the company in any of its accounting periods beginning in the two years preceding that period (but so that the amount which is the subject of the claim is set, so far as possible, against the company's liability for a more recent accounting period before a more remote one) and corporation tax shall, so far as may be required, be repaid accordingly.
- (4) Where in the case of any accounting period of a company there is an amount of surplus advance corporation tax which has not been dealt with under subsection (3) above, that amount shall be treated for the purposes of this section (including any further application of this subsection) as if it were advance corporation tax paid in respect of distributions made by the company in the next accounting period.
- (5) Effect shall be given to subsections (1) and (4) above as if on a claim in that behalf by the company and, for that purpose, a return made by the company under section 11 of the Management Act containing particulars of advance corporation tax or surplus advance corporation tax which falls to be dealt with under those subsections shall be treated as a claim.
- (6) For the purposes of this section the income of a company charged to corporation tax for any period shall be taken to be the amount of its profits for that period on

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which corporation tax falls finally to be borne exclusive of the part of the profits attributable to chargeable gains; and that part shall be taken to be the amount brought into the company's profits for that period for the purposes of corporation tax in respect of chargeable gains before any deduction for charges on income, expenses of management or other amounts which can be deducted from or set against or treated as reducing profits of more than one description.

- (7) No advance corporation tax shall by virtue of this section be set against a company's liability to corporation tax charged for any time before 1st April 1973, and this section has effect subject to the subsequent provisions of this Act.

## **86 Tax credit for certain recipients of qualifying distributions**

- (1) Where a company resident in the United Kingdom makes a qualifying distribution after 5th April 1973 and the person receiving the distribution is another such company or a person resident in the United Kingdom, not being a company, the recipient of the distribution shall be entitled to a tax credit under this section (in this Part of this Act referred to as a "tax credit").
- (2) The tax credit in respect of a distribution shall be available for the purposes specified in this section and the subsequent provisions of this Act, and shall be equal to such proportion of the amount or value of the distribution as corresponds to the rate of advance corporation tax in force for the financial year in which the distribution is made.
- (3) Subject to section 89(5) below, a company resident in the United Kingdom which is entitled to a tax credit in respect of a distribution may claim to have the amount of the credit paid to it if—
- (a) the company is wholly exempt from corporation tax or is only not exempt in respect of trading income; or
  - (b) the distribution is one in relation to which express exemption (otherwise than by section 239 of the Taxes Act) is given, whether specifically or by virtue of a more general exemption from tax, under any provision of the Tax Acts.
- (4) A person, not being a company resident in the United Kingdom, who is entitled to a tax credit in respect of a distribution may claim to have the credit set against the income tax chargeable on his income under section 3 of the Taxes Act or on his total income for the year of assessment in which the distribution is made and, where the credit exceeds that income tax, to have the excess paid to him.
- (5) Where a distribution mentioned in subsection (1) above is, or falls to be treated as, or under any provision of the Tax Acts is deemed to be, income of a person other than the recipient, that person shall be treated for the purposes of this section as receiving the distribution (and accordingly the question whether he is entitled to a tax credit in respect of it shall be determined by reference to where he, and not the actual recipient, is resident); and where any such distribution is income of a United Kingdom trust the trustees shall be entitled to a tax credit in respect of it if no other person falls to be treated for the purposes of this section as receiving the distribution.

## **87 Income tax on distributions**

- (1) This section shall have effect for the year 1973-74 and subsequent years of assessment.

- (2) For the Schedule F set out in subsection (1) of section 232 of the Taxes Act there shall be substituted—

“SCHEDULE F

- 1 Income tax under this Schedule shall be chargeable for any year of assessment in respect of all dividends and other distributions in that year of a company resident in the United Kingdom which are not specially excluded from income tax, and for the purposes of income tax all such distributions shall be regarded as income however they fall to be dealt with in the hands of the recipient.
- 2 For the purposes of this Schedule and all other purposes of the Tax Acts and such distribution as aforesaid in respect of which a person is entitled to a tax credit shall be treated as representing income equal to the aggregate of the amount or value of that distribution and the amount of that credit, and income tax under this Schedule shall accordingly be charged on that aggregate.”
- (3) No distribution which is chargeable under the said Schedule F shall be chargeable under any other provision of the Income Tax Acts.
- (4) Subsections (2) and (3) of the said section 232 (which require a company resident in the United Kingdom to deduct and account for income tax in respect of distributions made by it) shall cease to have effect.
- (5) Where in any year of assessment the income of a person, not being a company resident in the United Kingdom, includes a distribution in respect of which that person is not entitled to a tax credit—
- (a) no assessment shall be made on that person in respect of income tax at the basic rate on the amount or value of the distribution;
  - (b) that person's liability under any assessment made in respect of income tax at any such higher rate as is mentioned in section 32(1)(b) of the Finance Act 1971 on the amount or value of the distribution or on any part thereof shall be reduced by a sum equal to income tax at the basic rate on so much thereof as is assessed at any such higher rate; and
  - (c) the amount or value of the distribution shall be treated for the purposes of sections 52 and 53 of the Taxes Act as not brought into charge to income tax.
- (6) Where a person has paid tax in respect of excess liability on, or on any part of, a distribution which is not a qualifying distribution (" the non-qualifying distribution "), then, if, apart from this subsection, he would be liable to pay an amount of tax in respect of excess liability on, or on any part of, a repayment of the share capital or of the principal of the security which constituted the non-qualifying distribution, he shall be so liable only to the extent (if any) to which that amount exceeds the tax which he has already paid as aforesaid.

In this subsection " excess liability" means the excess of liability to income tax over what it would be if all income tax were charged at the basic rate to the exclusion of any other rate.

*Franked investment income*

**88 " Franked investment income "**

- (1) Income of a company resident in the United Kingdom which consists of a distribution in respect of which the company is entitled to a tax credit (and which accordingly represents income equal to the aggregate of the amount or value of the distribution and the amount of that credit) is in this Part of this Act referred to as " franked investment income " of the company.
- (2) Subject to the transitional provisions hereinafter contained, the foregoing subsection shall apply also for the construction of references to franked investment income in other provisions of the Tax Acts in their application to any time after 5th April 1973 and shall so apply to the exclusion of the definition in section 240 of the Taxes Act.

**89 Calculation of advance corporation tax where company receives franked investment income**

- (1) Where in any accounting period a company receives franked investment income the company shall not be liable to pay advance corporation tax in respect of qualifying distributions made by it in that period unless the amount of the franked payments made by it in that period exceeds the amount of that income.
- (2) If in an accounting period there is such an excess, advance corporation tax shall be payable on an amount which, when the advance corporation tax payable thereon is added to it, is equal to the excess.
- (3) If the amount of franked investment income received by a company in an accounting period exceeds the amount of the franked payments made by it in that period the excess shall be carried forward to the next accounting period and treated for the purposes of this section (including any further application of this subsection) as franked investment income received by the company in that period.
- (4) Schedule 14 to this Act shall apply for the purpose of regulating the manner in which effect is to be given to the foregoing provisions of this section.
- (5) No franked investment income shall be used to frank distributions of a company (that is to say, used in accordance with this section and the said Schedule so as to relieve the company from, or obtain repayment of, advance corporation tax for which the company would otherwise be liable) if the amount of the tax credit comprised in it has been paid under subsection (3) of section 86 above; and no payment shall be made under that subsection in respect of the tax credit comprised in franked investment income which has been used as aforesaid.
- (6) In this Part of this Act any such excess as is mentioned in subsection (3) above (calculated without regard to franked investment income which by virtue of subsection (5) above cannot be used to frank distributions) is referred to as a " surplus of franked investment income " ; and, subject to the transitional provisions hereinafter contained, references to a surplus of franked investment income in other provisions of the Tax Acts in their application to any time after 5th April 1973 shall be construed as references to any such excess instead of as references to any such surplus as is mentioned in section 240(1) of the Taxes Act.



## **90 Set-off of losses etc. against surplus of franked investment income**

- (1) For sections 254 and 255 of the Taxes Act (under which a company may recover income tax on any such surplus of franked investment income as is mentioned in section 240(1) of that Act by claiming a set-off for trading losses and certain other matters) there shall, as respects any time after 5th April 1973, be substituted the sections set out in Part I of Schedule 15 to this Act (under which a company may in corresponding circumstances receive payment of the amount of the tax credit comprised in a surplus of franked investment income as defined in section 89(6) above).
- (2) Without prejudice to subsection (8) of the said section 254 or subsection (7) of the said section 255 as set out in the said Schedule, the surplus of franked investment income for an accounting period for which a claim is made under either of those sections shall be calculated without regard to any part of that surplus which, when the claim is made, has been used to frank distributions made by the company in a later accounting period.
- (3) Where in consequence of a claim under either of the said sections 254 and 255 for any accounting period a company is entitled to payment of a sum in respect of tax credit, an amount equal to that sum shall be deducted from any advance corporation tax which apart from this subsection would fall, under section 85 above, to be set against the company's liability to corporation tax for the next accounting period and, if that amount exceeds that advance corporation tax or there is no such advance corporation tax, that excess or that amount (as the case may be) shall be carried forward and similarly deducted in relation to the following accounting period and so on.

### *Groups of companies*

## **91 Group income**

- (1) For subsection (1) of section 256 of the Taxes Act (under which two related companies may elect to pay dividends to each other without deducting and accounting for income tax) there shall, as respects any time after 5th April 1973, be substituted the subsection (1) set out in Part II of Schedule 15 to this Act (under which companies may in corresponding circumstances elect to pay dividends to each other without incurring a liability to advance corporation tax and without the recipient being entitled to a tax credit).
- (2) For subsection (4) of the said section 256 (recovery of tax where companies wrongly omit to pay it) there shall, as respects any time after 5th April 1973, be substituted the subsections (4) and (4A) set out in Part II of the said Schedule.
- (3) The Board may make regulations with respect to the procedure to be adopted for giving effect to the said section 256 and as to the information and evidence to be furnished by a company in connection with that section.

Regulations under this subsection shall be made by statutory instrument, and the Board shall not make any such regulations unless a draft of them has been laid before, and approved by a resolution of, the Commons House of Parliament.

- (4) Any election which has been made for the purpose of subsection (1) of the said section 256 as originally enacted and has not ceased to have effect by virtue of section 257(3) or (4) of the Taxes Act before 6th April 1973 shall be treated as having

been made also for the purposes of subsection (1) of the said section 256 as substituted by this section.

**92 Setting of company's surplus advance corporation tax against subsidiary's liability**

- (1) Where in the case of any accounting period of a company—
- (a) there is an amount of surplus advance corporation tax (calculated without regard to any surplus carried back or forward to that period under section 85(3) or (4) above); and
  - (b) advance corporation tax has been paid in respect of a dividend or dividends paid by the company in that period,
- the company (in this section referred to as " the surrendering company ") may, on making a claim, surrender the benefit of the whole or any part of the amount mentioned in paragraph (a) above, up to a sum not exceeding the advance corporation tax mentioned in paragraph (b) above, to any company which was a subsidiary of the surrendering company throughout that accounting period, or (in such proportions as the surrendering company may determine) to any two or more companies which were subsidiaries of the surrendering company throughout that period.
- (2) Subject to subsection (4) below, where the benefit of any amount of surplus advance corporation tax (" the surrendered amount") is surrendered under this section to a subsidiary, then—
- (a) if the advance corporation tax mentioned in subsection (1)(b) above was paid in respect of one dividend only or of dividends all of which were paid on the same date, the subsidiary shall be treated for the purposes of section 85 above as having paid an amount of advance corporation tax equal to the surrendered amount in respect of a distribution made by it on the date on which the dividend or dividends were paid;
  - (b) if the advance corporation tax mentioned in subsection (1)(b) above was paid in respect of dividends paid on different dates, the subsidiary shall be treated for the purposes of that section as having paid an amount of advance corporation tax equal to the appropriate part of the surrendered amount in respect of a distribution made by it on each of those dates.
- (3) For the purposes of paragraph (b) of subsection (2) above " the appropriate part of the surrendered amount", in relation to any distribution treated as made on the same date as that on which a dividend was paid, means such part of that amount as bears to the whole of it the same proportion as the amount of that dividend bears to the total amount of the dividends mentioned in that paragraph.
- (4) No advance corporation tax which a subsidiary is treated as having paid by virtue of subsection (2) above shall be set against the subsidiary's liability to corporation tax for any accounting period in which, or in any part of which, it was not a subsidiary of the surrendering company.
- (5) Any claim under this section shall be made within two years after the end of the accounting period to which it relates and shall require the consent, notified to the inspector in such form as the Board may require, of the subsidiary or subsidiaries concerned.
- (6) No amount of surplus advance corporation tax which has been dealt with under subsection (3) of section 85 above shall be available for the purposes of a claim under

this section; and no amount of surplus advance corporation tax the benefit of which has been surrendered under this section shall be treated for the purposes of that section as advance corporation tax paid by the surrendering company.

- (7) A payment made by a subsidiary to a surrendering company in pursuance of an agreement between them as respects the surrender of the benefit of an amount of surplus advance corporation tax, being a payment not exceeding that amount,—
- (a) shall not be taken into account in computing profits or losses of either company for corporation tax purposes; and
  - (b) shall not for any of the purposes of the Corporation Tax Acts be regarded as a distribution or a charge on income.
- (8) References in this section to a company apply only to bodies corporate resident in the United Kingdom; and for the purposes of this section the question whether one body corporate is the subsidiary of another shall be determined as a question whether it is a 51 per cent. subsidiary of that other, except that that other shall be treated as not being the owner—
- (a) of any share capital which it owns directly in a body corporate if a profit on the sale of the shares would be treated as a trading receipt of its trade; or
  - (b) of any share capital which it owns indirectly, and which is owned directly by a body corporate for which a profit on the sale of the shares would be a trading receipt; or
  - (c) of any share capital which it owns directly or indirectly in a body corporate not resident in the United Kingdom.

#### *Companies' capital gains*

### **93 Reduction of corporation tax liability in respect of chargeable gains**

- (1) This section shall have effect—
- (a) in relation to companies other than authorised unit trusts or investment trusts, from 1st April 1973 ;
  - (b) in relation to authorised unit trusts and investment trusts from 1st April 1972.
- (2) The amount which in accordance with section 265 of the Taxes Act is to be included in respect of chargeable gains in a company's total profits for any accounting period shall, subject to subsections (3) and (4) below, be reduced—
- (a) in the case of a company other than an authorised unit trust or investment trust, by such fraction as Parliament may from time to time determine for the purposes of this paragraph;
  - (b) in the case of an authorised unit trust or investment trust, by five-eighths or such other fraction as Parliament may from time to time determine for the purposes of this paragraph.
- (3) Where under either paragraph of subsection (2) above different fractions are in force in different parts of an accounting period—
- (a) the amount mentioned in that subsection shall be apportioned between those parts; and
  - (b) the portion for each part shall be reduced under that subsection by the fraction in force in that part.

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- (4) If in an accounting period of a company there is a part falling before and a part falling after the time when this section comes into force in relation to the company, the amount mentioned in subsection (2) above shall be apportioned between those parts and no reduction shall be made under that subsection in respect of the portion for the part falling before that time.
- (5) In this section " authorised unit trust" has the meaning given in section 358 of the Taxes Act and, subject to subsection (6) below, " investment trust" has the meaning given in section 359 of that Act.
- (6) The said section 359 shall be amended as follows—
- (a) before paragraph (a) of subsection (1) there shall be inserted " (aa) that the company is resident in the United Kingdom, and ";
  - (b) for the purposes of paragraph (b) of that subsection and the other provisions having effect in relation thereto—
    - (i) holdings in companies which are members of a group (whether or not including the investing company) and are not excluded from that paragraph shall be treated as holdings in a single company;
    - (ii) where the investing company is a member of a group, money owed to it by another member of the group shall be treated as a security of the latter held by the investing company and accordingly as, or as part of, the holding of the investing company in the company owing the money,

and for the purposes of this paragraph " group " means a company and all companies which are its 51 per cent. subsidiaries;
  - (c) for paragraph (c) of that subsection there shall be substituted " (c) that the shares making up the company's ordinary share capital (or, if there are such shares of more than one class, those of each class) are quoted on a recognised stock exchange in the United Kingdom, and ",
- but the amendments in paragraphs (b) and (c) above shall not affect the meaning of " investment trust" for any time before 11th April 1972 and, in relation to a company which immediately before that date was an investment trust within the meaning of the said section 359 without those amendments, that section shall continue to have effect without those amendments until the end of the company's accounting period containing or ending with 11th April 1975.
- (7) The following provisions, that is to say—
- (a) section 311 of the Taxes Act (under which the effective rate of corporation tax is reduced for insurance companies in respect of chargeable gains reserved for holders of life assurance policies);
  - (b) section 356 of that Act (which limits the rate of corporation tax payable on chargeable gains by authorised unit trusts and investment trusts to the rate payable by an individual),
- shall cease to have effect, but this subsection shall not affect the operation of those provisions in relation to any accounting period ending before the time when this section comes into force in relation to the company concerned or, in the case of any such accounting period as is mentioned in subsection (4) above, as respects any portion of gains which, in accordance with that subsection, is not reduced under this section.
- (8) The proviso to subsection (3) of section 322 of the Taxes Act (rate of corporation tax relevant for determining the amounts that may be retained under subsection (2) of that section by an insurance company when paying benefit in certain circumstances)

shall not apply where the disposal mentioned in subsection (2)(b) of that section is on or after 1st April 1974; and where the disposal is on or after that date the rate of corporation tax mentioned in the said subsection (3) shall be reduced by the fraction for the time being fixed for the purposes of subsection (2)(a) of this section.

### *Close companies*

#### **94 Close companies**

- (1) Schedule 16 to this Act shall have effect instead of sections 289 to 301 of the Taxes Act (charge to income tax in respect of shortfall in distributions of close companies and apportionment of income of close companies among participators).
- (2) The remaining provisions of Chapter III of Part XI of the Taxes Act shall be amended in accordance with Schedule 17 to this Act.
- (3) The said Schedule 16 shall be construed as if it were included in the said Chapter III.
- (4) Subsection (1) above shall have effect in relation to accounting periods ending after 5th April 1973.

### *Special classes of companies*

#### **95 Mitigation of corporation tax liability of small companies**

- (1) Where in any accounting period the profits of a company resident in the United Kingdom do not exceed the lower relevant maximum amount, the corporation tax charged on its income for that period shall be calculated as if the rate of corporation tax (instead of being the rate fixed for companies generally) were such lower rate (to be known as the "small companies rate ") as Parliament may from time to time determine.
- (2) Where in any accounting period the profits of any such company exceed the lower relevant maximum amount but do not exceed the upper relevant maximum amount, the corporation tax charged on its income for that period shall be reduced by a sum equal to such fraction as Parliament may from time to time determine of the following amount—

$$(M - P) \times \frac{I}{P}$$

where M is the upper relevant maximum amount, P is the amount of the profits and I is the amount of the income.

- (3) The lower and upper relevant maximum amounts mentioned above shall be determined as follows—
  - (a) where the company has no associated company in the accounting period, those amounts are £15,000 and £25,000 respectively;
  - (b) where the company has one or more associated companies in the accounting period, the lower relevant maximum amount is £15,000 divided by one plus the number of those associated companies and the upper relevant maximum amount is £25,000 divided by one plus the number of those associated companies.

- (4) In applying subsection (3) above to any accounting period of a company, an associated company which has not carried on any trade or business at any time in that accounting period (or, if an associated company during part only of that accounting period, at any time in that part of that accounting period) shall be disregarded and for the purposes of this section a company is to be treated as an " associated company " of another at a given time if at that time one of the two has control of the other or both are under the control of the same person or persons.

In this subsection " control" shall be construed in accordance with section 302 of the Taxes Act.

- (5) In determining how many associated companies a company has got in an accounting period or whether a company has an associated company in an accounting period, an associated company shall be counted even if it was an associated company for part only of the accounting period, and two or more associated companies shall be counted even if they were associated companies for different parts of the accounting period.
- (6) For an accounting period of less than twelve months the relevant maximum amounts determined in accordance with subsection (3) above shall be proportionately reduced.
- (7) For the purposes of this section the profits of a company for an accounting period shall be taken to be the amount of its profits for that period on which corporation tax falls finally to be borne, with the addition of franked investment income other than franked investment income which the company (if a member of a group) receives from companies within the group ; and for this purpose distributions received by the company from another are to be treated as coming from within the company's group if, but only if, dividends so received are group income or would be group income if the companies so elected.
- (8) For the purposes of this section the income of a company for an accounting period is its income charged to corporation tax for that period as defined in section 85(6) above.

**96 Mitigation of corporation tax liability of industrial and provident societies, housing associations and building societies**

- (1) Where in any accounting period of a body to which this section applies the rate of corporation tax exceeds such special rate as Parliament may fix for the purposes of this section, the corporation tax charged on the income of that body for that period shall be calculated as if the rate of corporation tax were equal to that special rate.
- (2) The bodies to which this section applies are—
- (a) any registered industrial and provident society as defined in section 340 of the Taxes Act and any such cooperative association as is mentioned in subsection (8) of that section;
  - (b) any housing association for the time being approved for the purposes of section 341 of that Act;
  - (c) any building society as defined in section 343 of that Act and any company to which that section applies by virtue of subsection (9) of that section, not being a society, association or company under the control (within the meaning of section 302 of that Act) of one or more companies which are not themselves bodies to which this section applies.
- (3) For the purposes of this section the income of a company for an accounting period is its income charged to corporation tax for that period as defined in section 85(6) above.

## **97 Insurance companies**

The enactments relating to the taxation of insurance companies shall, as from 6th April 1973, have effect subject to the provisions of Schedule 18 to this Act, being provisions for adapting and supplementing those enactments in consequence of the foregoing provisions of this Part of this Act.

### *Overseas residents and income*

## **98 Persons resident abroad: tax credit**

- (1) An individual who, having made a claim in that behalf, is entitled to relief under Chapter II of Part I of the Taxes Act by virtue of section 27(2) of that Act (personal reliefs for certain non-residents) in respect of any year of assessment shall be entitled to a tax credit in respect of any qualifying distribution received by him in that year to the same extent as if he were resident in the United Kingdom.
- (2) In subsection (1) of section 497 of the Taxes Act (which gives effect to double taxation agreements so far as they provide for the matters specified in paragraphs (a) to (c) of that subsection) after paragraph (c) there shall be inserted “or
  - (d) for conferring on persons not resident in the United Kingdom the right to a tax credit under section 86 of the Finance Act 1972 in respect of qualifying distributions made to them by companies which are so resident.”
- (3) Where a qualifying distribution is income of a fund to which section 214(1)(b) or (c) of the Taxes Act applies (colonial pension funds) the persons entitled to receive the income shall be entitled to a tax credit in respect of the distribution to the same extent as a recipient mentioned in section 86(1) above.
- (4) Where a qualifying distribution is income of, or of the government of, any sovereign power or of any international organisation, that power, government or organisation shall be entitled to a tax credit in respect of the distribution to the same extent as a recipient mentioned in section 86(1) above.

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

## **99 Companies with overseas trading income: extension and modification of transitional relief**

- (1) The relief afforded by section 84 of the Finance Act 1965 (transitional relief for companies with overseas trading income) shall be available for an additional four years and accordingly in subsection (1) of that section for the words " the seven years of assessment" and " those seven years " there shall be substituted respectively the words " the eleven years of assessment " and " those eleven years ".
- (2) The proportion by which relief under that section is to be reduced in accordance with the proviso to the said subsection (1) shall be three-fifths in the five years following the year 1971-72, and accordingly in that proviso for the words " by three-fifths in the

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year 1971-72 " to the end there shall be substituted the words " and by three-fifths in the year 1971-72 and each of the five following years of assessment ".

- (3) Subsection (4) of the said section 84 (restriction of relief where a company increases its net dividends) shall not apply to any year of assessment after the year 1971-72.
- (4) In relation to any year of assessment beginning with the year 1973-74 the said section 84 and Schedule 20 to the said Act of 1965 shall have effect subject to Schedule 19 to this Act.

## **100 Double taxation relief**

- (1) The provisions of Chapters I and II of Part XVIII of the Taxes Act (double taxation relief) applicable to corporation tax in respect of income shall apply also to corporation tax in respect of chargeable gains, and for that purpose—
  - (a) references in those Chapters to income shall be construed as references to chargeable gains; and
  - (b) in sections 497(1) and 498(6) references to taxes of a similar character, or corresponding, to corporation tax shall be construed as references to taxes on chargeable gains;
 and sections 517 and 518 of that Act (regulations and information) shall have effect accordingly.
- (2) Section 499 of the Taxes Act (which has the effect that the provisions of those Chapters applicable to income tax apply to corporation tax in respect of chargeable gains) shall cease to have effect.
- (3) For the purposes of section 505 of the Taxes Act (which limits the credit for foreign tax allowable against corporation tax in respect of any income to the corporation tax attributable to that income and, by virtue of subsection (1) above, applies similarly in relation to chargeable gains) the corporation tax attributable to any income or gain (" the relevant income or gain ") shall be determined in accordance with subsections (4) to (6) below.
- (4) Subject to subsections (5) and (6) below, the amount of corporation tax attributable to the relevant income or gain shall be treated as equal to such proportion of the amount of that income or gain as corresponds to the rate of corporation tax payable by the company (before any credit under the said Part XVIII) on its income or chargeable gains for the accounting period in which the income arises or the gain accrues (" the relevant accounting period ").
- (5) Where in the relevant accounting period there is any deduction to be made for charges on income, expenses of management or other amounts which can be deducted from or set against or treated as reducing profits of more than one description—
  - (a) the company may for the purposes of this section allocate the deduction in such amounts and to such of its profits for that period as it thinks fit; and
  - (b) the amount of the relevant income or gain shall be treated for the purposes of subsection (4) above as reduced or, as the case may be, extinguished by so much (if any) of the deduction as is allocated to it.
- (6) Where in accordance with section 85 above any advance corporation tax falls to be set against the company's liability to corporation tax on its income for the relevant accounting period—



- (a) the company may for the purposes of this section allocate that advance corporation tax in such amounts and to the corporation tax attributable to such of its income for that period as it thinks fit; and
- (b) the amount of corporation tax attributable to the relevant income as determined in accordance with subsections (4) and (5) above shall be reduced by so much (if any) of that advance corporation tax as is allocated to the corporation tax attributable to that income;

but the amount of advance corporation tax allocated under this subsection to the corporation tax attributable to any income shall not exceed the advance corporation tax that would have been payable (apart from section 89 above) in respect of a distribution made at the end of the relevant accounting period of an amount which, together with the advance corporation tax so payable in respect of it, is equal to that income.

- (7) The foregoing provisions of this section shall have effect from 1st April 1973.
- (8) No order shall be made under section 31 or 32 of the Finance Act 1966 (transitory provisions for dividends, interest and royalties paid to non-residents) extending the period mentioned in either of those sections beyond 5th April 1973.

#### *Miscellaneous provisions*

### **101 Change in ownership of company: calculation and treatment of advance corporation tax**

- (1) This section applies if—
  - (a) within any period of three years there is both a change in the ownership of a company and (either earlier or later in that period, or at the same time) a major change in the nature or conduct of a trade or business carried on by the company; or
  - (b) at any time after the scale of the activities in a trade or business carried on by a company has become small or negligible, and before any considerable revival of the trade or business, there is a change in the ownership of the company.
- (2) Sections 85 and 89 above and Schedule 14 below shall apply to an accounting period in which the change of ownership occurs as if the part ending with the change of ownership, and the part after, were two separate accounting periods; and for that purpose the income of the company charged to corporation tax for the accounting period (as defined in subsection (6) of the said section 85) shall be apportioned between those parts.
- (3) No advance corporation tax paid by the company in respect of distributions made in an accounting period beginning before the change of ownership shall be treated under subsection (4) of the said section 85 as paid by it in respect of distributions made in an accounting period ending after the change of ownership; and this subsection shall apply to an accounting period in which the change of ownership occurs as if the part ending with the change of ownership, and the part after, were two separate accounting periods.
- (4) In subsection (1) above "major change in the nature or conduct of a trade or business" includes—
  - (a) a major change in the type of property dealt in, or services or facilities provided, in the trade or business; or
  - (b) a major change in customers, outlets or markets of the trade or business; or

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- (c) a change whereby the company ceases to be a trading company and becomes an investment company or vice versa;
- (d) where the company is an investment company, a major change in the nature of the investments held by the company;

and this section applies even if the change is the result of a gradual process which began outside the period of three years mentioned in subsection (1)(a) above.

(5) In this section—

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

" investment company " means a company (other than a holding company) whose business consists wholly or mainly in the making of investments and the principal part of whose income is derived therefrom ;

" holding company " means a company whose business consists wholly or mainly in the holding of shares or securities of companies which are its 90 per cent. subsidiaries and which are trading companies.

- (6) Subsection (3) above applies to advance corporation tax which a company is treated as having paid by virtue of section 92 above as it applies to advance corporation tax which it has actually paid.
- (7) Subsections (6) and (7) of section 483 of the Taxes Act (which contain supplementary provisions relating to the restriction of the carry-forward of losses under that section in circumstances corresponding to those dealt with in this section) and section 484 of that Act (which contains rules for ascertaining changes of ownership for the purposes of that section) shall apply also for the purposes of this section and as if in subsection (3) of section 484 the reference to the benefit of the losses were a reference to the benefit of the advance corporation tax.

## **102 Rectification of excessive set-off etc. of advance corporation tax or tax credit**

(1) If an inspector discovers that—

- (a) any set-off of advance corporation tax under section 85 above; or
- (b) any set-off or payment of tax credit,

ought not to have been made, or is or has become excessive, the inspector may make any such assessments as may in his judgment be required for recovering any tax that ought to have been paid or any payment of tax credit that ought not to have been made and generally for securing that the resulting liabilities to tax (including interest on unpaid tax) of the persons concerned are what they would have been if only such set-offs or payments had been made as ought to have been made.

- (2) The Management Act shall apply to any assessment under this section for recovering a payment of tax credit as if it were an assessment to income tax for the year of assessment, or, in the case of a company, corporation tax for the accounting period, in respect of which the payment was claimed, and as if that payment represented a loss of tax to the Crown; and any sum charged by any such assessment shall, subject to any appeal against the assessment, be due within fourteen days after the issue of the notice of assessment.

### **103 Charge of advance corporation tax at previous rate until new rate is fixed and changes of rate**

- (1) Notwithstanding that a rate of advance corporation tax has not been fixed for any financial year, advance corporation tax in respect of distributions made in that year shall be payable under Schedule 14 to this Act and may be assessed under that Schedule according to the rate last fixed but, if a rate of advance corporation tax for that year is not fixed by an Act passed on or before 5th August next after the end of the year, or advance corporation tax is charged for that year otherwise than as it has been paid or assessed, the necessary adjustment shall be made by discharge or repayment of tax or by a further assessment.
- (2) Where the House of Commons passes a Resolution for fixing the rate of advance corporation tax for any financial year or for altering the charge to advance corporation tax for any financial year, then any payment or assessment afterwards made by virtue of subsection (1) above may be made in accordance with the Resolution; but that subsection shall not require any payment to be made or authorise the making of any assessment later than 5th May next after the end of any financial year unless a Resolution for fixing a rate of advance corporation tax for that year has been so passed, nor shall any such payment be required or assessment made by virtue of any such Resolution later than the prescribed period from the date on which the Resolution is passed.
- (3) In subsection (2) above " the prescribed period " has the meaning given in section 243(7) of the Taxes Act.
- (4) Where different rates of advance corporation tax are in force in different parts of an accounting period, the maximum set-off permitted for that accounting period under subsection (2) of section 85 above shall be determined by apportioning the income of the company charged to corporation tax for that period (as defined in subsection (6) of that section) between the different parts of the period, calculating the maximum for each part as if it were a separate accounting period and aggregating the result.
- (5) Where a company makes a distribution before 6th April in any financial year and the rate of advance corporation tax for that year differs from the rate last fixed—
  - (a) any advance corporation tax payable in respect of the distribution shall be calculated according to the rate last fixed and sections 84(3) and 86(2) above and Schedule 14 below shall have effect in relation to the distribution as if the rate for that year were the same as the rate last fixed ;
  - (b) if the distribution is made in an accounting period which extends beyond 5th April in that year and another distribution is made, or franked investment income is received, in that period after that date, the company's liability for advance corporation tax, the amount of any such tax and the amount of any surplus of franked investment income for that accounting period shall be determined under section 89 above and Schedule 14 below as if the part of the accounting period ending with, and the part of it beginning after, that date were separate accounting periods.

### **104 Payments in respect of which company is liable to account for income tax**

Schedule 20 to this Act shall have effect for the purpose of regulating the time and manner in which companies resident in the United Kingdom—

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- (a) are to account for and pay income tax in respect of payments made after 5th April 1973 from which tax is deductible under section 53 or 54 of the Taxes Act;
- (b) are to be repaid income tax in respect of payments received by them after that date.

**105 Returns of distributions which are not qualifying distributions**

Schedule 21 to this Act shall have effect for the purpose of requiring companies resident in the United Kingdom to make returns and give information to the inspector in respect of distributions made by them after 5th April 1973 which are not qualifying distributions.

**106 Amendments as to meaning of " distribution "**

Sections 233 to 237 of the Taxes Act (meaning of " distribution ") shall have effect subject to the provisions of Schedule 22 to this Act.

**107 Amendments as to accounting periods**

- (1) For paragraph (c) of section 247(3) of the Taxes Act (under which a company's accounting period ends on its beginning or ceasing to carry on any trade or to be, in respect of a trade, within the charge to corporation tax) there shall be substituted—

“(c) the company beginning or ceasing to trade or to be, in respect of the trade or (if more than one) of all the trades carried on by it, within the charge to corporation tax”.

- (2) For subsection (2) of section 155 of the said Act (corporation tax in respect of company's share in partnership profits etc.) there shall be substituted—

“(2) A company's share in the profits or loss of any accounting period of the partnership, or in any matter excluded from the computation by proviso (b) to subsection (1) above, shall be determined according to the interests of the partners during that period, and corporation tax shall be chargeable as if that share derived from a trade carried on by the company alone in its corresponding accounting period or periods; and the company shall be assessed and charged to tax for its corresponding accounting period or periods accordingly.

In this subsection "corresponding accounting period or periods " means the accounting period or periods of the company comprising or together comprising the accounting period of the partnership, and any necessary apportionment shall be made between corresponding accounting periods if more than one.”

- (3) In section 252(8) of the said Act (company reconstructions without change of ownership) for the words from " the accounting periods" onwards there shall be substituted the words " any necessary apportionment shall be made of receipts or expenses ".

- (4) This section has effect in relation to accounting periods ending after 5th April 1972.

### *Supplementary*

#### **108 Power to make regulations modifying or replacing Schedules 14, 20 and 21**

- (1) The Board may, by regulations made for any of the purposes mentioned in sections 84(5), 89(4), 104 or 105 above, modify, supplement or replace any of the provisions of Schedules 14, 20 or 21 to this Act; and references in this Act and in any other enactment to any of those Schedules shall be construed as including references to any such regulations.
- (2) Without prejudice to the generality of the preceding subsection, regulations under that subsection may, in relation to advance corporation tax or income tax for which a company is liable to account, modify any provision of Parts II to VI of the Management Act or apply any such provision with or without modifications.
- (3) Regulations under this section may—
  - (a) make different provision for different descriptions of companies and for different circumstances and may authorise the Board, where in their opinion there are special circumstances justifying it, to make special arrangements as respects advance corporation tax or income tax for which a company is liable to account or the repayment of income tax borne by a company or the payment to a company of amounts in respect of any tax credit to which it is entitled ;
  - (b) include such transitional and other supplemental provisions as appear to the Board to be expedient or necessary.
- (4) Regulations under this section shall be made by statutory instrument, and the Board shall not make any such regulations unless a draft of them has been laid before, and approved by a resolution of, the Commons House of Parliament.

#### **109 Transitional provisions**

Schedule 23 to this Act shall have effect with respect to the matters there dealt with, being transitional provisions relating to this Part of this Act.

#### **110 Interpretation of Part V**

- (1) In this Part of this Act—
  - " franked investment income " shall be construed in accordance with section 88 above but subject to section 256(1) of the Taxes Act;
  - " franked payment " shall be construed in accordance with section 84(3) above but subject to section 256(1) of the Taxes Act;
  - " the Management Act " means the Taxes Management Act 1970;
  - " qualifying distribution " has the meaning given in section 84(4) above;
  - " surplus of franked investment income " has the meaning given in section 89(6) above ;
  - " surplus advance corporation tax " has the meaning given in section 85(3) above ;
  - " tax credit " means a tax credit under section 86 above ;
  - " United Kingdom trust " means a trust administered under the law of any part of the United Kingdom, not being a trust the general administration of which is ordinarily carried on outside the United Kingdom and the trustees, or

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a majority of the trustees, of which are resident or ordinarily resident outside the United Kingdom.

- (2) References in this Part of this Act to distributions or payments received by a company apply to any received by another person on behalf of or in trust for the company but not to any received by the company on behalf of or in trust for another person.
- (3) References in this Part of this Act to using franked investment income to frank distributions of a company shall be construed in accordance with section 89(5) above.
- (4) References in this Part of this Act to an amount of profits on which corporation tax falls finally to be borne are references to the amount of those profits after making all deductions and giving all reliefs that for the purposes of corporation tax are made or given from or against those profits, including deductions and reliefs which under any provision are treated as reducing them for those purposes.
- (5) For the purposes of any reference in this Part of this Act, or in any provision amended thereby, to the rate of advance corporation tax in force for a financial year, the period beginning with 6th April 1973 and ending with 31st March 1974 shall be treated as if it were a financial year.

## **111 Consequential amendments**

- (1) The enactments specified in Schedule 24 to this Act shall have effect with the amendments there specified, being amendments adapting and supplementing those enactments in consequence of the provisions of this Part of this Act.
- (2) The provisions of the Taxes Act as to the charge, calculation and payment of corporation tax (including provisions conferring any exemption) shall not be construed as affecting the charge, calculation or payment of advance corporation tax, and the Corporation Tax Acts shall apply for the purposes of this Part of this Act whether or not they are for the time being applicable for the purposes of corporation tax other than advance corporation tax.
- (3) This section has effect from 6th April 1973 and does not affect the operation of any enactment in relation to any previous time; and no amendment in the said Schedule 24 adapting an enactment so as to make it apply or refer to a provision of this Act instead of a provision repealed thereby shall be construed as affecting the operation of that enactment in relation to the repealed provision so far as concerns matters occurring before the repeal or otherwise unaffected by it.

## **PART VI**

### **TAX ON CAPITAL GAINS AND ESTATE DUTY**

## **112 Reduction of tax liability on disposals of shares in unit trusts, investment trusts and funds in court**

- (1) Subject to subsections (2) and (6) below, this section applies to disposals after 5th April 1972 of—
  - (a) shares in authorised unit trusts, in unit trusts to which section 38(2) of the Finance Act 1965 applies, or in investment trusts; and

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- (b) shares in any common investment fund established under section 1 of the Administration of Justice Act 1965.
- (2) Paragraph (a) of subsection (1) above does not apply to any share of a class to which there would not be attributable in a liquidation of the trust the whole or a substantial part—
- (a) of the assets of the trust representing gains on capital; or
  - (b) if those assets would be so attributable to two or more classes of shares, of a proportion of those assets corresponding to the proportion of all the issued shares of those classes represented by the issued shares of the class in question.

Where there are shares on which different amounts have been paid up the proportion mentioned in paragraph (b) above shall be calculated by reference to the amount paid up on the issued share capital of each class of shares.

- (3) Where gains accrue to a person in any year of assessment on any disposals to which this section applies, the capital gains tax to which he is chargeable for that year shall be reduced by a credit equal to whichever of the following amounts is the smallest—
- (a) the amount of that tax ;
  - (b) an amount equal to 15 per cent. of the total chargeable gains accruing to him in that year on disposals to which this section applies ;
  - (c) an amount equal to 15 per cent. of the total amount of chargeable gains accruing to him in that year on which capital gains tax is chargeable (or would have been chargeable apart from section 21 of the Finance Act 1965).
- (4) Subsection (3) above shall have effect in relation to the corporation tax chargeable on a company for an accounting period in which gains accrue to it on any disposals to which this section applies as it has effect in relation to the capital gains tax chargeable on a person other than a company, and shall so have effect as if—
- (a) references to a year of assessment were references to an accounting period ; and
  - (b) for the total amount of chargeable gains mentioned in paragraph (c) of that subsection there were substituted the amount of gains charged to corporation tax for the accounting period in question increased, where subsection (5) below applies, in accordance with that subsection.

In this subsection " gains charged to corporation tax " means the profits on which corporation tax falls finally to be borne after deducting the income charged to corporation tax as defined in section 85(6) (read with section 110(4)) above except that, in relation to an accounting period for which the company claims a credit for foreign tax, those gains shall be determined in accordance with section 100(5) above.

- (5) In relation to an accounting period for which any reduction falls to be made under section 93 above in the amount to be included in respect of chargeable gains in the company's total profits, the gains mentioned in subsection (4)(b) above shall be increased by multiplying by the inverse of the fraction of that amount remaining after the reduction; and if under subsection (3) or (4) of that section the reduction falls to be made by reference to different portions of that amount, the increase under this subsection shall be made similarly, using the inverse of the fractions of those portions remaining after any reduction.
- (6) Where a person disposes after 5th April 1972 of a share—

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- (a) which at the time of disposal is a qualifying share (that is to say, a share falling within subsection (1)(a) above) but has not at all times while in the ownership of that person been a qualifying share ; or
- (b) which at the time of disposal is not a qualifying share but has previously while in his ownership been such a share,

this section shall apply to the disposal but for the purposes of subsection (3)(b) above the gain accruing on the disposal shall be treated as reduced in proportion to the time for which the share was in the ownership of that person without being a qualifying share.

- (7) Where under paragraphs 4 to 7 of Schedule 7 to the Finance Act 1965 (exchanges, etc. of shares) the share of which a person disposes falls to be identified with another asset or other assets previously held by him, subsection (6) above shall have effect as if—

- (a) his period of ownership of the share disposed of included his period of ownership of the other asset or assets; and
- (b) the share disposed of had or had not been a qualifying share at any time during that additional period according to whether or not the other asset or any of those other assets was a qualifying share at that time.

- (8) Where a person disposes after 5th April 1972 of a share which at the time of disposal is a qualifying share and which he has received on a conversion of—

- (a) a share other than a qualifying share ; or
- (b) loan stock,

previously held by him, being a conversion pursuant to rights in that behalf attached to the share or stock previously held, subsections (6) and (7) above shall have effect as if that share or stock had been a qualifying share throughout any time for which the company by which it was issued was a body of the kind mentioned in subsection (1) (a) above.

- (9) Where the gain accruing on a disposal to which this section applies falls to be computed in accordance with paragraph 27(2)(b) of Schedule 6 to the Finance Act 1965 (unquoted securities held before 6th April 1965 which are subsequently converted or exchanged)—

- (a) the period of ownership of the share disposed of shall not be treated under subsection (7)(a) above as having begun before the time mentioned in the said paragraph 27(2)(b); and
- (b) for the purposes of subsection (3)(b) above the gain shall be taken to be that mentioned in sub-paragraph (ii) of the said paragraph 27(2)(b) reduced, where applicable, in accordance with subsections (6) and (7) above.

- (10) For the purposes of subsections (6) to (8) above no account shall be taken of any period of ownership before 6th April 1965; and nothing in paragraphs 4 to 7 of the said Schedule 7 shall be construed as enabling any asset to be treated as having been a qualifying share at any time when it was not such in fact.

- (11) The following provisions, that is to say—

- (a) section 37(1) of the Finance Act 1965 and that section as applied by section 38(2) of that Act (under which the amount apportioned to a share out of the net gains of a unit trust or investment trust is deductible in computing a gain on a disposal) and section 357 of the Taxes Act (which provides for making the apportionment) ; and



(b) section 94(2) of the said Act of 1965 (which makes corresponding provision for common investment funds),  
together with any apportionment already made under those provisions, shall not apply as respects any disposal after 5th April 1972 whether or not a disposal to which this section applies.

(12) For the purposes of this section loan stock issued by an investment trust before 11th April 1972, being loan stock to which there would be attributable in a liquidation of the trust the whole of the assets of the trust representing gains on capital, shall be treated as shares in the trust falling within subsection (1)(a) above.

(13) In this section " authorised unit trust" has the meaning given in section 358 of the Taxes Act and, subject to section 93(6) above, "investment trust" has the meaning given in section 359 of that Act.

### **113 Reduced rate of capital gains tax for unit trusts with exempt unit holders and for funds in court**

For the year 1972-73 and subsequent years of assessment the rate of capital gains tax payable on chargeable gains accruing—

- (a) to a unit trust to which section 38(2) of the Finance Act 1965 applies (unit trusts for exempt unit holders);
- (b) to a common investment fund established under section 1 of the Administration of Justice Act 1965,

shall be 15 per cent.

### **114 Valuation of assets of and rights in unit trusts**

(1) Nothing in any trust deed executed before 1st September 1972 and regulating any such unit trust as is mentioned in section 112(1)(a) above shall preclude the managers of the trust or the trustee, in valuing the assets of the trust at any time during an accounting period, from making a deduction for any tax for which the trust may become liable in respect of its net gains in that period up to that time.

In this subsection " net gains " means the excess, if any, of chargeable gains over the allowable losses deductible from those gains as those gains and losses are computed for the charge to tax on the trust.

(2) In section 44(4) of, and paragraph 22(1)(b) of Schedule 6 to, the Finance Act 1965 (valuation of rights of unit holders in unit trust scheme the prices of which are published daily by the managers of the scheme) for the words " are published daily " there shall be substituted the words " are published regularly ".

This subsection has effect in relation to disposals after 5th April 1972.

### **115 Share option schemes (capital gains tax)**

Section 22(4) of the Finance Act 1965 (assets deemed acquired and disposed of at market value) shall not apply in calculating, for the purposes of any disposal made after 5th April 1972, the consideration given for the acquisition of shares in pursuance of a share option scheme as defined in Schedule 12 to this Act.

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## **116 Consideration payable by instalments**

- (1) In sub-paragraph (1) of paragraph 14 of Schedule 6 to the Finance Act 1965 (consideration payable by instalments) for the words from " the chargeable gain " to the end there shall be substituted the words " then, if the person making the disposal satisfies the Board that he would otherwise suffer undue hardship, the tax on a chargeable gain accruing on the disposal may, at his option, be paid by such instalments as the Board may allow over a period not exceeding eight years and ending not later than the time at which the last of the first-mentioned instalments is payable " ; and sub-paragraphs (2) to (4) of that paragraph and paragraph 5 of Schedule 11 to the Finance Act 1971 (which, in relation to relief under section 57 of that Act, makes provision corresponding to that made by paragraph 14) shall be omitted.
- (2) Subject to subsections (3) and (4) below, this section shall be deemed to have come into force on 11th April 1972.
- (3) Where, under paragraph 14 of Schedule 6 to the Finance Act 1965 as originally enacted, part of a chargeable gain would fall to be regarded as accruing before and part as accruing on or after 11th April 1972, subsection (1) above shall not apply but so much of the gain as would fall to be regarded as accruing after that date shall instead be regarded as accruing on that date; but if the person liable to pay the tax on the gain regarded as so accruing satisfies the Board that he would otherwise suffer undue hardship, the tax may, at his option, be paid by such instalments as the Board may allow.
- (4) Where, under paragraph 5 of Schedule 11 to the Finance Act 1971, part of any consideration for a disposal made before 11th April 1972 would have been deemed, for the purposes of section 57 of that Act, to be a consideration for a disposal made in a year of assessment later than 1971-72 it shall be deemed for those purposes to be a consideration for a disposal made in the year 1972-73.

## **117 Postponement of payment of tax**

In relation to a disposal made or deemed to be made on or after 11th April 1972 the following shall be substituted for paragraph 4 of Schedule 10 to the Finance Act 1965:

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- “4
- (1) Where the whole or part of any assets falling within sub-paragraph (2) below is disposed of by way of gift or is under subsection (3) or subsection (4) of section 25 of this Act deemed to be disposed of, the capital gains tax chargeable on a gain accruing on the disposal may, at the option of the person liable to pay it, be paid by eight equal yearly instalments or sixteen half-yearly instalments, but subject to the payment of interest under Part IX (except sections 87 and 88) of the Taxes Management Act 1970.
  - (2) The assets referred to in sub-paragraph (1) above are:—
    - (a) land or an estate or interest in land;
    - (b) any shares or securities of a company not quoted on a recognised stock exchange in the United Kingdom or elsewhere ; and
    - (c) any assets used exclusively for the purposes of a trade, profession or vocation which, immediately before the disposal, was carried on (whether alone or in partnership) by the person by whom the disposal was made or deemed to be made.

- (3) Where tax is payable by instalments by virtue of this paragraph, the first instalment shall be due at the expiration of twelve months from the time of the disposal and the interest on the unpaid portion of the tax shall be added to each instalment and paid accordingly; but the tax for the time being unpaid, with interest to the date of payment, may be paid at any time, and shall become due and payable forthwith if—
- (a) the disposal was by way of gift to a person connected with the donor or was deemed to be made under subsection (3) or subsection (4) of section 25 of this Act; and
  - (b) the assets are disposed of for valuable consideration under a subsequent disposal (whether or not the subsequent disposal is made by the person who acquired them under the first disposal).”

## **118 Replacement of business assets**

Section 33 of the Finance Act 1965 (replacement of business assets) shall be amended by adding after paragraph (c) of subsection (10) the words “and

- (d) in relation to such of the activities of a body of persons whose activities are carried on otherwise than for profit and are wholly or mainly directed to the protection or promotion of the interests of its members in the carrying on of their trade or profession as are so directed ;”

## **119 Gifts to charities**

- (1) Subsection (2) of this section shall apply where a disposal of an asset is made, after 21st March 1972, otherwise than under a bargain at arm's length—
- (a) to a charity ; or
  - (b) to any of the bodies falling within Schedule 25 to this Act.
- (2) Section 22(4) of the Finance Act 1965 (consideration deemed to be equal to market value) and section 31(3) of that Act (concession for gifts of national and other interest) shall not apply; but if the disposal is by way of gift (including a gift in settlement) or for a consideration not exceeding the sums allowable as a deduction under paragraph 4 of Schedule 6 to that Act, then—
- (a) the disposal and acquisition shall be treated for the purposes of Part III of that Act, but not for the purposes of section 57 of the Finance Act 1971 (exemption or relief for small disposals) as being made for such consideration as to secure that neither a gain nor a loss accrues on the disposal; and
  - (b) where, after the disposal, the asset is disposed of by the person who acquired it under the disposal, its acquisition by the person making the earlier disposal shall be treated for the purposes of Part III of the Finance Act 1965 as the acquisition of the person making the later disposal.
- (3) Where, otherwise than on the termination of a life interest (within the meaning of section 25 of the Finance Act 1965) by the death of the person entitled thereto, any assets or parts of any assets forming part of settled property are, under subsection (3) or subsection (4) of that section, deemed to be disposed of and re-acquired by the trustee, and—
- (a) the person becoming entitled as mentioned in subsection (3) of that section is a charity or a body falling within Schedule 25 to this Act; or

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- (b) any of the assets which, or parts of which, are deemed to be disposed of and re-acquired under subsection (4) of that section are held for the purposes of a charity or a body falling within Schedule 25 to this Act;

then, if no consideration is received by any person for or in connection with any transaction by virtue of which the charity or other body becomes so entitled or the assets are so held, the disposal and re-acquisition of the assets to which the charity or other body becomes so entitled or of the assets or parts of the assets which are held as mentioned in paragraph (b) above shall, notwithstanding those subsections, be treated for the purposes of Part III of that Act as made for such consideration as to secure that neither a gain nor a loss accrues on the disposal.

## 120 Alteration of amount of estate duty

- (1) In relation to deaths occurring after 21st March 1972 Part I of Schedule 17 to the Finance Act 1969 (amount of duty) and section 16(3) of the Finance Act 1894 (small estates) shall be further amended as follows.
- (2) In Part I of that Schedule the following shall be substituted for the words following "The amount of the estate duty on an estate " —
- “(a) if the aggregate principal value of all property comprised in the estate does not exceed £15,000, shall be nil;
- (b) in any other case shall be an amount equal to the aggregate of—
- (i) 25 per cent. of any amount by which that aggregate principal value exceeds £15,000 but does not exceed £20,000 ; and
  - (ii) 30 per cent. of any amount by which that aggregate principal value exceeds £20,000 but does not exceed £30,000 ; and
  - (iii) 35 per cent. of any amount by which that aggregate principal value exceeds £30,000 but does not exceed £40,000 ; and
  - (iv) 40 per cent. of any amount by which that aggregate principal value exceeds £40,000 but does not exceed £50,000 ; and
  - (v) 45 per cent. of any amount by which that aggregate principal value exceeds £50,000 but does not exceed £60,000 ; and
  - (vi) 50 per cent. of any amount by which that aggregate principal value exceeds £60,000 but does not exceed £80,000 ; and
  - (vii) 55 per cent. of any amount by which that aggregate principal value exceeds £80,000 but does not exceed £100,000 ; and
  - (viii) 60 per cent. of any amount by which that aggregate principal value exceeds £100,000 but does not exceed £150,000 ; and
  - (ix) 65 per cent. of any amount by which that aggregate principal value exceeds £150,000 but does not exceed £200,000 ; and
  - (x) 70 per cent. of any amount by which that aggregate principal value exceeds £200,000 but does not exceed £500,000 ; and
  - (xi) 75 per cent. of any amount by which that aggregate principal value exceeds £500,000.”
- (3) In paragraphs (a) and (b) of section 16(3) of the Finance Act 1894 " £15,000 " shall be substituted for " £12,500 ".

## **121 Estate duty: relief for surviving spouse, charities and certain institutions**

- (1) In determining for the purposes of estate duty chargeable on any death occurring after 21st March 1972 the principal value of an estate there shall be disregarded so much thereof as is attributable to property falling within the following paragraphs, but subject to the limits specified therein—
- (a) property given to any of the bodies falling within Schedule 25 to this Act; and
  - (b) property given to charities, up to a limit of £50,000; and
  - (c) property given to or devolving on the deceased's widow or widower, up to a limit of £15,000 ;
- but it shall not be so disregarded if the property passes under a gift excepted under Part I of Schedule 26 to this Act.
- (2) Schedule 26 to this Act shall have effect for supplementing this section.

## **PART VII**

### MISCELLANEOUS

## **122 Abolition of selective employment tax**

- (1) Selective employment tax shall not be payable in respect of any contribution week beginning after 1st April 1973, and, subject to the following provisions of this section—
- (a) no payment shall be made under the Selective Employment Payments Acts 1966 in respect of persons in any employment in or carried out from an establishment registered under subsection (1) of section 7 of that Act unless the application for registration was made before 1st July 1973 ; and
  - (b) no payment under the Act of 1966, section 25 of the Finance Act 1967 or section 52(3) of the Finance Act 1968 shall be made unless the claim for it was made before 1st October 1973 ; and
  - (c) no question arising in connection with a payment mentioned in paragraph (b) above shall after 1st April 1973 be referred to an industrial tribunal under paragraph (a), (b) or (c) of section 7(5) of the Act of 1966 or under paragraph 6 of Schedule 12 to the Finance Act 1967 unless the reference is required within six weeks of the time the question arises.
- (2) Where—
- (a) an employer has required the reference of a question to an industrial tribunal under paragraph (a) or (b) of section 7(5) of the Act of 1966 ; or
  - (b) an employer has duly applied for the registration of an establishment under section 7(1) of that Act but the decision on the application has been notified to him after 30th June 1973 ; or
  - (c) a charity, within the meaning of section 5 of that Act, has, before 1st July 1973, applied for a certificate under subsection (3) or (4) of that section or for registration under section 4 of the Charities Act 1960 ;
- subsection (1)(b) of this section shall not prevent the making of a payment to the employer or charity on a claim made within three months of the final determination of the question or, as the case may be, of the notification, the granting of the certificate or the registration under the Act of 1960.

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- (3) Subsection (1) of this section shall not affect the payment of regional employment premiums, that is to say, of so much of any amount payable under section 1 of the Act of 1966 as exceeds the amount of tax paid, in respect of any contribution week beginning before such date as the Treasury may by order made by statutory instrument appoint; and accordingly—
- (a) payments under that section equal to the amounts of the increases specified in subsection (1) of section 26 of the Finance Act 1967 (or, where subsection (2) of that section applies, equal to one-half of the amounts so specified) shall be made in respect of any such week in the cases mentioned in the said section 26; and
  - (b) in relation to any contribution week beginning after 1st April 1973 and before the date so appointed the enactments mentioned in Schedule 27 to this Act shall have effect subject to the amendments specified in that Schedule.
- (4) An order under subsection (3) of this section may include provisions corresponding to paragraphs (a) to (c) of subsection (1) and subsection (2) of this section.
- (5) The enactments mentioned in Part VIII of Schedule 28 to this Act are hereby repealed as from 2nd April 1973 to the extent specified in the third column of that Part; and the enactments mentioned in Part IX of that Schedule are hereby repealed, to the extent specified in the third column of that Part, as from such day as the Treasury may by order made by statutory instrument appoint.
- (6) This section and Parts VIII and IX of Schedule 28 to this Act extend to Northern Ireland (except in so far as they relate to enactments which do not so extend).

### **123 Registered trade unions**

- (1) Notwithstanding section 80 of the Industrial Relations Act 1971 and the repeals made by that Act—
- (a) no organisation which, immediately before 1st October 1971, was a registered trade union shall be treated for the purposes of section 338 of the Taxes Act (exemption of income and gains applied for the purpose of provident benefits) as having ceased to be such a trade union before the end of 5th April 1972; and
  - (b) any organisation which is for the time being entered in the provisional register maintained under the Act of 1971 shall for the purposes of section 338 of the Taxes Act and subsection (2) of this section be treated as a registered trade union.
- (2) The exemption from tax conferred by section 338 of the Taxes Act shall not extend to so much of the income or gains of a trade union registered either in Great Britain or Northern Ireland as is after 5th April 1972 applied for the purpose of provident benefits paid to persons residing in the other of those countries, unless the majority of its members reside in the country in which it is registered.

### **124 Payments to or by Export Credits Guarantee Department under investment insurance scheme**

- (1) Any sums paid by a person to the Export Credits Guarantee Department under an agreement entered into under arrangements made by the Secretary of State in pursuance of section 1 of the Overseas Investment and Export Guarantees Act 1972 or with a view to entering into such an agreement shall be included—

- (a) in the sums to be deducted in computing for the purposes of Case I or Case II of Schedule D the profits or gains of any trade, profession or vocation carried on by that person; or
- (b) if that person is an investment company within the meaning of section 304 of the Taxes Act or a company in the case of which that section applies by virtue of section 305 of that Act, in the sums to be deducted as expenses of management in computing the company's profits for the purposes of corporation tax;

whether or not they would fall to be so included apart from this section.

- (2) Where, under such an agreement, any payment is made by the Exports Credits Guarantee Department in respect of any income or gains which cannot be transferred to the United Kingdom, then, to the extent of the payment,—
  - (a) the income or gains shall be treated as income or gains with respect to which the conditions mentioned in section 418(2) of the Taxes Act or section 40(1) of the Finance Act 1965 (relief in respect of unremittable overseas income or gains) are not satisfied (and accordingly cannot cease to be satisfied); and
  - (b) if the payment is made in respect of income arising from investments of the foreign life assurance fund, within the meaning of section 315 of the Taxes Act, of an insurance company that section shall apply in relation to the income as if it had been received in the United Kingdom (and accordingly cannot be received again in the United Kingdom).

## **125 Reduction of stamp duty on conveyances and leases**

- (1) In subsection (1) of section 55 of, and in Part I of Schedule 11 to, the Finance Act 1963 (under which, as amended by section 27(1) of the Finance Act 1967 and paragraph 10 of Schedule 7 to the Finance Act 1970, duty is not chargeable on conveyances or transfers certified at £5,500 and is chargeable at a reduced rate on those certified at £7,000), for " £5,500 " and " £7,000 ", wherever occurring, there shall be substituted respectively " £10,000 " and " £15,000 ".
- (2) In subsection (2) of the said section 55 (under which the relief afforded by subsection (1) of that section is not available as respects the duty chargeable in respect of a premium for a lease if the consideration includes rent exceeding £50 a year) for " £50 " there shall be substituted " £150 ".
- (3) No duty shall be chargeable under paragraph (3) of the heading " Lease or Tack " in Schedule 1 to the Stamp Act 1891 in respect of consideration consisting of rent if the term does not exceed seven years or is indefinite and the rent is at a rate or average rate not exceeding £250 per annum; and accordingly—
  - (a) the rate of duty specified in the second column of the Table in that paragraph as applicable where the rent is at a rate or average rate exceeding £100 shall apply only when the rent is at a rate or average rate exceeding £250; and
  - (b) in paragraph (2)(a) of that heading for " £100 " there shall be substituted " £250 ".
- (4) This section has effect in relation to instruments executed on or after 1st August 1972.

## **126 Abolition of stamp duty on bank notes and of bankers' licences**

- (1) The following are hereby abolished—

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- (a) the stamp duty chargeable by virtue of the heading "BANK NOTE" in Schedule 1 to the Stamp Act 1891;
  - (b) the licences required to be taken out under section 24 of the Stamp Act 1815 (licences for bankers etc. issuing certain promissory notes).
- (2) This section takes effect on 25th June 1972; and if on or after that date and before the passing of this Act a person pays any duty in respect of a licence of the kind mentioned in subsection (1)(b) above which would not have been payable if this Act had then been in force the Commissioners of Inland Revenue shall, on application made to them within two years after the date of payment, repay the duty.

### **127 Disclosure of information between revenue departments**

- (1) No obligation as to secrecy or other restriction upon the disclosure of information imposed by statute or otherwise shall prevent either—
- (a) the Commissioners of Inland Revenue or an authorised officer of those Commissioners; or
  - (b) the Commissioners of Customs and Excise or an authorised officer of those Commissioners;
- from disclosing information to the other Commissioners or an authorised officer of the other Commissioners for the purpose of assisting them in the performance of their duties.
- (2) Information obtained in pursuance of this section shall not be disclosed except—
- (a) to the Commissioners or an authorised officer of the Commissioners on whose behalf it was obtained; or
  - (b) for the purpose of any proceedings connected with a matter in relation to which those Commissioners perform duties.

### **128 Vehicle excise duty-disabled persons**

- (1) For subsection (2) of section 7 of the Vehicles (Excise) Act 1971 (exemption from duty of certain vehicles registered in name of disabled persons) there shall be substituted the following subsection—
- “(2) A mechanically propelled vehicle shall not be chargeable with any duty under this Act by reason of its use by or for the purposes of a person suffering from a physical defect or disability or by reason of its being kept for such use if—
- (a) it is registered under this Act in the name of that person; and
  - (b) he has obtained, or is eligible for, a grant under section 33(3) of the Health Services and Public Health Act 1968 in relation to that vehicle; and
  - (c) no other vehicle registered in his name under this Act is exempted from duty under this subsection.”
- (2) In section 7 of the Finance Act 1971 the words from " fitted with controls " to " or a vehicle " and paragraphs (a) and (b) shall be omitted.
- (3) In section 4(1)(g) of the Vehicles (Excise) Act 1971 (vehicles not exceeding eight hundredweight for invalids) for the word " eight" there shall be substituted the word " ten ".



## **129 Summary award of penalties**

- (1) In section 53(1) of the Taxes Management Act 1970 (summary award of penalties) there shall be substituted, for the words from " section 98(3) " to " awarded " the words" section 98 of this Act shall have effect, in relation to a penalty so awarded, as if subsection (3) were omitted and the reference in subsection (1)(ii) to the Commissioners before whom proceedings for the penalty have been commenced were a reference to the Commissioners by whom the penalty has been awarded ".
- (2) This section does not apply in relation to a penalty awarded before the commencement of this Act.

## **130 Compensation for loss of office etc. by clerks to General Commissioners**

- (1) The Commissioners of Inland Revenue may, with the concurrence of the Minister for the Civil Service, by regulations provide for the payment out of money provided by Parliament of compensation to or in respect of any clerk to the General Commissioners for any division who suffers or has suffered loss of office or loss or diminution of emoluments which is attributable to any order affecting that division made (whether before or after the passing of this Act) under section 2(6) of the Taxes Management Act 1970 (alteration and abolition of divisions).
- (2) Regulations under this section may—
  - (a) include provision as to the manner in which and the person to whom any claim for compensation under the regulations is to be made, and for the determination of all questions arising under the regulations;
  - (b) make different provision for different classes of persons and for different circumstances, and make, or authorise the Commissioners of Inland Revenue to make, exceptions and conditions;
  - (c) be framed so as to have effect from a date earlier than the making of the regulations,but so that regulations having effect from a date earlier than their making shall not place any individual in a worse position than he would have been in if the regulations had been so framed as to have effect only from the date of their making.
- (3) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

## **131 Post-war credits**

- (1) On the repayment of any post-war credit, or payment to a building society of any amount outstanding under section 3 of the Income Tax (Repayment of Post-War Credits) Act 1959, the sum payable, inclusive of the interest, may be taken by the Commissioners of Inland Revenue as amounting to 138 per cent. of the credit as notified under section 7 of the Finance Act 1941 or of the amount so outstanding, as the case may be.
- (2) An application for such a repayment made before the applicant is qualified may, if he later becomes qualified, be treated as made on the date when he does so.
- (3) No such repayment shall be made unless application therefor is made before such time (not earlier than the beginning of the year 1974) as the Treasury may by order direct.

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Any order under this subsection shall be made by statutory instrument, which shall be laid before Parliament after being made, and may be varied by a subsequent order so as to extend the time for applications for repayment.

- (4) In this section " post-war credit" has the same meaning as in the Income Tax (Repayment of Post-War Credits) Act 1959.
- (5) This section shall be deemed to have had effect from the beginning of April 1972.

### **132 Local loans**

- (1) Loans in pursuance of section 3 of the National Loans Act 1968 may be made by the Public Works Loan Commissioners, in addition to any loans made by them under section 4 of that Act, but the aggregate of—
  - (a) the commitments of the Commissioners outstanding at any time in respect of undertakings entered into by them to grant such loans ; and
  - (b) the advances in respect of such loans made by them under this section up to that time ;shall not exceed £1,000 million or such greater amount as may be specified in an order under subsection (2) of this section.
- (2) The Treasury may, on not more than three occasions, by order made by statutory instrument increase or further increase the limit imposed by subsection (1) of this section by such sum not exceeding £1,000 million as may be specified in the order.
- (3) No order shall be made under this section unless a draft of it has been laid before and approved by a resolution of the Commons House of Parliament.

### **133 Advances to trustee savings banks**

In section 53(2) of the Trustee Savings Banks Act 1969 (limit on advances to trustee savings banks out of the Fund for the Banks for Savings) for the words " but the total of the advances so made shall not exceed £10 million " there shall be substituted the words " but the amount outstanding at any time in respect of such advances shall not exceed £15 million ".

### **134 Citation, interpretation, construction, extent and repeals**

- (1) This Act may be cited as the Finance Act 1972.
- (2) In this Act " the Taxes Act" means the Income and Corporation Taxes Act 1970.
- (3) In this Act—
  - (a) Part III shall be construed as one with the Customs and Excise Act 1952;
  - (b) Parts IV and V, so far as they relate to income tax, shall be construed as one with the Income Tax Acts and, so far as they relate to corporation tax, shall be construed as one with the Corporation Tax Acts;
  - (c) sections 112 to 119 shall be construed as one with Part III of the Finance Act 1965 ;
  - (d) sections 120 and 121 shall be construed as one with the Finance Act 1894.
- (4) Except so far as the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as amended, and as

including a reference to that enactment as applied, by or under any other enactment, including this Act.

- (5) Except as otherwise expressly provided, such of the provisions of this Act as relate to matters in respect of which the Parliament of Northern Ireland has power to make laws do not extend to Northern Ireland.
- (6) If the Parliament of Northern Ireland passes provisions amending or replacing any enactment of that Parliament referred to in this Act the reference shall be construed as a reference to the enactment as so amended or, as the case may be, as a reference to those provisions.
- (7) The enactments mentioned in Schedule 28 to this Act are hereby repealed to the extent mentioned in the third column of that Schedule, but subject to any provision at the end of any Part of that Schedule.

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## SCHEDULES

### SCHEDULE 1

Section 4.

#### VALUE ADDED TAX—REGISTRATION

##### *Liability to be registered*

- 1 A person who makes taxable supplies but is not registered is liable to be registered—
- (a) after the end of any quarter, if the value of his taxable supplies in the period of one, two, three or four quarters then ending has exceeded the amount shown in the following Table as applicable to that period ; or
  - (b) at any time, if there are reasonable grounds for believing that the value of his taxable supplies in the period of one year beginning at that or any later time will exceed £5,000 ;

except that a person is not liable to be registered by virtue of sub-paragraph (a) above on the ground that the value of his taxable supplies in a period of less than a year has exceeded the amount applicable to that period if the Commissioners are satisfied that the value of his taxable supplies in that period and the remaining quarter or quarters of the year will not exceed £5,000.

TABLE

<i>Number of quarters comprised in period</i>	<i>Amount applicable</i>
	£
1	1,750
2	3,000
3	4,250
4	5,000

- 2 A registered person who makes taxable supplies shall cease to be liable to be registered—
- (a) after the end of any quarter, if he has been registered for the whole of the two years then ending and the value of his taxable supplies in each of those years has been £4,000 or less, or the value of his taxable supplies in each of the quarters comprised in those years has been £1,250 or less ; and
  - (b) at any time, if the Commissioners are satisfied that the value of his taxable supplies in the period of one year then beginning will be £4,000 or less.

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*Notification of liability and registration*

- 3 A person who, on 1st April 1973, will be liable to be registered shall notify the Commissioners of that fact within ten days of the earliest date after September 1972 on which he knows or could with reasonable diligence have known that he will be so liable or within such longer time as the Commissioners may allow ; and the Commissioners shall register any such person with effect from 1st April 1973.
- 4 The following three paragraphs apply to persons not required to notify the Commissioners under paragraph 3 of this Schedule.
- 5 A person who by virtue of paragraph 1(a) of this Schedule is liable to be registered after the end of any quarter shall notify the Commissioners of his liability within ten days of the end of that quarter and the Commissioners shall register any such person with effect from the twenty-first day of the next quarter or such earlier date as may be agreed between them and that person.
- 6 A person who, by virtue of paragraph 1(b) of this Schedule, is liable to be registered by reason of the value of his taxable supplies in any period shall notify the Commissioners of that liability not later than the beginning of that period, and the Commissioners shall register any such person with effect from the beginning of that period or such earlier date as may be agreed between them and that person.
- 7 Where a person who intends to make taxable supplies, and will be liable to be registered when he does so, notifies the Commissioners of the fact and requests to be registered the Commissioners may, subject to such conditions as they think fit to impose, register him from such date as may be agreed between them and that person.

*Notification of end of liability and cancellation of registration*

- 8 A registered person who ceases to make taxable supplies shall notify the Commissioners of that fact within ten days of the date on which he does so and the Commissioners shall cancel the registration of any such person.
- 9 Where, by virtue of paragraph 2(a) of this Schedule, a registered person ceases to be liable to be registered and notifies the Commissioners of that fact, the Commissioners shall cancel his registration with effect from the end of the period of fourteen days beginning with the date on which he so notifies them or from such other date as may be agreed between them and that person.
- 10 Where a registered person requests the Commissioners to cancel his registration by virtue of paragraph 2(b) of this Schedule and the Commissioners are at any time satisfied as mentioned in that paragraph they shall cancel his registration as from that time.

*Discretionary registration or exemption from registration*

- 11 Notwithstanding the preceding provisions of this Schedule,—
- (a) where a person who makes or intends to make taxable supplies satisfies the Commissioners that any such supply is zero-rated or would be zero-rated if he were a taxable person they may, if he so requests and they think fit, exempt him from registration ; and
  - (b) where a person who makes or intends to make taxable supplies is not and will not be liable to be registered the Commissioners may, if he so requests

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and they think fit, treat him as so liable, subject to such conditions as they think fit to impose ;

until it appears to the Commissioners that the request should no longer be acted upon or the request is withdrawn; but the Commissioners may by notice given in such manner as appears to them appropriate for the information of persons making taxable supplies prevent the withdrawal of such a request made after the publication of the notice for such period after it is made as may be specified in the notice.

### *Supplementary*

- 12 The provisions of this Part of this Act relating to the determination of the value of a supply of goods or services shall apply for the purposes of this Schedule with the modification that no allowance shall be made for tax.
- 13 Any notification required under this Schedule shall be made in such form and shall contain such particulars as the Commissioners may by regulations prescribe.
- 14 References in this Schedule to registration are references to registration in a register kept by the Commissioners for the purposes of this Part of this Act.

## SCHEDULE 2

Section 5.

### MATTERS TO BE TREATED AS SUPPLY OF GOODS

- 1 Where goods acquired or produced by a taxable person in the course of a business carried on by him are applied by him to the personal use of himself or any other person they shall be deemed to be supplied by him in the course of that business.
- 2 Where goods acquired or produced by a taxable person in the course of a business carried on by him are, under any power exercisable by another person, sold by the other person in or towards satisfaction of a debt owed by the taxable person they shall be deemed to be supplied by the taxable person in the course of that business.
- 3 Where a person ceases to be a taxable person, any goods then forming part of the assets of a business carried on by him shall be deemed to be supplied by him in the course of that business immediately before he ceases to be a taxable person, unless—
- (a) the business is transferred as a going concern to another taxable person ; or
  - (b) the business is carried on by another person who, under regulations made under section 23(3) of this Act, is treated as a taxable person.

## SCHEDULE 3

Section 10(6).

### VALUE OF SUPPLY—SPECIAL CASES

- 1 Where it appears to the Commissioners—
- (a) that a taxable person has supplied goods or services for a consideration in money the amount of which has been determined with a view to securing a reduction of liability to tax ; and
  - (b) that it is likely that goods or services will be similarly supplied by him ; and

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(c) that it is necessary for the protection of the revenue to exercise their powers under this paragraph ;

they may by notice in writing give directions to that person for securing that the value by reference to which tax is charged on any supply by him of goods or services after the giving of the notice or after such later date as may be specified therein is not less than the open market value of the supply.

2 Where it appears to the Commissioners—

(a) that a taxable person carries on his business or part of his business by supplying to a number of individuals goods to be sold, whether by them or others, by retail; and

(b) that those individuals are not taxable persons ; and

(c) that it is necessary for the protection of the revenue to exercise their powers under this paragraph ;

they may by notice in writing give directions to the taxable person for securing that the value by reference to which tax is charged on any such supply by him after the giving of the notice or after such later date as may be specified therein shall be determined as if the consideration given by any such individual for the supply were equal to the price at which the goods are sold by retail.

3 Where goods are supplied in pursuance of an agreement with respect to which the requirements of section 7 of the Hire-Purchase Act 1965, section 7 of the Hire-Purchase (Scotland) Act 1965 or section 7 of the Hire-Purchase Act (Northern Ireland) 1966 are complied with the consideration for the supply shall be taken for the purposes of this Part of this Act to be the cash price stated in the agreement.

4 Where goods or services are supplied for a consideration in money which is to be reduced if payment is made immediately or within a specified time the consideration shall be taken for the purposes of this Part of this Act as so reduced whether or not payment is so made.

5 Where a right to receive goods or services for an amount stated on any token, stamp or voucher is granted for a consideration, the consideration shall be disregarded for the purposes of this Part of this Act except to the extent (if any) that it exceeds that amount.

6 Where a supply is a gift of goods or a supply deemed to be made under paragraph 1 of Schedule 2 to this Act, the value of the supply shall be taken to be the cost of the goods to the person making the supply ; except that if that cost does not exceed £10 and the supply is a gift its value shall be taken to be nil.

7 Where a supply of services consists in the provision of accommodation in a hotel, inn, boarding house or similar establishment for a period exceeding four weeks—

(a) the value of so much of the supply as is in excess of four weeks shall be taken to be reduced to such part thereof as is attributable to facilities other than the right to occupy the accommodation ; and

(b) that part shall be taken to be not less than 20 per cent.

8 A direction under paragraph 1 or paragraph 2 of this Schedule may be varied or withdrawn by the Commissioners by a further direction given by notice in writing.

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## SCHEDULE 4

Section 12.

## ZERO-RATING

*GROUP 1—FOOD*

The supply of anything comprised in the general items set out below, except—

- (a) a supply in the course of catering ; and
- (b) a supply of anything comprised in any of the excepted items set out below, unless it is also comprised in any of the items overriding the exceptions set out below which relates to that excepted item.

*General items*

Item No.

1. Food of a kind used for human consumption.
2. Animal feeding stuffs.
3. Seeds or other means of propagation of plants comprised in item 1 or 2.
4. Live animals of a kind generally used as, or yielding or producing, food for human consumption.

*Excepted items*

Item No.

1. Ice cream, ice lollies, frozen yoghurt, water ices and similar frozen products, and prepared mixes and powders for making such products.
2. Chocolates, sweets and similar confectionery (including drained, glaze" or crystallized fruits); and chocolate biscuits and other confectionery having a case or coating of chocolate couverture, but not including cakes in such a case or coating.
3. Beverages chargeable with any duty of customs or excise specifically charged on spirits, beer, wine or British wine and preparations thereof.
4. Other manufactured beverages, including fruit juices and bottled waters, and syrups, concentrates, essences, powders, crystals or other products for the preparation of beverages.
5. Any of the following when packaged for human consumption without further preparation, namely, potato crisps, potato sticks, potato puffs and similar products made from the potato, or from potato flour, or from potato starch, and savoury food products obtained by the swelling of cereals or cereal products; and salted or roasted nuts other than nuts in shell.
6. Pet foods, canned, packaged or prepared; packaged foods (not being pet foods) for birds other than poultry or game; and biscuits and meal for cats and dogs.

*Items overriding the exceptions*

Item No.

1. Chocolate couverture not prepared or put up for retail sale.
2. Drained cherries.
3. Candied peels.
4. Tea, maté, herbal teas and similar products, and preparations and extracts thereof.
5. Cocoa, coffee and chicory and other roasted coffee substitutes, and preparations and extracts thereof.
6. Preparations and extracts of meat, yeast, egg or milk.

*Notes :*

- (1) " Food " includes drink.



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- (2) " Animal " includes bird, fish, crustacean and mollusc.
- (3) A supply of anything in the course of catering includes any supply of it for consumption on the premises on which it is supplied.
- (4) Items 1 to 3 of the items overriding the exceptions relate to item 2 of the excepted items and items 4 to 6 of the items overriding the exceptions relate to item 4 of the excepted items

#### *GROUP 2—WATER*

Item No.

1. Water other than—
  - (a) distilled water ; and
  - (b) water comprised in the excepted items set out in Group 1.

#### *GROUP 3—BOOKS, ETC.*

Item No.

1. Books, booklets, brochures, pamphlets and leaflets.
2. Newspapers, journals and periodicals.
3. Children's picture books and painting books.
4. Music (printed, duplicated or manuscript).
5. Maps, charts and topographical plans.
6. Covers, cases and other articles supplied with items 1 to 5 and not separately accounted for.

*Note :* This Group does not include plans or drawings for industrial, architectural, engineering, commercial or similar purposes.

#### *GROUP 4—TALKING BOOKS FOR THE BLIND*

Item No.

1. The supply to the Royal National Institute for the Blind of—
  - (a) magnetic tape specially adapted for the recording and reproduction of speech for the blind ;
  - (b) tape recorders designed for the reproduction of sound from such tape ;
  - (c) parts and accessories for goods comprised in paragraphs (a) and (b) above.

#### *GROUP 5—NEWSPAPER ADVERTISEMENTS*

Item No.

1. The publication in any newspaper, journal or periodical of any advertisement.
2. The preparation of any advertisement intended for publication solely or mainly in one or more newspapers, journals or periodicals.
3. The supply of services for the purpose of securing such a publication or a preparation as is mentioned in item 1 or 2.

#### *GROUP 6—NEWS SERVICES*

Item No.

1. The supply to newspapers or to the public of information of a kind published in newspapers.

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*Note :* This item does not include the supply of photographs.

*GROUP 7—FUEL AND POWER*

Item No.

1. Coal, coke and other solid mineral fuels.
2. Coal gas, water gas, producer gases and similar gases.
3. Petroleum gases and other gaseous hydrocarbons, whether in a gaseous or liquid state.
4. Hydrocarbon oil, petrol substitutes and power methylated spirits (within the meaning of the Hydrocarbon Oil (Customs and Excise) Act 1971).
5. Electricity, heat and air-conditioning.

*GROUP 8—CONSTRUCTION OF BUILDINGS, ETC.*

Item No.

1. The granting, by a person constructing a building, of a major interest in, or in any part of, the building or its site.
2. The supply, in the course of the construction, alteration or demolition of any building or of any civil engineering work, of any services other than the services of an architect, surveyor or any person acting as consultant or in a supervisory capacity.
3. The supply, in connection with a supply of services falling within item 2, of materials or of builder's hardware, sanitary ware or other articles of a kind ordinarily installed by builders as fixtures.

*Notes :*

- (1) Item 2 does not include any work of repair or maintenance or the supply of any services to a person who himself supplies such services as are mentioned therein or who, in the course of a business consisting wholly or mainly in the construction, alteration or demolition of buildings or civil engineering works, carries out the construction, alteration or demolition on land in which he owns a major interest.
- (2) " Major interest" has the same meaning as in section 5(6) of this Act.
- (3) Section 12(3) of this Act does not apply to goods forming part of a description of supply in this Group.

*GROUP 9—SERVICES TO OVERSEAS TRADERS OR FOR OVERSEAS PURPOSES*

Item No.

1. Any services supplied by an agent to his principal if the principal is an overseas trader or overseas resident.
2. The application of any treatment or process to goods imported on behalf of an overseas trader or overseas resident for subsequent re-export and in fact re-exported.
3. The preparation, publication or dissemination of any advertisement on behalf of an overseas trader or an overseas authority.
4. The supply of any services for the purpose of securing the preparation, publication or dissemination of any advertisement on behalf of an overseas trader or an overseas authority.
5. The supply, in such circumstances as may be specified by order of the Treasury, of such services comprised in Group 2 or Group 5 of Schedule 5 to this Act as may be so specified.

6. The supply to an overseas trader or overseas resident of any services not used in the United Kingdom and not included in items 1 to 5 of this Group nor in any Group in Schedule 5 to this Act.
7. The supply to an overseas authority of any services not comprised in item 5 of this Group nor in any Group in Schedule 5 to this Act.
8. The supply to an overseas trader of services consisting of the storage at or transport to or from a port or customs airport (within the meanings of the Customs and Excise Act 1952) of goods which respectively are to be exported or have been imported or of the handling or storage of such goods in connection with such transport.
9. The preparation of plans and specifications for construction operations outside the United Kingdom.
10. The granting, assignment or surrender of any right exercisable outside the United Kingdom.

*Notes :*

- (1) For the purposes of this Group a person is an overseas trader if he carries on a business and has his place of business or principal place of business outside the United Kingdom.
- (2) Overseas authority means any country other than the United Kingdom or any part of or place in such a country or the Government of any such country, part or place.
- (3) Overseas resident means a person who is not resident in the United Kingdom.
- (4) Items 3 and 4 do not apply where the overseas trader is a person, or the agent or subsidiary of a person, who carries on a business in the United Kingdom or is resident or (if a company) incorporated in the United Kingdom.
- (5) Items 3, 4 and 7 do not include the supply of any services to any agency or establishment in the United Kingdom.

*GROUP 10—TRANSPORT*

Item No.

1. The supply, repair or maintenance of any ship which is neither—
  - (a) a ship of a gross tonnage of less than 15 tons ; nor
  - (b) a ship designed or adapted for use for recreation or pleasure.
2. The supply, repair or maintenance of any aircraft which is neither—
  - (a) an aircraft of a weight of less than eighteen thousand pounds ; nor
  - (b) an aircraft designed or adapted for use for recreation or pleasure.
3. The supply to and repair or maintenance for the Royal National Lifeboat Institution of any lifeboat.
4. Transport of passengers—
  - (a) in any vehicle, ship or aircraft designed or adapted to carry not less than twelve passengers ; or
  - (b) by the Post Office ; or
  - (c) on any scheduled flight.
5. Transport of passengers or freight outside the United Kingdom or to or from a place outside the United Kingdom.
6. Any services provided for the handling of ships or aircraft in a port or customs airport or for the handling, in a port or customs airport or on land adjacent to a port, of goods carried in a ship or aircraft.
7. Pilotage services.
8. Salvage or towage services.

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9. Any services supplied within or outside the United Kingdom for or in connection with the surveying of any ship or aircraft or the classification of any ship or aircraft for the purposes of any register.
10. The making of arrangements for the supply of, or of space in, any ship or aircraft or for the supply of any service included in items 1 to 9.

*Notes :*

- (1) " Port " and " customs airport " have the same meanings as in the Customs and Excise Act 1952.
- (2) The supply of any ship or aircraft includes the supply of any services under a charter of the ship or aircraft.
- (3) " Lifeboat " includes any ship used as a lifeboat.

*GROUP 11—CARAVANS*

Item No.

1. Caravans exceeding the limits of size for the time being permitted for the use of trailers on roads.

*Note :* This item does not include removable contents other than goods of a kind mentioned in Item 3 of Group 8.

*GROUP 12—GOLD*

Item No.

1. The supply of any gold bullion.
2. The supply of gold coins by an authorised dealer in gold to another such dealer

*Notes :*

- (1) " Authorised dealer in gold " means a person for the time being authorised by an order of the Treasury under the Exchange Control Act 1947 to act for the purposes of that Act as an authorised dealer in relation to gold; and " gold bullion " means any newly mined gold and refined bar gold or gold grain of not less than 995 millesimal fineness.
- (2) Section 12(3) of this Act does not apply to gold coins.

*GROUP 13—BANK NOTES*

Item No.

1. The issue by a bank of a note payable to bearer on demand.

*GROUP 14—DRUGS, MEDICINES AND APPLIANCES SUPPLIED ON PRESCRIPTION*

Item No.

1. The supply of any goods dispensed, by a person registered in the register of pharmaceutical chemists kept under the Pharmacy Act 1954 or the Pharmacy and Poisons Act (Northern Ireland) 1925, on the prescription of a person registered in the register of medical practitioners, the register of temporarily registered medical practitioners or the dentists' register.

*Note :* Section 12(3) of this Act does not apply to goods forming part of this description of supply.

## SCHEDULE 5

Section 13.

### EXEMPTIONS

#### *GROUP 1—LAND*

Item No.

1. The grant, assignment or surrender of any interest in or right over land or of any licence to occupy land, other than—
  - (a) the provision of accommodation in a hotel, inn, boarding house or similar establishment or in a house, flat or caravan used wholly or mainly for the provision of holiday accommodation ;
  - (b) the granting of facilities for camping in tents or caravans;
  - (c) the granting of facilities for parking a vehicle ; and
  - (d) the granting of any right to take game or fish.

#### *GROUP 2—INSURANCE*

Item No.

1. The provision of insurance of any description.
2. The making of arrangements for the provision of any insurance.

#### *GROUP 3—POSTAL SERVICES*

Item No.

1. The conveyance of postal packets by the Post Office.
2. The supply by the Post Office of any services in connection with the conveyance of postal packets.

*Note :* " Postal packet" has the same meaning as in the Post Office Act 1953, except that it does not include a telegram.

#### *GROUP 4—BETTING, GAMING AND LOTTERIES*

Item No.

1. The provision of any facilities for the placing of bets or the playing of any games of chance.
2. The granting of a right to take part in a lottery.

*Notes :*

- (1) Item 1 does not include—
  - (a) admission to any premises ; or
  - (b) the granting of a right to take part in a game in respect of which a charge may be made by virtue of regulations under section 14 of the Gaming Act 1968 ; or
  - (c) the provision by a club of such facilities to its members as are available to them on payment of their subscription but without further charge.
- (2) " Game of chance " has the same meaning as in the Gaming Act 1968.
- (3) " Lottery" includes any competition for prizes which is authorised by a licence under the Pool Competitions Act 1971.

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### GROUP 5—FINANCE

Item No.

1. The issue, transfer or receipt of, or any dealing with, money, any security for money or any note or order for the payment of money.
2. The making of any advance or the granting of any credit.
3. The making of arrangements for any transaction comprised in item 1 or 2.
4. The issue, transfer or receipt of, or any dealing with, any security or secondary security within the definition in section 42 of the Exchange Control Act 1947.
5. The operation of any current, deposit or savings account.

*Note :* Item 1 does not include anything included in Item 4.

### GROUP 6—EDUCATION

Item No.

1. The provision of education if—
  - (a) it is provided by a school or university ; or
  - (b) it is of a kind provided by a school or university and is provided otherwise than for profit.
2. The supply of any goods or services incidental to the provision of any education included in item 1.
3. The provision of any instruction supplemental to the provision of any education included in item 1.
4. The provision by a youth club of the facilities available to its members.

*Notes :*

- (1) " School " means any institution providing primary or secondary education or both within the meaning of the Education Acts 1944 to 1971, the Education (Scotland) Acts 1939 to 1971 or the Education Acts (Northern Ireland) 1947 to 1971.
- (2) " Education " includes training in any form of art.
- (3) " University " includes a university college and the college, school or hall of a university.

### GROUP 7—HEALTH

Item No.

1. The supply of services and, in connection with it, the supply of goods, by a person registered or enrolled in any of the following:—
  - (a) the register of medical practitioners or the register of temporarily registered medical practitioners ;
  - (b) the dentists' register ;
  - (c) either of the registers of ophthalmic opticians or the register of dispensing opticians kept under the Opticians Act 1958 or either of the lists kept under section 4 of that Act of bodies corporate carrying on business as ophthalmic opticians or as dispensing opticians ;
  - (d) any register kept under the Professions Supplementary to Medicine Act 1960;
  - (e) the register of nurses or the roll of nurses maintained in pursuance of section 2(1) of the Nurses Act 1957 or kept under section 2 or section 3 of the Nurses (Scotland) Act 1951 or section 17(1) of the Nurses and Midwives Act (Northern Ireland) 1970 ;

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- (f) the roll of certified midwives kept under section 2 of the Midwives Act 1951, section 3 of the Mid-wives (Scotland) Act 1951 or section 17(1) of the Nurses and Midwives Act (Northern Ireland) 1970;
  - (g) any roll of ancillary dental workers established under section 41 of the Dentists Act 1957 ;
  - (h) the register of dispensers of hearing aids and the register of persons employing such dispensers maintained under section 2 of the Hearing Aid Council Act 1968.
2. The supply of any goods or services by a dental technician.
  3. The supply of any services by a person registered in the register of pharmaceutical chemists kept under the Pharmacy Act 1954 or the Pharmacy and Poisons Act (Northern Ireland) 1925.
  4. The provision of care or medical or surgical treatment and, in connection with it, the supply of any goods, in any hospital or other institution approved, licensed, registered or exempted from registration by any Minister or other authority.

#### *GROUP 8—BURIAL AND CREMATION*

Item No.

1. The disposal of the remains of the dead.
2. The making of arrangements for or in connection with the disposal of the remains of the dead.

### SCHEDULE 6

Section 40.

#### CONSTITUTION AND PROCEDURE OF VALUE ADDED TAX TRIBUNALS

##### *Establishment of Value Added Tax Tribunals*

- 1 Value added tax tribunals shall be established for England and Wales, Scotland and Northern Ireland respectively.

##### *The President*

- 2 (1) There shall be a President of Value Added Tax Tribunals, who shall perform the functions conferred on him by the following provisions of this Schedule in relation to value added tax tribunals in any part of the United Kingdom.  
(2) The President shall be appointed by the Lord Chancellor and shall be a barrister, advocate or solicitor of not less than ten years' standing.
- 3 (1) The President may resign his office at any time and shall vacate his office at the end of the completed year of service in which he attains the age of seventy-two.  
(2) The Lord Chancellor may, if he thinks fit, remove the President from office on the ground of incapacity or misbehaviour.  
(3) The functions of the President may, if he is for any reason unable to act or his office is vacant, be discharged by a person nominated for the purpose by the Lord Chancellor.

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- (4) There shall be paid to the President such salary or fees and there may be paid to or in respect of a former President such pension, as the Treasury may with the approval of the Minister for the Civil Service determine.
- (5) If a person ceases to be President of Value Added Tax Tribunals and it appears to the Treasury that there are special circumstances which make it right that he should receive compensation and the Minister for the Civil Service approves, there may be paid to that person a sum of such amount as the Treasury may, with the approval of that Minister, determine.

#### *Sittings of tribunals*

- 4       Such number of value added tax tribunals shall be established as the President may from time to time with the consent of the Treasury determine, and they shall sit at such times and at such places as he may from time to time determine.

#### *Composition of tribunals*

- 5       (1) A value added tax tribunal shall consist of a chairman sitting either with two other members or with one other member or alone.
- (2) If the tribunal does not consist of the chairman sitting alone its decisions may be taken by a majority of votes and the chairman, if sitting with one other member, shall have a casting vote.

#### *Membership of tribunals*

- 6       For each sitting of a value added tax tribunal the chairman shall be either the President or a person selected by him from a panel constituted in accordance with paragraph 7 of this Schedule ; and any other member shall be a person so selected.
- 7       (1) There shall be a panel of chairmen and a panel of other members of value added tax tribunals for England and Wales, Scotland and Northern Ireland respectively.
- (2) Each panel of chairmen shall include one or more full-time chairmen, including one to be known as Vice-President of Value Added Tax Tribunals.
- (3) A member of a panel appointed as full-time chairman shall be appointed—
  - (a) for England and Wales, by the Lord Chancellor ;
  - (b) for Scotland, by the Lord President of the Court of Session ; and
  - (c) for Northern Ireland, by the Lord Chief Justice of Northern Ireland;
 and all other members of a panel shall be appointed by the Treasury.
- (4) There shall be paid to a full-time chairman of value added tax tribunals such salary or fees, and to other members such fees, as the Treasury, with the approval of the Minister for the Civil Service, may determine ; and there may be paid to or in respect of a former full-time chairman of value added tax tribunals such pension as the Treasury may, with that approval, determine.
- (5) If a person ceases to be a full-time chairman of value added tax tribunals and it appears to the Treasury that there are special circumstances which make it right that he should receive compensation and the Minister for the Civil Service approves, there may be paid to that person a sum of such amount as the Treasury may, with the approval of that Minister, determine.



*Disqualifications for membership of House of Commons and exemption from jury service*

- 8 In Part II of Schedule 1 to the House of Commons Disqualification Act 1957 (bodies of which all members are disqualified for membership) and in that Part as it applies by virtue of Schedule 3 to that Act in relation to the Senate and House of Commons of Northern Ireland, there shall be inserted at the appropriate place the words " A value added tax tribunal ".
- 9 No member of a value added tax tribunal shall be compelled to serve on any jury.

*Rules of procedure*

- 10 The Commissioners may make rules with respect to the procedure to be followed on appeals to value added tax tribunals and such rules may include provisions—
- (a) for limiting the time within which appeals may be brought;
  - (b) for enabling hearings to be held in private in such circumstances as may be determined by or under the rules ;
  - (c) for parties to proceedings to be represented by such persons as may be determined by or under the rules ;
  - (d) for requiring persons to attend to give evidence and produce documents ;
  - (e) for the payment of expenses and allowances to persons attending as witnesses ;
  - (f) for the award and recovery of costs ; and
  - (g) for authorising the administration of oaths to witnesses.

SCHEDULE 7

Section 52.

CAR TAX

*Interpretation*

- 1 In this Schedule " authorised person " means any person acting under the authority of the Commissioners, " the Commissioners " means the Commissioners of Customs and Excise, " the tax " means car tax and " chargeable vehicle " and (in relation to vehicles) " registered " have the same meanings as in section 52 of this Act; and references to the making of a chargeable vehicle shall be construed as in that section.

*Administration and collection of tax*

- 2 (1) The tax shall be under the care and management of the Commissioners.
- (2) All money and securities for money collected or received for or on account of the tax shall—
- (a) if collected or received in Great Britain, be placed to the general account of the Commissioners kept at the Bank of England under section 11 of the Customs and Excise Act 1952;
  - (b) if collected or received in Northern Ireland, be paid into the Consolidated Fund of the United Kingdom in such manner as the Treasury may direct.

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- (3) The Government of Ireland Act 1920 shall have effect as if the tax were one of the taxes mentioned in section 22(1) of that Act (reserved taxes).
- (4) The Provisional Collection of Taxes Act 1968 shall be amended by inserting in subsection (1) of section 1, after the words " value added tax " the words " car tax "; and the Act as so amended shall apply in relation to a resolution of the House of Commons passed before 1st April 1974 and providing for any variation of the tax as it applies in relation to such a resolution as is mentioned in subsection (2)(a) of that section.

*Liability to and payment of tax*

- 3 Subject to paragraph 6 of this Schedule, the tax on any vehicle shall be payable—
- (a) if the vehicle is made or imported by a person registered under this Schedule, by that person; and
  - (b) in any other case by the person who for the purposes of the registration of the vehicle is treated as the person keeping the vehicle.
- 4 (1) Where tax on a vehicle is payable by a person registered under this Schedule, it shall become due—
- (a) if the vehicle is appropriated to the use of that person, at the time when it is so appropriated;
  - (b) if it is delivered under an agreement providing for its sale or return, at the time when, in accordance with the agreement, it ceases to be the property of that person or when it is treated for the purposes of the tax as so ceasing to be his property in pursuance of regulations made under this Schedule;
  - (c) in any other case, when it is sent out from the premises of that person;
- and shall become payable at the time provided for by those regulations.
- (2) For the purposes of this paragraph, a vehicle which is to be sold by retail by a person registered under this Schedule shall be deemed to be sent out from the premises of that person when it is sent to the place from which it is to be sold.
- 5 Where tax on a vehicle is payable as mentioned in paragraph 3(b) of this Schedule it shall become due and payable before the vehicle is registered.
- 6 (1) Where a chargeable vehicle is made by the conversion of a vehicle which is not a chargeable vehicle and the person converting it is not registered under this Schedule, the tax on the vehicle shall become due—
- (a) at the time the conversion is completed; or
  - (b) at the time when the vehicle is first used after the conversion was begun;
- whichever is the earlier, and shall be payable by the person who is the owner of the vehicle at the time the tax becomes due; except that if at that time a person other than the owner is entitled to possession of the vehicle under a hire-purchase agreement the tax shall be payable by that person instead of by the owner,
- (2) Where another person carries out the conversion under a contract to the order of the person by whom the tax is payable he shall be accountable for the tax as well as that person but may recover from him any tax paid in pursuance of this sub-paragraph.

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

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*Relief for vehicles exported*

- 7 Tax shall not be charged on any vehicle which is shown to the satisfaction of the Commissioners to have been exported and not to have been registered before it was exported or which is to be exported under arrangements approved by the Commissioners and is not registered.

*Remission of tax on vehicles acquired for export*

- 8 (1) Where it is shown to the satisfaction of the Commissioners that a person who acquires a chargeable vehicle is only temporarily in the United Kingdom or is about to become resident outside the United Kingdom the Commissioners may, subject to such conditions as they think necessary for the protection of the revenue, remit the tax on the vehicle.
- (2) If tax has been remitted on a vehicle under sub-paragraph (1) of this paragraph and—
- (a) the vehicle is found in the United Kingdom after the date by which the Commissioners on granting the remission directed that it should be exported; or
  - (b) any other condition imposed by the Commissioners under that sub-paragraph is not complied with;

and the presence of the vehicle in the United Kingdom after that date or the non-observance of that condition has not been authorised for the purposes of this sub-paragraph by the Commissioners, the tax which would have been payable but for the remission shall become payable forthwith by the person by whom the vehicle was acquired or by any other person in whose possession the vehicle is found in the United Kingdom, and shall be recoverable as a debt due to the Crown, unless, or except to the extent that, the Commissioners see fit to waive payment of the whole or part, thereof.

*Remission of tax on vehicles used outside United Kingdom*

- 9 (1) Regulations under this Schedule may make provision for enabling the Commissioners to remit the tax on a chargeable vehicle, subject to such conditions as they think necessary for the protection of the revenue, where the vehicle has been used and owned outside the United Kingdom for not less than such period as may be prescribed by the regulations and such other conditions are satisfied as may be so prescribed ; and the conditions that may be imposed in pursuance of the regulations may include conditions prohibiting or restricting the disposal of the vehicle for such period as may be so prescribed.
- (2) If tax has been remitted on a vehicle under sub-paragraph (1) of this paragraph and any condition imposed by the Commissioners under that sub-paragraph is not complied with, the tax which would have been payable but for the remission shall be payable forthwith by the person who then owns the vehicle or by any other person in whose possession the vehicle is found, and shall be recoverable as a debt due to the Crown, unless, or except to the extent that, the Commissioners see fit to waive payment of the whole or part thereof.

*Remission of tax on chargeable vehicles converted into other vehicles*

- 10 Where it is shown to the satisfaction of the Commissioners that, under arrangements approved by them, an unused vehicle which was a chargeable vehicle has been

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converted into a vehicle which is not a chargeable vehicle, they may, subject to such conditions as they think necessary for the protection of the revenue, remit the tax on the vehicle.

*Wholesale value*

- 11 (1) For the purposes of the tax the wholesale value of any vehicle shall be taken, subject to paragraph 13(2) of this Schedule, to be the price which, in the opinion of the Commissioners, the vehicle would fetch on a sale made at the time the tax becomes due by a person selling by wholesale in the open market in the United Kingdom to a retail trader carrying on business in the United Kingdom only, on the assumption that—
- (a) the price was the sole consideration for the sale; and
  - (b) the vehicle was to be delivered to the retail trader at the seller's place of business; and
  - (c) neither the tax nor value added tax was payable.
- (2) In this paragraph " retail trader " means a person who sells by retail and does not sell to a person who carries on a business of selling vehicles.

*Disputes as to wholesale value*

- 12 (1) Where the person by whom the tax is payable is dissatisfied with the determination of the wholesale value by the Commissioners he may, within such period from the time when their decision is communicated to him as may be prescribed by regulations under this Schedule or such further time as the Commissioners may allow, by notice in writing given to the Commissioners require the determination to be referred to the arbitration of a person appointed under this paragraph, whose decision shall be final and conclusive; but no such reference shall be made unless, within that period or such further time as the Commissioners may allow, the person requiring the reference has deposited with the Commissioners the amount of tax which would be due on the basis of their determination.
- (2) If the tax chargeable as a result of a reference under this paragraph is less than the amount deposited with the Commissioners the excess shall be repaid with interest at such rate as the referee may determine.
- (3) A referee for the purposes of this paragraph shall be appointed by the Lord Chancellor except that—
- (a) if the person by whom the tax is payable has his principal place of business in Scotland, the referee shall be appointed by the Lord President of the Court of Session; and
  - (b) if that person has his principal place of business in Northern Ireland, the referee shall be appointed by the Lord Chief Justice of Northern Ireland.

*Unfinished vehicles*

- 13 (1) For the purposes of the tax a vehicle which is not finished and complete but which, if finished and complete, would be a chargeable vehicle shall be treated as a chargeable vehicle.
- (2) If in the opinion of the Commissioners a vehicle is not finished and complete, they shall determine its wholesale value as if it were finished and complete, having regard

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to the parts and accessories that remain to be provided and the processes that remain to be undergone for the vehicle to be in a state to be expected of a finished and complete chargeable vehicle.

*Converted and adapted vehicles*

- 14 Where it appears to the Commissioners that a person adapts or converts unused chargeable vehicles and that the vehicles as so adapted or converted remain chargeable vehicles they may direct—
- (a) that the conversion or adaptation shall for the purposes of the tax be treated as the making of the vehicles resulting from it, whether or not it would otherwise fall to be so treated; and
  - (b) that, subject to such conditions as they think necessary for the protection of the revenue, tax shall not be charged on vehicles delivered to that person, under arrangements approved by the Commissioners, by a person registered under this Schedule;
- and where they so direct that person shall, while the direction is in force, be liable to be registered under this Schedule, whether or not he would otherwise be so liable.

*Registration of makers and importers of chargeable vehicles*

- 15 (1) A person who, in any calendar year, makes or imports not less than ten chargeable vehicles is liable to be registered by the Commissioners.
- (2) Every person who, on or after 1st October 1972, is liable to be registered under this paragraph and is not for the time being so registered shall notify the Commissioners of the fact within fourteen days of that date or of becoming so liable, whichever is the later; and the Commissioners may, if they think fit, register any such person.
- (3) A person for the time being registered under this paragraph who ceases to make or import chargeable vehicles shall notify the Commissioners of that fact and the Commissioners shall cancel the registration of any such person when all tax due from him has been accounted for; and they may, if they think fit, cancel the registration of any other person.
- (4) The Treasury may from time to time by order made by statutory instrument substitute another number for that specified in sub-paragraph (1) of this paragraph.
- A statutory instrument made by virtue of this sub-paragraph shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

*Recovery of tax*

- 16 (1) The tax due from any person shall be recoverable as a debt due to the Crown.
- (2) Regulations under this Schedule may make provision for authorising distress to be levied on the goods and chattels of any person refusing or neglecting to pay any tax due from him, and for the disposal of any goods or chattels on which distress is levied in pursuance of the regulations.
- (3) In the application of the preceding sub-paragraph to Scotland, for the references to the levying of distress on any goods or chattels there shall be substituted references to the doing of diligence on goods and corporeal movables.

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*Power of Commissioners to assess tax due*

- 17 (1) Where an amount is due from any person on account of the tax, but by reason of his failure to keep or to produce or furnish any records, accounts or other documents as required by or under this Schedule, or of his failure to take or permit to be taken any other step so required, or by reason of such records, accounts or other documents being materially incomplete or inaccurate, the Commissioners are unable to ascertain the exact amount of tax due from him, the Commissioners may assess the amount due from him to the best of their judgment and notify it to him.
- (2) An assessment under this paragraph of an amount of tax due shall not be made after the later of the following:—
- (a) two years after the time when the amount became payable; or
  - (b) one year after evidence of facts, sufficient in the opinion of the Commissioners to justify the making of the assessment, comes to their knowledge;
- but may, where further such evidence comes to their knowledge after the making of such an assessment, be made in addition to that assessment; but no such assessment shall be made more than six years after the time when the tax became payable, except for the purpose of recovering tax lost to the Crown through the fraud or wilful default or neglect of any person.
- (3) An amount assessed and notified under this paragraph shall be recoverable as an amount of tax due unless in any action relating thereto the person liable proves the amount actually due and that amount is less than the amount assessed.

*Priority of tax in bankruptcy, winding-up, etc.*

- 18 (1) There shall be included among the debts which—
- (a) under section 33 of the Bankruptcy Act 1914 are to be paid in priority to all other debts in the distribution of the property of a bankrupt or person dying insolvent; or
  - (b) under section 118 of the Bankruptcy (Scotland) Act 1913 are to be paid in priority to all other debts in the division of a bankrupt's estate; or
  - (c) under section 1 of the Preferential Payments (Bankruptcies and Arrangements) Act (Northern Ireland) 1964 are to be paid in priority to all other debts in the distribution of the property of a bankrupt, arranging debtor or person dying insolvent; or
  - (d) under section 319 of the Companies Act 1948 or section 287 of the Companies Act (Northern Ireland) 1960 are to be paid in priority to all other debts in the winding up of a company, or under section 94 of the Act of 1948 or section 92 of the Act of 1960 are on an appointment of a receiver on behalf of debenture holders or taking of possession by or on behalf of debenture holders to be paid in priority to any claim for principal or interest in respect of the debenture;
- the amount of any tax due at the relevant date from the bankrupt, debtor, person dying or company and having become due within twelve months next before that date.
- (2) In this paragraph " the relevant date "—
- (a) in relation to section 33 of the Act of 1914, means the date of the receiving order or of the death, as the case may be;

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- (b) in relation to section 118 of the Act of 1913, means the date mentioned in subsection (4) of that section;
- (c) in relation to section 1 of the Act of 1964, means the date of the order of adjudication, the date of the filing of a petition for arrangement or of the death, as the case may be; and
- (d) in relation to section 319 of the Act of 1948, or section 287 of the Act of 1960, has the meaning assigned to it by that section, and in relation to section 94 of the Act of 1948 or section 92 of the Act of 1960, means the date of the appointment of the receiver or taking of possession.

*Records, accounts and returns*

- 19 (1) A person registered under this Schedule shall—
- (a) keep such records and accounts and preserve them for such period as may be prescribed by regulations under this Schedule or as the Commissioners may direct either generally or in any particular case;
  - (b) if so required by or on behalf of the Commissioners, produce, at a time and place specified in the requirement, such records or accounts relating to the chargeable vehicles made or imported by him as may be so specified; and
  - (c) make such returns of the chargeable vehicles made or imported by him and of the amounts of tax for which he is accountable as may be prescribed by regulations under this Schedule.
- (2) A person who, in the course of a business carried on by him, has chargeable vehicles delivered to him on which tax has not been paid shall—
- (a) keep such records and preserve them for such periods as may be prescribed by regulations under this Schedule or as the Commissioners may direct either generally or in any particular case;
  - (b) if so required by or on behalf of the Commissioners, produce, at a time and place specified in the requirement, such records relating to the vehicles as may be so specified; and
  - (c) make to the persons by whom the vehicles are sent such returns of the vehicles ceasing or treated as ceasing to be that person's property as may be prescribed by regulations under this Schedule.

*Giving of information*

- 20 (1) Every person who is concerned (in whatever capacity) with the making, sale, importation or exportation of chargeable vehicles shall—
- (a) furnish to the Commissioners, within such time and in such form as they may require, such information relating to the vehicles or any materials used or kept for use in making such vehicles as the Commissioners may specify; and
  - (b) upon demand made by an authorised person produce or cause to be produced any documents relating to the vehicles or any materials used or kept for use in making such vehicles for inspection by the authorised person and shall permit him to take copies of or to make extracts from the documents and for that purpose to remove them at a reasonable time and for a reasonable period.
- (2) Every person who converts a vehicle of another description into a chargeable vehicle shall inform the Commissioners of that fact forthwith unless he is a person registered under this Schedule.

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### *Entry and search*

- 21 (1) An authorised person may at any reasonable time enter premises which are used in connection with the making, sale, importation or exportation of chargeable vehicles.
- (2) Where an authorised person has reasonable cause to believe that any premises are used in connection with—
- (a) the making, sale, importation or exportation of chargeable vehicles; or
  - (b) the storage of chargeable vehicles on which tax has not been paid;
- and that chargeable vehicles are on those premises, he may at any reasonable time enter and inspect those premises and inspect and take account of any vehicles or materials found on them.
- (3) If a justice of the peace is satisfied on information on oath that there is reasonable ground for suspecting that an offence in connection with the tax is being, has been, or is about to be committed on any premises, or that evidence of the commission of such an offence is to be found there, he may issue a warrant in writing authorising any authorised person to enter those premises, if necessary by force, at any time within fourteen days from the time of the issue of the warrant and search them; and any person who enters the premises under the authority of the warrant may—
- (a) take with him such other persons as appear to him to be necessary;
  - (b) seize and remove any documents or other things whatsoever found on the premises which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of such an offence; and
  - (c) search or cause to be searched any person found on the premises whom he has reasonable cause to believe to have committed or to be about to commit such an offence or to be in possession of any such documents or other things;
- but no woman or girl shall be searched except by a woman.
- (4) In the application of sub-paragraph (3) above to Scotland, the reference to a justice of the peace includes a reference to the sheriff and a magistrate.

### *Offences*

- 22 (1) If any person is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of the tax by him or any other person, he shall be liable to a penalty of £1,000 or three times the amount of the tax, whichever is the greater, or to imprisonment for a term not exceeding two years, or to both.
- (2) If any person—
- (a) with intent to deceive produces, furnishes or sends for the purposes of this Schedule or regulations made under it or made by virtue of paragraph 27 of this Schedule, or otherwise makes use for those purposes of any document which is false in a material particular; or
  - (b) in furnishing any information for the purposes of this Schedule or regulations made under it makes any statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular; or
  - (c) with intent to deceive uses or allows to be used any certificate issued in pursuance of regulations under this Schedule;
- he shall be liable to a penalty of £1,000 or to imprisonment for a term not exceeding two years, or to both.



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- (3) If any person acquires possession of, deals with or uses a chargeable vehicle having reason to believe—
- (a) that tax on the vehicle has been or will be evaded; or
  - (b) that the vehicle ought to have been registered but that tax on it has not been paid;
- he shall be liable to a penalty of £1,000 or three times the amount of the tax, whichever is the greater.
- (4) If a person fails to comply with any requirement imposed by or under this Schedule or regulations made under it, he shall be liable to a penalty of £100 together with a penalty of £10 for each day on which the failure continues.
- (5) Sections 281 to 291 of the Customs and Excise Act 1952 (proceedings for offences, mitigation of penalties and certain other matters) shall apply in relation to offences under this paragraph (which include any act or omission in respect of which a penalty is imposed) and penalties imposed under this Schedule as they apply in relation to offences and penalties under the customs and excise Acts as defined in that Act.
- (6) Section 290(2) of the Customs and Excise Act 1952 as it applies by virtue of this paragraph shall have effect as if the question mentioned in paragraph (a) thereof were the question whether or not tax on any vehicle has become due or has been paid or secured.

#### *Forfeiture*

- 23 A chargeable vehicle shall be liable to forfeiture under the Customs and Excise Act 1952 if—
- (a) tax on it would have become payable before its registration and it ought to have been but has not been registered; or
  - (b) tax on it ought to have been, but has not been, paid; or
  - (c) tax on it has been remitted subject to a condition and the condition has not been complied with.

#### *Evidence by certificate*

- 24 (1) A certificate of the Commissioners—
- (a) that a person was or was not, at any date, registered under this Schedule; or
  - (b) that any return required by or under this Schedule has not been made or had not been made at any date; or
  - (c) that any tax shown as due in any return or assessment made in pursuance of this Schedule has not been paid;
- shall be sufficient evidence of the fact until the contrary is proved; and any document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.
- (2) A photograph of any document furnished to the Commissioners for the purposes of this Schedule and certified by them to be such a photograph shall be admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.
- (3) Any document purporting to be a certificate under sub-paragraph (2) of this paragraph shall be deemed to be such a certificate until the contrary is proved.

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*Service of notices*

- 25 A notice to be served on any person for any of the purposes of this Schedule may be served by sending it by post in a letter addressed to that person at his last or usual residence or place of business.

*Regulations*

- 26 (1) The Commissioners may by regulations made by statutory instrument make provision for any matter for which it appears to them necessary to make provision for the purpose of enabling them to discharge their functions in relation to the tax, and in particular, but without prejudice to the generality of this provision—
- (a) for requiring persons registered under this Schedule to account for the tax payable by them by reference to such periods as may be prescribed by the regulations and to pay the tax due in respect of any such period within such time from the end of the period as may be so prescribed;
  - (b) for the particulars to be contained in any notification under paragraph 15 of this Schedule;
  - (c) for requiring persons registered under this Schedule to furnish to persons acquiring chargeable vehicles from them certificates in such form as may be prescribed by the regulations that the tax on the vehicles has been or will be paid;
  - (d) for requiring persons not registered under this Schedule to furnish to persons acquiring chargeable vehicles from them statements in such form as may be prescribed by the regulations that the vehicles are chargeable vehicles on which tax will be payable;
  - (e) for treating, for a limited time, as registered under this Schedule persons who carry on the business of persons so registered who have died or have become incapacitated;
  - (f) for the issue by the Commissioners of certificates stating that the tax on any chargeable vehicle has been paid or remitted;
  - (g) for specifying the circumstances in which a chargeable vehicle supplied by a person under an agreement for sale or return is to be treated for the purposes of the tax as ceasing to be his property in accordance with the agreement;
  - (h) for any other matter for which, under this Schedule, provision may be made by regulations.
- (2) Without prejudice to the generality of the preceding sub-paragraph, the regulations may make special provision with respect to certificates and other documents to be issued for the purposes of the tax before the end of March 1973.
- (3) A statutory instrument made under this paragraph shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

*Restriction on registration of chargeable vehicles*

- 27 Regulations made under section 23 of the Vehicles (Excise) Act 1971 may enable the Secretary of State to refuse to register a vehicle unless he is satisfied, by such evidence as may be prescribed by the regulations, either—
- (a) that the vehicle is not a chargeable vehicle; or
  - (b) that the tax chargeable on it has been or will be paid; or
  - (c) that tax on it has been remitted.

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*Isle of Man*

- 28 (1) If an Act of Tynwald makes provision similar to the provision made with respect to the car tax by this Act, Her Majesty may by Order in Council make provision for securing that—
- (a) tax is charged under either Act as if references therein to the United Kingdom or to the Isle of Man included both the United Kingdom and the Isle of Man, but is not charged under both Acts on the same vehicle;
  - (b) persons who are registered under either this Schedule or that Act are treated as registered also under the other; and
  - (c) the removal of a vehicle from the United Kingdom into the Isle of Man or from the Isle of Man into the United Kingdom is not treated for the purposes of either Act as an importation or exportation of the vehicle;
- and for making such modifications in those Acts and regulations made thereunder as may be requisite for those purposes; and similarly with respect to any Act passed after this Act and relating to the car tax.
- (2) An Order in Council under this paragraph may include provision for section 2 of the Isle of Man Act 1958 (Isle of Man share of certain duties) to apply as if the car tax and the tax for which provision is made by Act of Tynwald were included among the duties mentioned in subsection (4) of that section.
- (3) An Order in Council under this paragraph may be varied or revoked by a subsequent Order in Council.

SCHEDULE 8

Section 56.

SPIRITS (RATES OF CUSTOMS AND EXCISE DUTIES)

TABLE 1: Spirits other than imported perfumed spirits

Description of spirits	Excise rate	Customs rates		
		Full	Commonwealth	Convention
1. British spirits (per proof gallon)	£ 18.85	£ —	£ —	£ —
2. Imported spirits other than perfumed spirits—				
(a) not comprised below in this paragraph (per proof gallon)	—	18.9125	18.85	18.85
(b) liqueurs, cordials,	—	25.5125	25.425	25.425

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Description of spirits	Excise rate	Customs rates		
		Full	Commonwealth	Convention
mixtures and other preparations in bottle, entered in such manner as to indicate that the strength is not to be tested (per gallon)				
(c) ethyl alcohol (ethanol) or neutral spirits, undenatured, of a strength of 140 degrees proof or higher; denatured spirits (including ethyl alcohol (ethanol) and neutral spirits) of any strength (per proof gallon)	—	18.975	18.85	18.85
(d) rum (per proof gallon)	—	18.975	18.85	18.85
each of the above rates of duty being, in the case of spirits not warehoused or warehoused for less than three years, increased by £0.075 per proof gallon or, for spirits within paragraph 2(b) of this Table, by £0.10 per gallon.				

## SCHEDULE 9

Section 75.

## INTEREST ELIGIBLE FOR RELIEF IN FULL

## PART I

## LOANS FOR PURCHASE OR IMPROVEMENT OF LAND

- 1 Subject to the following provisions of this Part of this Schedule, interest is protected interest if it is paid by a person for the time being owning an estate or interest in land in the United Kingdom or the Republic of Ireland on a loan to defray money applied—
- (a) in purchasing the estate or interest, or one absorbed into, or given up to obtain, the estate or interest, or
  - (b) in improving or developing the land, or buildings on the land, or

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- (c) in paying off another loan, if interest on that other loan would have been protected interest had the loan not been paid off (on the assumption, if the loan was free of interest, that it carried interest).
- 2 Paragraph 1 above does not apply to a loan unless made in connection with the application of money, and either on the occasion of its application or within what is in the circumstances a reasonable time from the application of the money; and that paragraph does not apply to a loan the proceeds of which are applied for some other purpose before being applied as mentioned in that paragraph.
- 3 References in this Part of this Schedule to money applied in improving or developing land or buildings include references to payments in respect of maintenance or repairs incurred by reason of dilapidation attributable to a period before the estate or interest was acquired, but otherwise do not include references to payments in respect of maintenance or repairs, or any of the other payments mentioned in section 72(1) of the Taxes Act (payments deductible from rent).
- 4 References in this Part of this Schedule to money applied in improving or developing land include references to expenditure incurred or defrayed directly or indirectly in respect of street works, other than works of maintenance or repair, for any highway or road, or in Scotland any right of way, adjoining or serving the land.
- 5 References in this Part of this Schedule to an estate or interest in land include references to the property in any caravan, but interest is protected interest by virtue of this paragraph only if—
- (a) the caravan is a large caravan, or
  - (b) the caravan, taken with the land on which it stands, is for the time being a rateable hereditament for the purposes of the General Rate Act 1967 or any corresponding enactment in force in Scotland, Northern Ireland or the Republic of Ireland and the owner, or the wife or husband of the owner, has, as occupier of the caravan, duly paid rates under the Act or any such enactment for the period in which the interest was paid.
- In this paragraph " hereditament", in relation to Scotland, means lands and heritages.
- 6 References in this Part of this Schedule to an estate or interest do not include references—
- (a) to a rentcharge or, in Scotland, a superiority or the interest of a creditor in a contract of ground annual; or
  - (b) to the interest of a chargee or mortgagee or, in Scotland, the interest of a creditor in a charge or security of any kind over land.
- 7 Where interest is payable by the tenant occupier of any property to the landlord in pursuance of arrangements whereby money advanced at interest by the landlord is applied by the tenant in purchasing the landlord's estate or interest, but that estate or interest is not to pass to the tenant until some time after the interest begins to be payable, this Part of this Schedule shall have effect in relation to the tenant as if he were the owner of the landlord's estate or interest.
- 8 Paragraph 1(a) above shall not apply—
- (a) where the seller and purchaser are husband and wife and either sells to the other, or
  - (b) where the purchaser, or the wife or husband of the purchaser, has since 15th April 1969 disposed of an estate or interest in the land in question, and it

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appears that the main purpose of the disposal and purchase was to obtain relief in respect of interest on the loan, or

- (c) where the purchasers are the trustees of a settlement, and the seller is the settlor, or the wife or husband of the settlor, and it appears that the main purpose of the purchase is to obtain relief in respect of interest on the loan, or
- (d) where the purchaser is directly or indirectly purchasing from a person who is, within the terms of section 533 of the Taxes Act, connected with him, and the price substantially exceeds the value of what is acquired;

and paragraph 1(b) above shall not apply where the person spending the money is, within the terms of the said section 533, connected with the person who, directly or indirectly, receives the money, and the money substantially exceeds the value of the work done.

For the purposes of this paragraph, references to a husband and wife are references to a husband and his wife living with him.

- 9 In this Part of this Schedule, as it applies throughout the United Kingdom and in relation to the Republic of Ireland—

" caravan " has the meaning given by section 29(1) of the Caravan Sites and Control of Development Act 1960;

" large caravan " means one which has either or both of the following dimensions—

- (a) an overall length (excluding any draw bar) exceeding twenty-two feet,
- (b) an overall width exceeding seven feet six inches, where " overall length " and " overall width " have the meanings given in Regulation 3 of the Motor Vehicles (Construction and Use) Regulations 1966;

" street works " means any works for the sewerage, levelling, paving, metalling, flagging, channelling and making good of a road, and includes the provision of proper means for lighting a road.

## PART II

### LOANS TO PURCHASE MACHINERY OR PLANT

- 10 Where an individual is a member of a partnership which, under section 44 of the Capital Allowances Act 1968, is entitled to a capital allowance or liable to a balancing charge for any year of assessment in respect of machinery or plant belonging to the individual, any interest paid by him in the basis period (as defined in section 72 of that Act) for that year on a loan to defray money applied as capital expenditure on the provision of that machinery or plant is protected interest, except interest falling due and payable more than three years after the end of the year of assessment in which the debt was incurred.

- 11 Where the machinery or plant is in use partly for the purposes of the trade, profession or vocation carried on by the partnership and partly for other purposes such part only of the interest is protected interest as it is just and reasonable to attribute to the purposes of the trade, profession or vocation, having regard to all the relevant circumstances and, in particular, to the extent of the use for the said other purposes.

- 12 Where the holder of an office or employment—

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- (a) is under Chapter LT of Part I of the Capital Allowances Act 1968 or Chapter I of Part III of the Finance Act 1971 entitled to a capital allowance, or liable to a balancing charge (or would be so entitled or liable but for some contribution made by the employer), for any year of assessment in respect of machinery or plant belonging to him and in use for the purposes of the office or employment, and
- (b) pays interest in that year on a loan to defray money applied as capital expenditure on the provision of that machinery or plant,

the interest so paid is protected interest unless it is interest falling due and payable more than three years after the end of the year of assessment in which the debt was incurred.

- 13 Where the machinery or plant is in use partly for the purposes of the office or employment and partly for other purposes such part only of the interest is protected interest as it is just and reasonable to attribute to the purposes of the office or employment, having regard to all the relevant circumstances and, in particular, to the extent of the use for the said other purposes.

### PART III

#### SUPPLEMENTARY

- 14 For the purposes of this Schedule the giving of credit for any money due from the purchaser under any sale shall be treated as the making of a loan to defray money applied by him in making the purchase.
- 15 Where part only of a debt fulfils the conditions required under the preceding provisions of this Schedule for interest on the debt to be protected interest, such proportion of the interest shall be treated as protected interest as is equal to the proportion of the debt fulfilling those conditions at the time of the application of the money in question.

### SCHEDULE 10

Section 75.

#### RELIEF FOR INTEREST—SUPPLEMENTARY PROVISIONS

##### *Exclusion of double relief or relief by different methods*

- 1 Interest in respect of which relief is given under section 75 of this Act shall not be allowable as a deduction for any other purpose of the Income Tax Acts.
- 2 Relief shall not be given under section 75 of this Act against income chargeable to corporation tax, and shall not be given against any other income of a company, except where both of the following conditions are satisfied, that is to say—
- (a) that the company is not resident in the United Kingdom; and
  - (b) that the interest cannot be taken into account in computing corporation tax chargeable on the company.
- 3 Where interest on any debt or liability is taken into account in the computation of profits or gains or losses for the purposes of Case I or II of Schedule D no relief shall be given under section 75 of this Act—

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- (a) in respect of the payment of that interest; or
  - (b) in respect of interest on the same debt or liability which is paid in any year of assessment for which that computation is relevant.
- 4 Where relief is given under section 75 of this Act in respect of the interest paid in any year of assessment on any debt or liability—
- (a) that interest shall not be taken into account in the computation of profits or gains or losses for the purposes of Case I or II of Schedule D for any year of assessment; and
  - (b) interest on that debt or liability shall not be taken into account in that computation for any year of assessment for which the interest so paid could have been taken into account but for the relief.
- 5 For the purposes of paragraphs 3 and 4 above, all interest capable of being taken into account in such a computation as is mentioned therein which is payable by any person on money advanced to him on current account, whether advanced on one or more accounts or by the same or separate banks or other persons, shall be treated as interest payable on the same debt.
- 6 References in paragraphs 3 and 4 above to relief given or an amount taken into account are references to relief given or an amount taken into account on a claim or in an assessment which has been finally determined.

#### *Furnishing of information*

- 7 A person who claims relief under section 75 of this Act in respect of any payment of interest shall furnish to the inspector a statement in writing by the person to whom the payment is made, which—
- (a) if the interest is such as is mentioned in subsection (1)(a) of that section, shall show the amount of the interest paid in the year of assessment for which the claim is made and the name and address of the person by whom it is paid; and
  - (b) if the interest is such as is mentioned in subsection (1)(b) of that section, shall contain such particulars and be in such form as the Board may prescribe.
- 8 Where any such interest as is mentioned in section 75 of this Act is paid, the person to whom it is paid shall, if the person who pays it so requests in writing, furnish him with such statement as regards that interest as is mentioned in paragraph 7 above and the duty imposed by this paragraph shall be enforceable at the suit or instance of the person making the request.
- 9 Paragraphs 7 and 8 above do not apply to interest paid to a building society as defined in section 343(8) of the Taxes Act, to a company within section 343(9) of that Act, or to a local authority.

#### *Commencement*

- 10 Section 75 of this Act and the amendments and repeals mentioned in subsection (8) of that section do not apply in relation to interest paid or payable before the year 1972-73.
- 11 If, by any arrangements made after 21st March 1972, any interest payable before the year 1972-73 becomes payable in or after that year or is, directly or indirectly, replaced by any interest payable in or after that year, the interest payable in



pursuance of the arrangements shall be deemed for the purposes of paragraph 10 above to have been payable before that year.

## SCHEDULE 11

Section 75.

### RELIEF FOR INTEREST—AMENDMENTS

- 1 The Taxes Act shall be amended as follows.
- 2 In section 122(1)(b) for the words " annuity or other annual payment (not being interest)" there shall be substituted the words " annual interest or any annuity or other annual payment ".
- 3 In section 175(2) the following shall be substituted for paragraphs (a) and (b):—
  - “(a) relief under section 75 of the Finance Act 1972”.
- 4 In section 248(3) for the words " (4) to (6) " there shall be substituted the words " (4) and (5) ".
- 5 In section 301(1) and (5) for the words " 300 " there shall be substituted the words " 299 ".
- 6 In section 341(1)(c) for the words " section 57 of this Act " there shall be substituted the words " Part I of Schedule 9 to the Finance Act 1972 ".
- 7 (1) In subsection (1) of section 403 for the word " surtax " there shall be substituted the words " excess liability " and at the end of the subsection there shall be added the words " In this subsection ' excess liability' means the excess of liability to income tax over what it would be if all income tax were charged at the basic rate to the exclusion of any other rate. "
  - (2) This paragraph has effect for the year 1973-74 and subsequent years of assessment and paragraph 44 of Schedule 6 to the Finance Act 1971 and the repeal made by that Act in section 403(1) of the Taxes Act shall not take effect.
- 8 In section 528(5) for the words " any of sections 57 to 60 and 62 of this Act" there shall be substituted the words " section 75 of the Finance Act 1972 ".
- 9 In paragraphs 2(1)(b) and 3(1) of Part III of Schedule 12 for the words " annuity or other annual payment (not being interest) " there shall be substituted the words " annual interest or any annuity or other annual payment ".

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## SCHEDULE 12

Sections 77, 78, 79.

## SHARE OPTION AND SHARE INCENTIVE SCHEMES

## PART I

## APPROVAL OF SCHEMES

*Conditions of approval*

- 1 The Board shall, on the application of a body corporate (in this Schedule referred to as "the company"), approve a share option scheme or a share incentive scheme if—
- (a) the conditions set out in Part II of this Schedule are satisfied with respect to the adoption of the scheme, the persons eligible to participate in it and the shares to be acquired under it or in pursuance of rights conferred under it; and
  - (b) the further conditions set out in Part III of this Schedule are satisfied if the scheme is a share option scheme and those set out in Part IV of this Schedule if it is a share incentive scheme.
- 2 If, at the time the application is pending, the Board have no evidence that the condition set out in paragraph 6 of Part III or paragraph 5 of Part IV of this Schedule is satisfied, then, if the other conditions are satisfied, the Board may approve the scheme subject to the remaining condition being satisfied; and if that condition is not satisfied the approval shall be of no effect.

*Application for approval*

- 3 An application under this Schedule shall be made in writing and shall contain such particulars and be supported by such evidence as may be prescribed by regulations made by the Board by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

*Withdrawal of approval*

- 4 If, at any time after the Board have approved a scheme, any of the conditions mentioned in paragraph 1 above ceases to be satisfied the Board may withdraw the approval with effect from that time.

*Appeals*

- 5 If the company is aggrieved by the failure of the Board to approve the scheme or to decide that a condition subject to which the approval has been given is satisfied, or by the withdrawal of the approval, it may, by notice in writing given to the Board within thirty days from the date on which it is notified of the Board's decision, require the matter to be determined by the Special Commissioners, and the Special Commissioners shall hear and determine the matter in like manner as an appeal.

## PART II

### CONDITIONS APPLICABLE TO SHARE OPTION AND SHARE INCENTIVE SCHEMES

#### *Adoption of scheme*

- 1 The scheme must have been adopted by a resolution of the holders of the ordinary share capital of the company shares in which (or an interest in, or right to acquire, shares in which) are to be acquired under the scheme, and the shares, interest or right must not be capable of being acquired under the scheme more than ten years after its adoption.

#### *Type of shares*

- 2 The shares must be shares in the company of which the persons participating in the scheme are directors or employees or in a company controlling that company or in a company which, being a member of a consortium owning either that company or a company controlling it, beneficially owns not less than three-twentieths of the ordinary share capital of the company so owned.

For the purposes of this paragraph a company is a member of a consortium owning another company if it is one of not more than five companies which between them beneficially own not less than three-quarters of the other company's ordinary share capital and each of which beneficially owns not less than one-twentieth of that capital.

- 3 The shares must be either—  
(a) shares of a class quoted on a recognised stock exchange, or  
(b) shares in a company which is not under the control of another company.
- 4 The majority of shares of the same class must be shares acquired otherwise than as mentioned in section 79(1) of this Act and otherwise than by the exercise of a right obtained as mentioned in section 78(1) of this Act.

#### *Limitation on issue of shares*

- 5 In the period of ten years beginning with the adoption of the scheme the issue of shares under the scheme, or in pursuance of rights conferred under the scheme, must be so limited that the nominal value of those shares, when added to that of any shares issued under any other scheme approved under this Schedule and relating to the same body's shares, or in pursuance of rights conferred under any such scheme, does not exceed the following, that is to say—  
(a) if the ordinary share capital of that body does not exceed £2 million, 10 per cent. of that ordinary share capital; and  
(b) if that ordinary share capital exceeds £2 million, 5 per cent. of that ordinary share capital or £200,000, whichever is the greater.

#### *Participants*

- 6 No person must be eligible to participate in the scheme unless he is a full-time director or full-time employee of the company concerned.

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### PART III

#### FURTHER CONDITIONS APPLICABLE TO SHARE OPTION SCHEMES

##### *Limitation of rights*

- 1 The rights obtainable under the scheme by any person in any year of assessment must be so limited that the amount for which shares may be acquired in pursuance of the rights does not, when added to the amount for which shares remain to be acquired under such rights obtained by him earlier, exceed four times the amount of the relevant emoluments for that or the preceding year of assessment (whichever is the greater); and for this purpose the relevant emoluments are such of the emoluments of the office or employment by virtue of which he is eligible to participate in the scheme as are liable to be paid under deduction of tax pursuant to section 204 of the Taxes Act (pay-as-you-earn), after deducting therefrom amounts included by virtue of Chapter II of Part VIII of that Act.
- 2 If rights are obtainable by any person under the scheme and rights have also been obtained or are obtainable by him under share option schemes previously approved under this Schedule, the limit specified in paragraph 1 above applies to the aggregate of the rights obtainable or obtained under all the schemes.
- 3 If rights are obtainable by any person under the scheme and shares or interests in shares may be or have been acquired by him under a share incentive scheme approved under this Schedule, the limit under this Part of this Schedule applies to the aggregate of the amount mentioned therein and the amount or value limited under Part IV of this Schedule.

##### *Exercise of rights*

- 4 A right obtained by a person under the scheme must not be capable of being exercised later than seven years after it is obtained nor later than six months after he ceases to hold the office or employment by virtue of which he is eligible to participate in the scheme except that it may be capable of being exercised within twelve months of his death if he dies at a time when it was still capable of being exercised by him.

##### *Restriction on transfer*

- 5 A right obtained by a person under the scheme must not be capable of being transferred by him.

##### *Minimum price of shares*

- 6 The price at which shares may be acquired by the exercise of a right obtained under the scheme must be stated at the time the right is obtained and must not be manifestly less than the market value at that time of shares of the same class, but the scheme may provide for such variation of the price so stated as may be necessary to take account of any variation in the share capital of the body issuing the shares.

##### *Freedom from special restrictions*

- 7 The shares must not be subject to any restrictions other than restrictions attaching to all shares of the same class.

## PART IV

### FURTHER CONDITIONS APPLICABLE TO SHARE INCENTIVE SCHEMES

#### *Limitation of rights*

- 1 The acquisition by any person of shares or interests in shares under the scheme must be so limited that the amount or value of the consideration for the shares and interests so acquired in any year of assessment does not, when added to the amount or value of the consideration for the shares and interests so acquired by him earlier (and remaining subject to restrictions not attaching to all shares of the same class), exceed four times the amount of the relevant emoluments for that or the preceding year of assessment (whichever is the greater) ; and for this purpose the relevant emoluments are such of the emoluments of the office or employment by virtue of which he is eligible to participate in the scheme as are liable to be paid under deduction of tax pursuant to section 204 of the Taxes Act, after deducting therefrom amounts included by virtue of Chapter II of Part VIII of that Act.
- 2 If shares or interests in shares may be acquired by a person under the scheme and shares or interests in shares may also be or have been acquired by him under share incentive schemes previously approved under this Schedule, the limit specified in paragraph 1 above applies to the aggregate of the shares or interests that may be or have been acquired under all the schemes.
- 3 Where shares or interests in shares may be acquired by a person under the scheme and rights are obtainable or have been obtained by him under a share option scheme approved under this Schedule the limit under this Part of this Schedule applies to the aggregate of the amount or value mentioned therein and the amount limited under Part III of this Schedule.

#### *Restriction on transfer*

- 4 Shares or interests in shares acquired by a person under the scheme must not be capable of being transferred by him while any restrictions attach to the shares which do not attach to all shares of the same class.

#### *Minimum price of shares*

- 5 (1) The price at which shares may be acquired under the scheme must not be—
  - (a) manifestly less than the market value of the shares at the time of their acquisition; nor
  - (b) less than 80 per cent. of the market value at that time of shares of the same class to which no other restrictions attach than restrictions attaching to all shares of that class;and similarly with respect to the acquisition of interests in shares; and where part of the price is payable after the acquisition the price shall be treated for the purposes of this paragraph as reduced to such extent as may be necessary to take account of the period for which the payment of that part is or may be deferred.
- (2) This paragraph shall not prevent the scheme from providing for a reduction in the price at which shares are acquired under the scheme in a case where the person acquiring them is called upon to pay any outstanding part of that price or to repay a loan made to him to acquire the shares, and—

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- (a) at the time he is so called upon the market value of shares of the same class to which no other restrictions attach than restrictions attaching to all shares of that class is less than the price at which the shares were acquired ; and
- (b) the reduction provided for is not greater than the amount by which the market value mentioned in paragraph (a) above falls short of the price mentioned therein, after adjusting that value and that price to such extent (if any) as may be necessary to take account both of any deferment of the payment of any part thereof and of any variation in the share capital of the body issuing the shares.

*Time limit for special restrictions*

- 6 Any restriction attaching to the shares and not attaching to all shares of the same class must cease not later than seven years after the shares or an interest in them is acquired under the scheme (or if acquired in substitution for shares or interests previously acquired not later than seven years after the earliest such acquisition).

*Conditions governing bonus and rights issues*

- 7 The scheme must provide that where shares are issued otherwise than under the scheme and otherwise than for a consideration to persons who have acquired shares or interests in shares under the scheme the same restrictions must attach to the shares so issued as are for the time being attaching to the shares which, or interests in which, those persons have acquired under the scheme.
- 8 The scheme must provide that where an offer to acquire shares is made otherwise than under the scheme to persons who have acquired shares or an interest in shares in pursuance of the scheme, the offer must be on the same terms as offers to acquire shares of the same class which are made to shareholders generally.

## PART V

### CONDITIONS TO BE SATISFIED BY DIRECTOR OR EMPLOYEE

- 1 He must retain the beneficial ownership of or his interest in the shares until whichever is the earliest—
- (a) the end of the period of three years beginning with his acquisition of his right under the share option scheme or, as the case may be, his acquisition of the shares or interest under the share incentive scheme ; and
  - (b) his ceasing to be a director or employee by reason of injury, disability or dismissal for redundancy (within the meaning of the Redundancy Payments Act 1965 or of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965); and
  - (c) his death ;
- but he shall not be deemed to fail to satisfy this condition by reason only that the shares are acquired by a company which is entitled and bound to do so under section 209 of the Companies Act 1948 or section 200 of the Companies Act (Northern Ireland) 1960 (acquisition of shares from dissenting shareholders).
- 2 If the shares are shares in a close company he must not have a material interest in that company or in a company controlling that company at the time he obtains the right or is given the opportunity to acquire the shares or his interest therein or

thereafter until the end of the period during which under paragraph 1 above he is required to retain the beneficial ownership of or his interest in the shares, nor at any time thereafter while any restrictions attach to the shares which do not attach to all shares of the same class.

## PART VI

### EFFECT OF PARTIAL COMPLIANCE WITH CONDITIONS

- 1 Where—
  - (a) a person has before 6th April 1972 obtained a right as mentioned in section 78 of this Act in pursuance of a share option scheme which is not approved under this Schedule ; and
  - (b) the right is exercised by him before 6th April 1973 or, if he dies before that date, is exercised within twelve months of his death ;section 186 of the Taxes Act shall not apply to any gain realised by the exercise, if or to the extent that the right is within the limit imposed by paragraph 1 of Part III of this Schedule.
- 2 If that person obtained the right within the first twelve months during which he held the office or employment by virtue of which he was eligible to participate in the scheme paragraph 1 above shall have effect as if for the limit referred to therein there were substituted the greater of the following, that is to say, that limit and what would be that limit if the relevant emoluments for those twelve months were specified in paragraph 1 of Part III of this Schedule instead of those mentioned therein.
- 3 In relation to a right which cannot be exercised before 6th April 1973 paragraph 1 above shall have effect as if for the references to that date there were substituted references to six months after the earliest date at which it can be exercised.

## PART VII

### SUPPLEMENTARY PROVISIONS

#### *Procedure on assessment under section 78(2)*

- 1 For the purposes of any assessment made or to be made in pursuance of section 78(2) of this Act the market value at any time of any shares shall be determined by the Board and their determination shall be notified to the body corporate by which the shares were issued; and that body, as well as the person on whom the assessment is or is to be made, may appeal against the determination to the Special Commissioners.
- 2 On any such appeal all persons who have obtained a right in pursuance of the same scheme and on the same day may take part in the proceedings, and the determination of the Special Commissioners shall be binding on all such persons, whether or not they have taken part in the proceedings.

#### *Furnishing of information*

- 3 Where in any year of assessment a person acquires shares or an interest in shares as mentioned in section 79(1) of this Act and the acquisition is not made in pursuance

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of a scheme approved under this Schedule, the body from which the shares are or the interest is acquired shall deliver to the inspector, within thirty days of the end of the year, particulars in writing of the shares and of the acquisition.

- 4 The Board may by statutory instrument make regulations requiring such information to be given about the names and addresses of persons participating in schemes approved under this Schedule, the shares issued or rights acquired in pursuance of such schemes and the exercise, assignment or release of such rights as appears to the Board necessary for the discharge of their functions under this Schedule and sections 78 and 79 of this Act; and any such statutory instrument shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.
- 5 In section 98 of the Taxes Management Act 1970 (penalty for failure to furnish information etc.) the following shall be added in the second column of the Table: " Paragraph 3 of Part VII of Schedule 12 to the Finance Act 1972 or regulations under paragraph 4 of that Part ".

#### *Interpretation*

- 6 In sections 77 to 79 of this Act and in this Schedule—
- " associated company " has the same meaning as, by virtue of section 302 of the Taxes Act, it has in Chapter III of Part XI of that Act;
  - " close company " has the same meaning as in the Corporation Tax Acts;
  - " control " has the meaning assigned to it by section 534 of the Taxes Act;
  - " director " includes a person who is to be a director;
  - " employee " includes a person who is to be an employee;
  - " full-time ", in relation to a director or employee, means required to devote substantially the whole of his time to service as a director or employee;
  - " market value " has the same meaning as, for the purposes of Part III of the Finance Act 1965, it has by virtue of section 44 of that Act;
  - " recognised stock exchange " has the same meaning as in the Corporation Tax Acts;
  - " share incentive scheme " means a scheme in pursuance of which shares or interests in shares may be acquired as mentioned in section 79(1) of this Act;
  - " share option scheme " means a scheme in pursuance of which rights may be obtained as mentioned in section 78(1) of this Act;
  - " shares " includes stock and also includes securities as defined in section 237(5) of the Taxes Act; and references to an interest in any shares include references to an interest in the proceeds of sale of part of the shares.
- 7 Section 186(9) of the Taxes Act shall apply, with the necessary modifications, for determining for the purposes of sections 78 and 79 of this Act and of this Schedule whether a person obtains a right or acquires shares or an interest in shares as a director or employee of a body corporate.
- 8 Section 285(6) of the Taxes Act shall apply for determining for the purposes of this Schedule whether a person has a material interest in a company.
- 9 Section 533 of the Taxes Act (connected persons) shall apply for the purposes of sections 78 and 79 of this Act and of this Schedule.



SCHEDULE 13

Section 81.

LEASES—TRANSITIONAL PROVISIONS

*Section 81(1)*

- 1 Paragraphs 2 to 5 below apply where an amount is payable by instalments and, by virtue of a claim made under subsection (6) of section 80 of the Taxes Act as originally enacted, any of the instalments would have fallen to be treated as rent payable on or after 11th April 1972 or as profits or gains arising on or after that date and chargeable to tax under Case VI of Schedule D.
- 2 Where the person making the claim was a person carrying on a trade of dealing in land, and section 142(3) of the Taxes Act prevented any part of the instalment from being treated as a trading receipt, the instalment shall be treated as due on 11th April 1972 and the person who made the claim shall be chargeable to tax under Case VI of Schedule D on the amount of that instalment (reduced, where paragraph 1(2) of Schedule 4 to the Taxes Act applies, as required by that paragraph), less any loss attributable to the granting of the lease, so far as it has not been set off against or deducted from any other amount.
- 3 In any other case the person who made the claim shall, subject to paragraph 4 below, be chargeable to tax as if the instalment were part of the consideration for a disposal to which paragraph 14 of Schedule 6 to the Finance Act 1965 as originally enacted had applied ; and section 116(3) of this Act shall apply accordingly.
- 4 A person chargeable to tax in accordance with paragraph 3 above may, by notice in writing given to the inspector not later than 11th April 1973, elect that that paragraph shall not apply in his case but that his liability to tax (including his liability for past periods) shall be computed as if both section 81(1) and section 116 of this Act had come into force before the claim under section 80(6) of the Taxes Act was made ; and where he so elects all such assessments, alterations of assessments and repayments of tax shall be made as may be necessary.
- 5 Where a person liable to pay tax in accordance with any of the preceding paragraphs satisfies the Board that he would otherwise suffer undue hardship, the tax may, at his option, be paid by such instalments as the Board may allow.

*Section 81(2)-(4)*

- 6 Paragraph 7 below applies with respect to a lease granted before 25th August 1971 and, so far as section 84 of the Taxes Act relates to section 80(4) of that Act, with respect to a variation or waiver the contract for which was entered into before that date.
- 7 Subsection (2) to (4) of section 81 of this Act shall apply only to the extent that they affect relief, for any year of assessment later than the year 1971-72 or for any accounting period beginning after 24th August 1971, under any of the provisions of the Taxes Act mentioned in paragraph 3(2) of Schedule 14 to that Act or under section 491(5) of that Act or to the extent that they affect the computation of the profits or gains or losses for any such year of assessment or accounting period of a trade, profession or vocation ; and paragraph 3 of Schedule 14 to the Taxes Act shall apply in relation to section 84 of that Act as amended by this Act.

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## SCHEDULE 14

Sections 84 and 89.

### COLLECTION OF ADVANCE CORPORATION TAX

#### *Duty to make returns*

- 1 (1) A company shall for each of its accounting periods make, in accordance with this Schedule, returns to the collector of the franked payments made and franked investment income received by it in that period and of the advance corporation tax (if any) payable by it in respect of those payments.
- (2) A return shall be made for—
- (a) each complete quarter falling within the accounting period, that is to say, each of the periods of three months ending with 31st March, 30th June, 30th September or 31st December which falls within that period ;
  - (b) each part of the accounting period which is not a complete quarter and ends on the first (or only), or begins immediately after the last (or only), of those dates which falls within the accounting period ;
  - (c) if none of those dates falls within the accounting period, the whole accounting period.
- (3) A return for any period for which a return is required to be made under this paragraph (hereinafter referred to as " a return period ") shall be made within fourteen days from the end of that period.
- (4) Subject to paragraphs 4(2) and 7(3) below, no return need be made under this Schedule by a company for any period in which it has made no franked payments.

#### *Contents of return*

- 2 (1) Subject to paragraph 7(2) below, the return made by a company for any return period shall show—
- (a) the amount of the franked payments made by it in that period;
  - (b) the amount of franked investment income, if any, received by it in that period ; and
  - (c) if any advance corporation tax is payable in respect of those payments, the amount thereof.
- (2) The return shall specify whether any amount of franked payments is included under paragraph (a) of the foregoing sub-paragraph in consequence of the giving of a notice under the proviso to section 256(1) of the Taxes Act and, if so, the amount so included.
- (3) For the purposes of paragraph (b) of sub-paragraph (1) above the amount of franked investment income received by a company in a return period shall be treated as including the excess, if any, of—
- (a) any surplus of franked investment income carried forward to the accounting period for which the return is made ; and
  - (b) any amount of franked investment income received by the company in that accounting period but before the beginning of the return period,
- over the amount of any franked payments made by the company in that accounting period but before the beginning of the return period.

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- (4) For the purposes of paragraph (c) of sub-paragraph (1) above advance corporation tax shall be payable in respect of franked payments made in a return period if the amount shown under paragraph (a) of that sub-paragraph exceeds the amount shown under paragraph (b) of that sub-paragraph or no amount is shown under the said paragraph (b); and the amount of that tax shall be calculated at the rate of advance corporation tax in force for the financial year in which the return period ends on an amount which, when that tax is added to it, is equal to that excess or, if no amount is shown under the said paragraph (b), to the amount shown under the said paragraph (a).

*Payment of tax*

- 3 (1) Subject to paragraph 7(2) below, advance corporation tax in respect of franked payments required to be included in a return under this Schedule shall be due at the time by which the return for that period is to be made, and advance corporation tax so due shall be payable without the making of any assessment.
- (2) Advance corporation tax which has become due as aforesaid may be assessed on the company (whether or not it has been paid when the assessment is made) if that tax, or any part of it, is not paid on or before the due date.
- (3) If it appears to the inspector that there is a franked payment which ought to have been and has not been included in a return, or if the inspector is dissatisfied with any return, he may make an assessment on the company to the best of his judgment; and any advance corporation tax due under an assessment made by virtue of this sub-paragraph shall be treated for the purposes of interest on unpaid tax as having been payable at the time when it would have been payable if a correct return had been made.

*Receipt of franked investment income after payment of advance corporation tax*

- 4 (1) This paragraph shall have effect where—
- (a) a return has been made of franked payments made in any return period falling within an accounting period and advance corporation tax has been paid in respect of those payments ; and
- (b) the company receives franked investment income after the end of the return period but before the end of the accounting period.
- (2) The company shall make a return under paragraph 1 above for the return period in which the franked investment income is received whether or not it has made any franked payments in that period, and, subject to sub-paragraph (3) below, shall be entitled to repayment of any advance corporation tax paid (and not repaid) in respect of franked payments made in the accounting period in question.
- (3) If no franked payments were made by the company in the return period for which a return is made by virtue of sub-paragraph (2) above the amount of the repayment shall not exceed the amount of the tax credit comprised in the franked investment income received ; and in any other case the repayment shall not exceed the amount of the tax credit comprised in so much of that franked investment income, if any, as exceeds the amount of the franked payments made in that return period.

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*Claims for set-off in respect of franked investment income received by a company*

- 5 Where under paragraph 2 or 4 above franked investment income received by a company falls to be taken into account in determining—
- (a) whether advance corporation tax is payable or repayable ; or
  - (b) the amount of such tax which is payable or repayable,
- the inclusion of that franked investment income in the appropriate return shall be treated as a claim by the company to have it taken into account as aforesaid, and any such claim shall be supported by such evidence as the inspector may reasonably require.
- 6 (1) Where a claim has been made under paragraph 5 above no proceedings for collecting tax which would fall to be discharged if the claim were allowed shall be instituted pending the final determination of the claim, but this sub-paragraph shall not affect the date when the tax is due.
- (2) When the claim is finally determined any tax underpaid in consequence of sub-paragraph (1) above shall be paid.
- (3) Where proceedings are instituted for collecting tax assessed, or interest on tax assessed, under any provision of this Schedule, effect shall not be given to any claim made after the institution of the proceedings so as to affect or delay the collection or recovery of the tax charged by the assessment or of interest thereon, until the claim has been finally determined.
- (4) When the claim is finally determined any tax overpaid in consequence of sub-paragraph (3) above shall be repaid.
- (5) References in this paragraph to proceedings for the collection of tax include references to proceedings by way of distraint or pouding for tax.

*Qualifying distributions which are not payments and payments of uncertain nature*

- 7 (1) This paragraph applies to—
- (a) any qualifying distribution which is not a payment; and
  - (b) any payment in respect of which the company making it would be liable to pay advance corporation tax if, but only if, it amounted to or involved a qualifying distribution and it is not in the circumstances clear whether or how far it does so.
- (2) No amount shall be shown in respect of the qualifying distribution or payment under paragraph 2(1)(a) or (c) above and paragraph 3(1) above shall not apply to the payment of advance corporation tax in respect thereof.
- (3) Particulars of the qualifying distribution or payment shall be given separately in the return for the return period in which it is made and if, apart from that distribution or payment, no franked payment is made in that period, a return containing those particulars shall be made for that period under paragraph 1 above.
- (4) Any advance corporation tax payable in respect of the qualifying distribution or payment shall be assessed on the company and shall be so assessed without regard to any franked investment income received by the company but—
- (a) relief shall be given from the tax assessed (by discharge thereof) to the extent, if any, to which that tax exceeds the tax that would have been payable if the amount of the franked payment comprising the qualifying distribution or

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payment, calculated on the amount or value thereof shown in the assessment, had been included in the return under sub-paragraph (1) (a) of paragraph 2 above and the tax had been calculated in accordance with sub-paragraph (4) of that paragraph ; and

- (b) for the purposes of the application of sub-paragraph (3) of that paragraph to any subsequent return period, the amount of that franked payment shall be taken to be the amount calculated as aforesaid.

*Items included in error*

- 8 Where any item has been included in a return under this Schedule as a franked payment made or as franked investment income received by a company but that item should have been included in a return or claim under Schedule 20 to this Act, the inspector may make any such assessments, adjustments or set-offs as may be required for securing that the resulting liabilities to tax (including interest on unpaid tax) whether of the company or of any other person are the same as they would have been if the item had been included in the right return or claim.

*Qualifying distribution made otherwise than in an accounting period*

- 9 Where a company makes a qualifying distribution on a date which does not fall within an accounting period the company shall make a return of that distribution within fourteen days from that date, and the advance corporation tax in respect thereof shall be due at the time by which the return is to be made, except where the distribution is not a payment in which case the advance corporation tax shall be assessed on the company.

*Assessments and due date of tax*

- 10 (1) All the provisions of the Corporation Tax Acts as to the time within which an assessment may be made, so far as they refer or relate to the accounting period for which an assessment is made, or the accounting period to which an assessment relates, shall apply in relation to an assessment under this Schedule notwithstanding that, under this Schedule, the assessment may be said to relate to a quarter or other period which is not an accounting period, and the provisions of sections 36 and 39 of the Management Act as to the circumstances in which an assessment may be made out of time shall apply accordingly on the footing that any such assessment relates to the accounting period in which the quarter or other period ends or, in the case of an assessment under paragraph 9 above, to an accounting period ending on the date on which the distribution is made.
- (2) Advance corporation tax assessed on a company under this Schedule shall be due within fourteen days after the issue of the notice of assessment (unless due earlier under paragraph 3(1) or 9 above).
- (3) Sub-paragraph (2) above has effect subject to any appeal against the assessment, but no such appeal shall affect the date when tax is due under paragraph 3(1) or 9 above.
- (4) On the determination of an appeal against an assessment under this Schedule any tax overpaid shall be repaid.
- (5) Any tax assessable under any one or more of the provisions of this Schedule may be included in one assessment if the tax so included is all due on the same date.

SCHEDULE 15

Sections 90 and 91.

LOSS RELIEF ETC., AND GROUP INCOME: PROVISIONS OF INCOME  
AND CORPORATION TAXES ACT 1970 AS SUBSTITUTED BY THIS ACT

PART I

SECTIONS 254 AND 255

**“254 Set-off of losses etc. against surplus of franked investment income.**

- (1) Where a company has a surplus of franked investment income for any accounting period, the company may on making a claim for the purpose require that the amount of the surplus shall for all or any of the purposes mentioned in subsection (2) below be treated as if it were a like amount of profits chargeable to corporation tax, and subject to subsection (4) below the provisions mentioned in subsection (2) below shall apply in accordance with this section to reduce the amount of the surplus for purposes of section 89(3) of the Finance Act 1972 and the company shall be entitled to have paid to it the amount of the tax credit comprised in the amount of franked investment income by which the surplus is so reduced.
- (2) The purposes for which a claim may be made under subsection (1) above are those of—
  - (a) the setting of trading losses against total profits under section 177(2) of this Act;
  - (b) the deduction of charges on income under section 248 of this Act;
  - (c) the deduction of expenses of management under section 304 or 305 of this Act;
  - (d) the setting of certain capital allowances against total profits under section 74(3) of the Capital Allowances Act 1968.
- (3) Where a company makes a claim under this section for any accounting period, the reduction falling to be made in profits of that accounting period shall be made as far as may be in profits chargeable to corporation tax rather than in the amount treated as profits so chargeable under this section.
- (4) Where a claim under this section relates to section 177(2) of this Act or to section 74(3) of the Capital Allowances Act 1968 and an accounting period of the company falls partly before and partly within the time mentioned in that subsection, then—
  - (a) the restriction imposed by section 177(3) of this Act or by section 74(4) of the Capital Allowances Act 1968 on the amount of the relief shall be applied only to any relief to be given apart from this section, and shall be applied without regard to any amount treated as profits of the accounting period under this section ; but
  - (b) relief under this section shall be given only against a part of the amount so treated proportionate to the part of the accounting period falling within the said time.
- (5) Where—
  - (a) on a claim made under this section for any accounting period relief is given in respect of the whole or part of any loss incurred in a trade, or of any amount which could be treated as a loss under section 177(8) of this Act; and
  - (b) in a later accounting period the franked payments made by the company exceed its franked investment income ;

then (unless the company has ceased to carry on the trade or to be within the charge to corporation tax in respect of it) the company shall, for purposes of section 177(1) of

this Act, be treated as having, in the accounting period ending immediately before the beginning of the later accounting period mentioned in paragraph (b) above, incurred a loss equal to whichever is the lesser of—

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

(6) Subsection (5) above shall apply, with the necessary adaptations,—

- (a) in relation to relief given in respect of management expenses ; and
- (b) in relation to relief given in respect of capital allowances ;

as it applies in relation to relief given in respect of a loss (the reference to the company ceasing to be within the charge to corporation tax in respect of the trade being construed as a reference to its ceasing to be within that charge at all):

Provided that any amount which may be dealt with under subsection (5) as a loss shall be so dealt with rather than under this subsection, except in so far as the company concerned otherwise elects.

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

- (a) if and so far as the purpose for which the claim is made is the setting of trading losses against total profits under section 177(2) of this Act, two years from the end of the accounting period in which the trading loss is incurred;
- (b) if and so far as the purpose for which the claim is made is the deduction of charges on income under section 248 of this Act or of expenses of management under section 304 or 305 of this Act, six years from the end of the accounting period in which the charges were paid or the expenses of management were incurred ;
- (c) if and so far as the purpose for which the claim is made is the setting of capital allowances against total profits under section 74(3) of the Capital Allowances Act 1968, two years from the end of the accounting period for which the capital allowances fall to be made.

(8) For the purposes of a claim under this section for any accounting period the surplus of franked investment income for that accounting period shall be calculated without regard to the part, if any, carried forward from an earlier accounting period ; and for the purposes of subsection (5) above franked investment income which by virtue of section 89(5) of the Finance Act 1972 cannot be used to frank distributions of a company shall be left out of account.

### **255 Set-off of loss brought forward, or terminal loss.**

(1) Where a company has a surplus of franked investment income for any accounting period, the company, instead of or in addition to making a claim under section 254 above, may on making a claim for the purpose require that the surplus shall be taken into account for relief under section 177(1) or under section 178 of this Act, up to the amount of franked investment income for the accounting period which, if chargeable to corporation tax, would have been so taken into account by virtue of section 177(7) of this Act; and (subject to the restriction to the said amount of franked investment income) the following subsections shall have effect where the company makes a claim under this section for any accounting period.

- (2) The amount to which the claim relates shall for the purposes of the claim be treated as trading income of the accounting period.
- (3) The reduction falling to be made in trading income of an accounting period shall be made as far as may be in trading income chargeable to corporation tax rather than in the amount treated as trading income so chargeable under this section.
- (4) If the claim relates to section 177(1) of this Act, section 254(5) above shall apply in relation to it.
- (5) If the claim relates to section 178 of this Act and an accounting period of the company falls partly outside the three years mentioned in subsection (1) of that section, then—
  - (a) the restriction imposed by subsection (2) of that section on the amount of the reduction that may be made in the trading income of that period shall be applied only to any relief to be given apart from this section, and shall be applied without regard to any amount treated as trading income of the accounting period by virtue of this section, but
  - (b) relief under this section shall be given only against a part of the amount so treated proportionate to the part of the accounting period falling within the three years in question.
- (6) The time limits for claims under this section shall be as follows—
  - (a) if and so far as the purpose for which the claim is made is the allowance of relief under section 177(1) of this Act, six years from the end of the accounting period for which the claim is made,
  - (b) if and so far as the purpose for which the claim is made is the allowance of relief under section 178 of this Act, six years from the time when the company ceases to carry on the trade.
- (7) For the purpose of a claim under this section for any accounting period the surplus of franked investment income for that period shall be calculated without regard to the part, if any, carried forward from an earlier accounting period.”

## PART II

### SECTION 256(1), (4) AND (4A)

#### “256 Group income, etc.

- (1) Where a company receives dividends from another company (both being bodies corporate resident in the United Kingdom), and the company paying the dividends is—
  - (a) a 51 per cent. subsidiary of the other or of a company so resident of which the other is a 51 per cent. subsidiary; or
  - (b) a trading or holding company owned by a consortium the members of which include the company receiving the dividends,
 then, subject to the following provisions of this section, the company receiving the dividends and the company paying them may jointly elect that this subsection shall apply to the dividends received from the latter by the former, and so long as the election is in force any such dividends shall be excluded from sections 84(1) and 86 of the Finance Act 1972 and are accordingly not included in references to franked payments made by the company paying the dividends or the franked investment income of the



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company receiving them (but are in the Corporation Tax Acts referred to as " group income " of the latter company):

Provided that where an election under this subsection is in force the company paying the dividends may by notice in writing to the collector state that it does not wish the election to have effect in relation to any amount of dividends specified in the notice, and the Finance Act 1972 and the other provisions of the Corporation Tax Acts shall then have effect in relation to that amount as if there had been no such election.

- (4) Where a company purports—
- (a) by virtue of an election under subsection (1) of this section to pay any dividends without paying advance corporation tax; or
  - (b) by virtue of an election under subsection (2) of this section to make any payment without deduction of income tax,

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

- (4A) Where tax assessed under subsection (4) above on the company which paid the dividends or made the payment is not paid by that company before the expiry of three months from the date on which that tax is payable, that tax shall, without prejudice to the right to recover it from that company, be recoverable from the company which received the dividends or payment.”

## SCHEDULE 16

Section 94.

### APPORTIONMENT OF INCOME ETC. OF CLOSE COMPANIES

#### PART I

##### POWERS OF APPORTIONMENT AND CONSEQUENCES OF APPORTIONMENT

###### *Power to apportion excess of company's relevant income over its distributions*

- 1 (1) Subject to sub-paragraphs (2) and (3) below, the income of a close company for any accounting period may, for the purposes of this Schedule, be apportioned by the inspector among the participators.
- (2) Subject to paragraphs 2 and 3 below—
- (a) an apportionment shall not be made under this paragraph unless the relevant income of the company for the accounting period exceeds its distributions for that period ; and
  - (b) the amount apportioned shall be the amount of that excess,
- and Part II of this Schedule shall have effect for determining the relevant income and distributions of a company for an accounting period and whether or not there is any such excess.

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- (3) Subject to paragraphs 2 and 3 below, an apportionment shall not be made under this paragraph of the income of—
- (a) a trading company ; or
  - (b) a company which is a member of a trading group by virtue of paragraph 11(2)(a) below,
- unless the excess mentioned in sub-paragraph (2) above is more than £1,000.
- (4) Any amount apportioned to a close company under sub-paragraph (1) above, or by one or more sub-apportionments under this sub-paragraph, may be further apportioned among the participators in that company.
- (5) Subject to paragraph 13 below, this paragraph shall, notwithstanding the winding up of a company, or the passing of any resolution or the making of any order or anything else done for the purpose of winding up a company, continue to apply as if the company were not being wound up.

*Power to apportion whole of relevant income of non-trading company*

- 2 Subject to paragraphs 13(4) and 14(2) below, there may be apportioned under paragraph 1 above, if the inspector sees reason for it, the whole of the relevant income for an accounting period of a close company which is not a trading company, whether or not there is any such excess as is mentioned in sub-paragraph (2) of that paragraph ; and sub-paragraphs (2) and (3) of that paragraph shall accordingly not apply to any apportionment made by virtue of this paragraph.

*Power to apportion amounts deducted in respect of certain annual payments*

- 3 (1) Subject to sub-paragraph (2) below, there may be apportioned under paragraph 1 above as if it were income of a close company for an accounting period any amount which was deducted in respect of annual payments made by the close company in arriving at its distributable income for that period and which in the case of an individual would not have been deductible or would have been treated as his income in computing his total income.
- (2) Sub-paragraph (1) above does not apply to annual payments which consist of interest or are made wholly and exclusively for the purposes of the company's trade.
- (3) Any amount apportionable by virtue of this paragraph shall be in addition to the amount (if any) apportionable under paragraph 1 above without this paragraph, and nothing in sub-paragraphs (2) and (3) of that paragraph shall apply to any apportionment made by virtue of this paragraph.

*Manner of apportionment*

- 4 (1) Subject to the provisions of this paragraph, any apportionment under paragraph 1 above, including any sub-apportionment of an amount directly or indirectly apportioned to a company, shall be made according to the respective interests in the company in question of the participators.
- (2) In determining for the purposes of this paragraph the respective interests of the participators, the inspector may if it seems proper to him to do so attribute to each participator an interest corresponding to his interest in the assets of the company

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available for distribution among the participators in the event of a winding up or in any other circumstances.

- (3) Where income of a company which is not a trading company is apportioned under paragraph 1 above, the inspector may if it seems proper to him to do so treat a loan creditor as having an interest for the purposes of this paragraph to the extent to which the income to be apportioned, or assets representing it, has or have been expended or applied, or is or are available to be expended or applied, in redemption, repayment or discharge of the loan capital or debt (including any premium thereon) in respect of which he is a loan creditor.

*Consequences of apportionment: income tax*

- 5 (1) Where a sum has been apportioned under paragraph 1 above to an individual (whether by an original apportionment or a sub-apportionment), income tax shall be assessed and charged in respect of that sum in accordance with the following provisions of this paragraph.
- (2) Where a sum is so apportioned to an individual—
- (a) it shall be treated for the purpose of computing his total income as income received by him at the end of the accounting period to which the apportionment relates and, subject to section 529 of the Taxes Act, shall be deemed to be the highest part of his total income;
  - (b) no assessment shall be made on the individual in respect of income tax at the basic rate on that sum (nor, in the case mentioned in sub-paragraph (4) below, in respect of income tax at any other rate) but he shall be treated as having paid income tax at the basic rate on that sum or, if his total income is reduced by any deductions, on so much of that sum as is part of his total income as so reduced ;
  - (c) no repayment shall be made of the income tax treated by virtue of paragraph (b) above as having been paid; and
  - (d) the sum so apportioned shall be treated for the purposes of sections 52 and 53 of the Taxes Act as not brought into charge to income tax.
- (3) Where a sum is so apportioned to the personal representatives of a deceased person it shall be treated, in ascertaining the aggregate income of the estate for the purposes of Part XV of the Taxes Act, as having been received as mentioned in paragraph (a) of sub-paragraph (2) above, and paragraphs (b) to (d) of that sub-paragraph shall apply accordingly with the necessary modifications.
- (4) No individual shall be assessed to income tax by virtue of any apportionment unless the sum or, where there is a sub-apportionment, the aggregate sum on which he is so assessable amounts at least to—
- (a) £200 ; or
  - (b) 5 per cent. of the amount apportioned,
- whichever is the less.
- (5) Where an apportionment is made by virtue of paragraph 2 above, an individual shall not be charged to tax on a sum treated in consequence of the apportionment or any sub-apportionment as being his income except in so far as it exceeds the amount which, apart from the apportionment, falls in respect of distributions made by the company for the accounting period to be included in his total income.

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- (6) Where the income of a company for any accounting period has been apportioned under paragraph 1 above or section 296 of the Taxes Act and the distributions of the company for a later accounting period for which it is a close company—
- (a) consist of or include a distribution of all or any of the apportioned income; and
  - (b) exceed the company's relevant income for that later period,
- then, if any individual who was charged to tax under this paragraph or section 297 of the Taxes Act in respect of any of the apportioned income is entitled to any of that income on its subsequent distribution as aforesaid, there shall be deemed not to form part of his total income an amount of the income subsequently distributed (or of the excess mentioned in paragraph (b) above if it is less) equal to such fraction as corresponds to—
- (i) the fraction of the apportioned income in respect of which he was charged to tax ; or
  - (ii) the fraction to which he is entitled of the subsequent distribution of that income,
- whichever is the smaller.
- (7) For the purposes of this paragraph—
- (a) the sum apportioned to any person ;
  - (b) the amount mentioned in sub-paragraph (4)(b) above; and
  - (c) the amount to be excluded from a person's total income in accordance with sub-paragraph (6) above,
- shall respectively be taken to consist of the aggregate of that sum or amount and such proportion of it as corresponds to the appropriate rate of advance corporation tax; but paragraphs (a) and (b) above shall not apply in the case of any apportionment so far as made by virtue of paragraph 3 above.
- (8) For the purposes of paragraphs (a) and (b) of sub-paragraph (7) above, the appropriate rate of advance corporation tax is the rate applicable to a distribution made at the end of the accounting period to which the apportionment relates, and for the purposes of paragraph (c) of that sub-paragraph the appropriate rate of advance corporation tax is the rate applicable to the distribution mentioned in sub-paragraph (6)(a) above.

*Payment and collection of income tax*

- 6 (1) Any income tax chargeable under paragraph 5 above in respect of a sum apportioned to a participator shall be assessed on the participator and, subject to the provisions of this paragraph, all the provisions of the Income Tax Acts relating to assessment and the collection and recovery of tax shall with any necessary modifications apply to tax chargeable under that paragraph.
- (2) If the whole or any part of the tax assessed on the participator is not paid within thirty days from the date on which the assessment became final and conclusive or by 6th July in the year next following the year of assessment, whichever is the later, a notice of liability to tax under this paragraph shall be served on the company and the tax or the part thereof remaining unpaid, as the case may be, shall thereupon be payable by the company.
- (3) Where a notice of liability is served under sub-paragraph (2) above, any interest due on the tax assessed on the participator and not paid by him, and any interest accruing due on that tax after the date of service, shall be payable by the company.

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- (4) Where a notice of liability is served on the company and the relevant tax and any interest payable by the company under sub-paragraph (3) above is not paid by the company before the expiry of three months from the date of service, that tax and interest may, without prejudice to the right of recovery from the company, be recovered from the participator.
- (5) Where, in consequence of a sub-apportionment, the foregoing provisions of this paragraph apply in relation to a participator in a company other than the company in relation to which the original apportionment was made, references in those provisions to the company shall be taken as references to the company in relation to which the original apportionment was made.

*Consequences of apportionment: advance corporation tax*

- 7 (1) This paragraph has effect where the income of a company is apportioned under paragraph 1 above; and in this paragraph "apportioned amount" means the aggregate of the amount of that income which is so apportioned and such proportion of that amount as corresponds to the rate of advance corporation tax applicable to a distribution made at the end of the accounting period to which the apportionment relates (" the relevant period ").
- (2) If in the relevant period the company has a surplus of franked investment income, the surplus (so far as not already reduced in consequence of a claim under section 254 or 255 of the Taxes Act or of being used to frank distributions made by the company in a subsequent accounting period) shall be treated for all purposes as reduced by a sum equal to the apportioned amount or, if that is greater, as extinguished.
- (3) If in the relevant period the company has no such surplus (so far as not already reduced as aforesaid), or the apportioned amount exceeds that surplus (so far as not already reduced as aforesaid), sub-paragraphs (4) to (6) below shall have effect in relation to a sum equal to the advance corporation tax comprised in a franked payment made at the end of the relevant period of an amount equal to the apportioned amount or to that excess, as the case may be.
- (4) If, apart from this paragraph, surplus advance corporation tax of a later accounting period could by virtue of subsection (3) of section 85 of this Act be set against the company's liability to corporation tax for the relevant period, that advance corporation tax shall not be so set except to such extent, if any, as would be possible if the sum mentioned in sub-paragraph (3) above had been advance corporation tax available to be so set against that liability for the relevant period and had, so far as permitted by that section, already been set against that liability.
- (5) If the sum mentioned in sub-paragraph (3) above exceeds the amount that could, if it were advance corporation tax available for the purpose, be set as aforesaid against the company's liability for the relevant period—
  - (a) there shall be deducted from the excess an amount equal to the advance corporation tax, if any, that could by virtue of subsection (3) of the said section 85 be set against the company's liability to corporation tax for earlier accounting periods after taking into account advance corporation tax so set in consequence of a claim already made under that subsection; and
  - (b) if no such claim has already been made, advance corporation tax shall not by virtue of any such claim be set against the company's liability to corporation tax for any such earlier accounting periods except to such extent, if any, as

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would be possible if an amount equal to any deduction under paragraph (a) above had been advance corporation tax available to be so set and had, so far as permitted by the said section 85, already been set against that liability.

- (6) Any excess of the said sum remaining after the deduction mentioned in sub-paragraph (5)(a) above—
- (a) shall be assessed on and recoverable from the company as if it were advance corporation tax payable by the company in respect of a distribution made by it at the end of the relevant period ; and
  - (b) shall be treated as surplus advance corporation tax of the relevant period falling to be dealt with in accordance with subsection (4) of the said section 85.
- (7) Without prejudice to the application of sub-paragraphs (4) and (5) above to advance corporation tax which a company is treated by virtue of section 92 of this Act as having paid, sub-paragraph (4) above shall apply also to advance corporation tax which a company is so treated as having paid in respect of distributions made in the relevant period and which, apart from this paragraph, could by virtue of section 85(1) of this Act be set against the company's liability to corporation tax for that period.
- (8) Tax assessed by virtue of sub-paragraph (6)(a) above shall, subject to any appeal against the assessment, be due within fourteen days after the issue of the notice of assessment.
- (9) Sub-paragraph (6)(b) above shall not be construed as authorising any sum to be carried forward to a later accounting period in any case in which section 101 of this Act would prevent the carry forward of advance corporation tax.

## PART II

### PROVISIONS FOR DETERMINING RELEVANT INCOME AND DISTRIBUTIONS, ETC

#### *Determination of " relevant income "*

- 8 (1) Subject to the provisions of this paragraph and of paragraphs 9 and 13 below, the relevant income of a company for an accounting period is—
- (a) in the case of a company which is a trading company or a member of a trading group, so much of its distributable income for that period as can be distributed without prejudice to the requirements of the company's business;
  - (b) in the case of a company not within paragraph (a) above whose distributable income for that period consists of or includes estate or trading income—
    - (i) so much of the estate or trading income as can be distributed without prejudice to the requirements of the company's business so far as concerned with the activities or assets giving rise to estate or trading income; and
    - (ii) its distributable income, if any, other than estate or trading income;
  - (c) in the case of any other company, its distributable income for that period.
- (2) In arriving at the relevant income for any accounting period—
- (a) where under sub-paragraph (1) above regard is to be had to the requirements of a company's business, regard shall be had not only to the current requirements of the business but also to such other requirements as may be

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necessary or advisable for the maintenance and development of that business but, for this purpose, the provisions of paragraph 12 below shall apply ;

- (b) the amount of the estate or trading income shall be taken as the amount included in respect of it in the distributable income.

*Maximum amount to be taken as " relevant income "*

- 9 (1) Subject to paragraph 13 below, the relevant income of a company shall in no case be taken to exceed the company's distributable investment income for the accounting period plus 50 per cent. of the estate or trading income for the period.
- (2) In the application of sub-paragraph (1) above to a trading company, the estate or trading income for an accounting period, if it is less than the relevant maximum amount shall be treated as reduced by one half of the amount required to make it up to that relevant maximum amount or, if it is less than the relevant minimum amount, shall be disregarded.
- (3) The relevant maximum and minimum amounts referred to above shall be determined as follows—
- (a) where the company has no associated company in the accounting period, those amounts are £15,000 and £5,000 respectively ;
- (b) where the company has one or more associated companies in the accounting period, the relevant maximum amount is £15,000 divided by one plus the number of those associated companies and the relevant minimum amount is £5,000 divided by one plus the number of those associated companies.
- (4) In applying sub-paragraphs (2) and (3) above to any accounting period of a trading company, an associated company which has not carried on any trade or business at any time in that accounting period (or, if an associated company during part only of that accounting period, at any time in that part of that accounting period) shall be disregarded; and for the purposes of this paragraph a company is to be treated as an " associated company " of another at a given time if at that time one Of the two has control of the other or both are under the control of the same person or persons.
- (5) In determining how many associated companies a trading company has in an accounting period or whether a trading company has an associated company in an accounting period, an associated company shall be counted even if it was an associated company for part only of the accounting period, and two or more associated companies shall be counted even if they were associated companies for different parts of the accounting period.
- (6) For an accounting period of less than twelve months the relevant maximum and minimum amounts determined in accordance with the foregoing provisions of this paragraph shall be proportionately reduced.

*Distributions to be taken into account, and meaning of " distributable income ", etc.*

- 10 (1) For the purposes of this Schedule the distributions of a company for an accounting period shall be taken to consist of—
- (a) any dividends which are declared in respect of the period and are paid during the period or within a reasonable time thereafter, and
- (b) all distributions made in the period except dividends which, in relation to any previous period, would fall under paragraph (a) above or section 291(1) (a) of the Taxes Act:

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Provided that, where a period of account is not an accounting period, dividends which, if it were an accounting period, would be treated under paragraph (a) above as distributions for that accounting period shall be apportioned to any accounting period or part of an accounting period falling within the period of account in proportion to the distributable income of each such period or part.

- (2) For the purposes of this Schedule, the " distributable income " of a company for an accounting period shall be the amount of its distributable profits for the period exclusive of the part attributable to chargeable gains, and, for the purposes of this sub-paragraph—
- (a) the " distributable profits " of a company for an accounting period shall be the aggregate of the following amounts, that is to say—
    - (i) the amount of any profits on which corporation tax falls finally to be borne, less the amount of that tax,
    - (ii) an amount equal to the qualifying distributions comprised in any franked investment income, other than franked investment income against which relief is given under section 254 or 255 of the Taxes Act, and
    - (iii) an amount equal to any group income,
  - (b) the part of a company's distributable profits attributable to chargeable gains shall be taken to be the amount of the chargeable gains on which corporation tax is finally borne less the amount of that tax, and
  - (c) the amount on which corporation tax falls finally to be borne (but not the amount of that tax) shall be computed as if section 254 of the Taxes Act did not include subsection (5) or subsection (6) of that section (and as if section 255 of that Act did not apply the said subsection (5)).
- (3) For the purposes of this Schedule the " distributable investment income " of a company for an accounting period shall be the amount of the distributable income, exclusive of the part attributable to estate or trading income, and less whichever is the smaller of—
- (a) 10 per cent. of the estate or trading income, and
  - (b) £500 or, if the accounting period is of less than twelve months, a proportionately reduced amount.
- (4) Subject to sub-paragraph (5) below, for the purposes of this Schedule, the " estate or trading income " of a company means—
- (a) income which is not investment income for the purposes of paragraph 11(1) below, and
  - (b) income which is chargeable to tax under Schedule A or Schedule B, and income (other than yearly or other interest) which is chargeable to tax under Schedule D, and which arises from the ownership or occupation of land (including any interest in or right over land) or from the letting furnished of any building or part of a building.
- (5) Where the following conditions are satisfied with respect to a close company, that is to say—
- (a) that its activities consist wholly or mainly of the carrying on of a trade ; and
  - (b) that that trade consists wholly or mainly of one or more of the following, that is to say, life assurance business (within the meaning of section 323(2) of the



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Taxes Act), insurance business of any other class, banking, money lending, financing of hire-purchase or similar transactions, or dealing in securities, its income incidental to that trade shall (so far as not otherwise falling within the definition of estate or trading income in sub-paragraph (4) above) be treated as estate or trading income in arriving, under paragraph 8 above, at the relevant income for the purposes of paragraph 1 above.

- (6) For the purposes of sub-paragraph (5) above income of a company is incidental to its trade if, and only if—
- (a) it is derived from investments (other than investments in a 51 per cent. subsidiary) or is interest on a debt; and
  - (b) any profit on the sale of the investments would be a trading receipt, and the debt, if proved to be a bad debt, would be allowed as a deduction, in computing the company's trading income for the purposes of corporation tax.
- (7) The amount for part of an accounting period of any description of income referred to in sub-paragraphs (2) to (5) above shall be a proportionate part of the amount for the whole period.
- (8) In determining the amount for any period of any description of income referred to in sub-paragraphs (2) to (5) above, any deduction from the company's profits for charges on income, expenses of management or other amounts which can be deducted from or set against or treated as reducing profits of more than one description shall be treated as made—
- (a) first from the company's income charged to corporation tax other than estate or trading income ;
  - (b) secondly, so far as it cannot be made under (a) above, from the company's estate or trading income so charged; and
  - (c) thirdly, so far as it cannot be made under (a) or (b) above, from the amount included in the company's profits in respect of chargeable gains.

*Meaning of " trading company " and " member of a trading group "*

- 11 (1) For the purposes of this Schedule, a "trading company" is any company which exists wholly or mainly for the purpose of carrying on a trade, and any other company whose income does not consist wholly or mainly of investment income, that is to say, income, which, if the company were an individual, would not be earned income ; but for this purpose any amount which is apportioned to a company under paragraph 1 above shall be deemed to be income of the company and to be investment income.
- (2) For the purposes of this Schedule, a company is to be treated as a " member of a trading group " if, but only if—
- (a) it exists wholly or mainly for the purpose of co-ordinating the administration of a group of two or more companies each of which is under its control and exists wholly or mainly for the purpose of carrying on a trade, or
  - (b) it is under the control of another company resident in the United Kingdom and not itself under the control of a third company, and it exists wholly or mainly for the purpose of a trade or trades carried on by that other company or by a group which, consisting of that other company and a company or companies also under its control and resident in the United Kingdom, exists wholly or mainly for the purpose of carrying on the said trade or trades:

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Provided that a company shall not be treated as a member of a trading group by reason of any company having the control of another if that control is exercised through a company which is not resident in the United Kingdom or through a company whose control depends on a holding a profit on the sale of which would be treated as a trading receipt of the company.

*Requirements of the company's business*

- 12 (1) For the purposes of paragraph 8(2) above there shall be regarded as income available for distribution and not as having been applied, or as being applicable, to the current requirements of a company's business, or to such other requirements as may be necessary or advisable for the maintenance and development of that business—
- (a) any sum expended or applied, or intended to be expended or applied, out of the income of the company, otherwise than in pursuance of an obligation entered into by the company before 4th August 1914—
    - (i) in or towards payment for the business, undertaking or property which the company was formed to acquire or which was the first business, undertaking or property of a substantial character in fact acquired by the company, or
    - (ii) in redemption or repayment of any share or loan capital or debt (including any premium thereon) issued or incurred in or towards payment for any such business, undertaking or property, or issued or incurred for the purpose of raising money applied or to be applied in or towards payment therefor, or
    - (iii) in meeting any obligations of the company in respect of the acquisition of any such business, undertaking or property, or
    - (iv) in redemption or repayment of any share or loan capital or debt (including any premium thereon) issued or incurred otherwise than for adequate consideration, and
  - (b) any sum expended or applied, or intended to be expended or applied, in pursuance or in consequence of any fictitious or artificial transaction, and
  - (c) in the case of a company which is neither a trading company nor a member of a trading group, any sum expended or applied, or available to be expended or applied, out of the income of the company in or towards the redemption, repayment or discharge of any loan capital or debt (including any premium thereon) in respect of which any person is a loan creditor of the company.
- (2) For the purposes of sub-paragraph (1)(a)(iv) above, share or loan capital or debt shall be deemed to be issued or incurred otherwise than for adequate consideration if—
- (a) it is issued or incurred for consideration the value of which to the company is substantially less than the amount of the capital or debt (including any premium thereon), or
  - (b) it is issued or incurred in or towards, or for the purpose of raising money applied or to be applied in or towards, the redemption or repayment of any share or loan capital or debt which itself was issued or incurred for such consideration as is mentioned in paragraph (a) of this sub-paragraph or which represents, directly or indirectly, any share or loan capital or debt which itself was issued or incurred for such consideration.

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- (3) References in the foregoing provisions of this paragraph to money applied or to be applied for any purpose shall be deemed to include references to money applied or to be applied in or towards the replacement of that money.

*Cessations and liquidations*

- 13 (1) Where a close company ceases to carry on the trade, or the business of holding investments, in which its activities wholly or mainly consisted, the relevant income of the company for any accounting period in which that event occurs, or which ends in or within the twelve months ending with that event, shall be calculated as if—
- (a) paragraph 8(1)(a) and (b)(i) above referred respectively to the whole of the company's distributable income and to the whole of the estate or trading income and not to so much thereof as can be distributed without prejudice to the requirements there mentioned, and paragraphs 8(2)(a) and 12 above were omitted ;
  - (b) in paragraph 9(1) above the words " 50 per cent. of " were omitted.
- (2) Where sub-paragraph (1) above applies for an accounting period and the company could not make distributions without prejudice to the claims of creditors (excluding those mentioned in sub-paragraph (3) below), the excess mentioned in paragraph 1(2) above shall be disregarded to the extent to which the company could not make distributions up to the amount of its relevant income without prejudice to those claims.
- (3) The creditors to be excluded for the purposes of sub-paragraph (2) above are all participators and associates of participators, and all creditors in respect of debts originally created in favour of or due to a person who was then a participator or associate of a participator:
- Provided that a creditor is not to be excluded in respect of any debt which either—
- (a) arose in the ordinary course of the company's trade or the company's business of holding investments and also in the ordinary course of a trade or profession of the creditor or, as the case may be, of the participator or associate who was the original creditor, or
  - (b) is a debt for remuneration chargeable to income tax under Schedule E, or
  - (c) is a debt for any rent or other payment due for the use of tangible property or of copyright in a literary, dramatic, musical or artistic work within the meaning of the Copyright Act 1956 (or any corresponding right under the law of a country to which that Act does not extend), and not representing more than a reasonable commercial consideration for that use.
- (4) Where sub-paragraph (1) above applies for any accounting period, there shall be disregarded for the purposes of any apportionment made by virtue of paragraph 2 above so much of the relevant income of the company for that period as is equal to the amount which would be disregarded under sub-paragraph (2) above.
- (5) Where a resolution is passed, or an order is made, for the winding up of a close company, or where any other act is done for a like purpose in the case of a winding up otherwise than under the Companies Act 1948, sub-paragraphs (1) to (4) above shall apply for any accounting period ending in or with the twelve months ending with the passing of the resolution or other event, or for any later accounting period, as they apply, in a case falling within sub-paragraph (1) above, for an accounting period in which a close company ceases to carry on a trade.

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*Legal restrictions on distributions*

- 14 (1) Where a company is subject to any restriction imposed by law as regards the making of distributions, the excess mentioned in paragraph 1(2) above shall be disregarded to the extent to which the company could not make distributions up to the amount of its relevant income without contravening that restriction.
- (2) Except where paragraph 13(1) above applies, there shall be disregarded for the purposes of any apportionment made by virtue of paragraph 2 above so much of the relevant income of the company as is equal to any amount which would be disregarded under sub-paragraph (1) above.

**PART III**

PROCEDURE

*Notice of amount to be apportioned*

- 15 (1) Where in the case of any company the inspector proposes to apportion an amount under paragraph 1 above he shall serve on the company a notice showing the amount to be apportioned and, subject to any appeal under this paragraph and to paragraph 17 below, that notice shall be treated as conclusively establishing, both in relation to the company and for the purposes of any assessment under paragraph 5 above, that an apportionment can be made in respect of that amount.
- (2) After a notice under sub-paragraph (1) above has been served on the company it shall not be altered except on appeal or in accordance with paragraph 17 below.
- (3) The company may by giving notice of appeal in writing to the inspector within thirty days of the date of any notice under sub-paragraph (1) above appeal against that notice; and any notice under that sub-paragraph shall state the time within which notice of appeal may be given under this sub-paragraph.
- (4) Subject to paragraph 20(2) below, any appeal under this paragraph shall be to the General Commissioners except that the company may elect (in accordance with section 46(1) of the Management Act) to bring the appeal before the Special Commissioners instead of the General Commissioners.
- (5) The notice of appeal shall specify the grounds of appeal, but on the hearing of the appeal the Commissioners may allow the appellant to put forward any ground not specified in the notice, and take it into consideration if satisfied that the omission was not wilful or unreasonable.
- (6) If a company fails or refuses, on being required to do so under paragraph 19 below, to furnish a statement of any amount which in the case of that company could be apportioned under this Schedule, or renders a statement with which the inspector is not satisfied, the inspector may make an estimate of that amount to the best of his judgment, and any relevant decision taken by the inspector under this sub-paragraph may be reviewed on an appeal under this paragraph.
- (7) Sections 113 (1B) and (3) and 114(2) of the Management Act (supplementary provisions as to assessments and notices of assessment) shall apply to any notice under sub-paragraph (1) above as if the determination of the amount to be shown therein were the making of an assessment and the notice were a notice of assessment.

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*Notice of manner of apportionment*

- 16 (1) Where a notice has been served on a company under paragraph 15 above showing an amount to be apportioned, the inspector shall serve on the company a notice showing the manner in which that amount is apportioned (that is to say, the sum apportioned or sub-apportioned to each participator or, if the inspector thinks fit, to each class of share) and, subject to any appeal under this paragraph and to paragraph 17 below, that notice shall be treated, in relation to the company, as conclusively establishing the manner of apportionment.
- (2) Paragraph 15(2), (3), (4), (5) and (7) above shall apply also to a notice under this paragraph, but any appeal against such a notice by virtue of this sub-paragraph shall be to the Special Commissioners.
- (3) The manner of apportionment shown in a notice under this paragraph may also be questioned on an appeal against any assessment made under paragraph 5 above ; and any relevant decision taken by the inspector under paragraph 4(2) or (3) above may be reviewed on an appeal under this paragraph or on an appeal against any such assessment.

*Revision of apportionment*

- 17 (1) If the inspector discovers that the amount apportioned in the case of any company is or has become insufficient, he may serve on the company a further notice under paragraph 15(1) above showing the further amount which ought in his opinion to be apportioned, and a further notice relating to that amount shall then be served under paragraph 16 above.
- (2) Where the amount shown in a notice under sub-paragraph (1) of paragraph 15 above is excessive because the company's distributable income is smaller than it was taken to be for the purposes of that notice or because the company's distributions were greater than they were taken to be for those purposes, the inspector may serve on the company a further notice under that sub-paragraph showing a reduced amount; and where such a notice is served—
- (a) a further notice shall also be served under paragraph 16 above making such amendments in any previous notice under that paragraph as may be required to take account of the reduction in the amount apportioned ; and
- (b) there shall be made such adjustments by repayment or discharge of tax as may be required to secure that liabilities to tax under paragraphs 5 to 7 above are what they would have been if the notices originally served under paragraphs 15 and 16 above had been as amended by further notices served by virtue of this paragraph.

*Protection by transmission of accounts*

- 18 (1) A close company may, at any time after the general meeting at which the accounts for any period of account are adopted, forward to the inspector a copy of those accounts, together with a copy of the report (if any) of the directors for that period and such further information (if any) as it may think fit, and may request the inspector to proceed under this paragraph in relation to any accounting period comprised in that period of account:

Provided that this sub-paragraph shall not apply if the company is neither a trading company nor a member of a trading group and has no estate or trading income.

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- (2) Where the inspector receives a request made in accordance with sub-paragraph (1) above in relation to any accounting period, then, subject to sub-paragraph (3) below, he shall, within three months after receipt of the request, intimate to the company whether or not he proposes to make an apportionment in respect of the company for the accounting period under paragraph 1 above.
- (3) On receiving a request made in accordance with sub-paragraph (1) above, the inspector may, not later than three months after the receipt of the request, call on the company to furnish him with such further particulars as he may reasonably require ; and, if the inspector does so, the time for giving the intimation required by sub-paragraph (2) above shall not expire before three months after he has been furnished with those particulars.
- (4) Where the inspector receives a request made in accordance with sub-paragraph (1) above in relation to any accounting period, and does not within the time limited by sub-paragraphs (2) and (3) above intimate his intention to make an apportionment in respect of the period, no such apportionment shall be made unless either—
  - (a) the information accompanying the request, and any further particulars furnished to the inspector in connection therewith, are not such as to make full and accurate disclosure of all facts and considerations which are material to be known to him, or
  - (b) within twelve months of the end of the period any of the provisions of paragraph 13 above have effect in relation to the company.

#### *Information*

- 19 (1) The inspector may, by notice in writing, require any company which is, or appears to him to be, a close company to furnish him within such time (not being less than thirty days) as may be specified in the notice with such particulars as he thinks necessary for the purposes of this Schedule.
- (2) If for the purposes of this Schedule any person in whose name any shares are registered is so required by notice in writing by the inspector, he shall state whether or not he is the beneficial owner of the shares and, if not the beneficial owner of the shares or any of them, shall furnish the name and address of the person or persons on whose behalf the shares are registered in his name.
- (3) Sub-paragraph (2) above shall apply in relation to loan capital as it applies in relation to shares.
- (4) The inspector may, for the purposes of this Schedule, by notice in writing require—
  - (a) any company which appears to him to be a close company to furnish him with particulars of any bearer securities issued by the company, and the names and addresses of the persons to whom the securities were issued and the respective amounts issued to each person; and
  - (b) any person to whom securities were issued as aforesaid, or to or through whom such securities were subsequently sold or transferred, to furnish him with such further information as he may require with a view to enabling him to ascertain the names and addresses of the persons beneficially interested in the securities.

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In this sub-paragraph " securities " includes shares, stocks, bonds, debentures and debenture stock and also any promissory note or other instrument evidencing indebtedness issued to a loan creditor of the company.

- (5) Any power which the inspector may exercise under this paragraph for the purposes of this Schedule may be exercised also for the purposes of sections 286 and 287 of the Taxes Act.

*Exercise of powers by Board*

- 20 (1) Any powers conferred by this Schedule on the inspector may be exercised by the Board; and references in this Schedule to the inspector shall be construed accordingly.
- (2) Where by virtue of this paragraph a notice is served by the Board under paragraph 15(1) above any appeal under that paragraph shall be to the Special Commissioners.

SCHEDULE 17

Section 94.

AMENDMENTS RELATING TO CLOSE COMPANIES

*Meaning of close company*

- 1 (1) Section 282 of the Taxes Act (which defines " close company ") shall be amended as follows.
- (2) For subsection (2) (company treated as close company if more than half of apportionable income etc. could be apportioned among five or fewer participators or among participators who are directors) there shall be substituted—

“(2) Subject to section 283 below, a company resident in the United Kingdom (but not falling within subsection (1)(b) above) is also a close company if—

(a) on the assumption that it is so, or

(b) on the assumption that it and any other such company or companies are so,

more than half of any amount falling to be apportioned under Schedule 16 to the Finance Act 1972 in the case of the company (including any sum which has been apportioned to it, or could on either of those assumptions be apportioned to it, under that Schedule) could be apportioned among five or fewer participators, or among participators who are directors.

In ascertaining under this subsection whether any amount could be apportioned among five or fewer participators or among participators who are directors, account shall, in cases where an original apportionment and any sub-apportionment are involved, be taken only of persons among whom that amount could be finally apportioned as the result of the whole process of original apportionment and sub-apportionment and those persons shall be treated as participators or directors if they are participators or directors of any company in the case of which either an original apportionment or any sub-apportionment could be made.”

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(3) For subsection (4) (company not to be treated as close company if under control of any company which is not a close company) there shall be substituted—

“(4) A company is not to be treated as a close company—

(a) if—

(i) it is controlled by a company which is not a close company, or by two or more companies none of which is a close company ; and

(ii) it cannot be treated as a close company except by taking as one of the five or fewer participators requisite for its being so treated a company which is not a close company ;

(b) if it cannot be treated as a close company except by virtue of paragraph (c) of section 302(2) of this Act and it would not be a close company if the reference in that paragraph to participators did not include loan creditors who are companies other than close companies.

(5) References in subsection (4) above to a close company shall be treated as applying to any company which, if resident in the United Kingdom, would be a close company.”

#### *Matters treated as distributions*

2 In section 284 of the Taxes Act (matters treated as distributions in relation to close company to include certain payments etc. to participators and associates)—

(a) paragraph (a) of subsection (1) (annuities and other annual payments other than interest) ; and

(b) paragraph (b) of that subsection (rents, royalties and other consideration for use of property other than money),

shall cease to have effect.

#### *Loans to participators*

3 (1) Section 286 of the Taxes Act (charge of income tax on loans and advances by close company to participators and associates) shall be amended as follows.

(2) In subsection (1) for the words from "there shall be assessed on and recoverable from the company" onwards there shall be substituted the words " there shall be assessed on and recoverable from the company, as if it were an amount of corporation tax chargeable on the company for the accounting period in which the loan or advance is made, an amount equal to such proportion of the amount of the loan or advance as corresponds to the rate of advance corporation tax in force for the financial year in which the loan or advance is made ".

(3) In subsection (3) for the words " This section shall not apply " there shall be substituted the words " Subsection (1) of this section shall not apply ".

(4) In subsection (5) for the words " paid the amount assessed on it" there shall be substituted the words " been assessed to tax " and for the words " the amount paid by the company, or a proportionate part of it, shall be repaid " there shall be substituted the words " relief shall be given from that tax, or a proportionate part of it, by discharge or repayment. "



(5) Subsection (6) shall be omitted.

*Covenants by participators*

4 Section 288 of the Taxes Act (charge of income tax on close company in respect of consideration given to participators and associates for restrictive covenants etc.) shall cease to have effect.

*Definition of control*

5 For subsections (2) to (4) of section 302 of the Taxes Act (definition of control) there shall be substituted—

“(2) For the purposes of this Chapter, a person shall be taken to have control of a company if he exercises, or is able to exercise or is entitled to acquire, control, whether direct or indirect, over the company's affairs, and in particular, but without prejudice to the generality of the preceding words, if he possesses or is entitled to acquire—

- (a) the greater part of the share capital or issued share capital of the company or of the voting power in the company ; or
- (b) such part of the issued share capital of the company as would, if the whole of the income of the company were in fact distributed among the participators (without regard to any rights which he or any other person has as a loan creditor), entitle him to receive the greater part of the amount so distributed ; or
- (c) such rights as would, in the event of the winding up of the company or in any other circumstances, entitle him to receive the greater part of the assets of the company which would then be available for distribution among the participators.

(3) Where two or more persons together satisfy any of the conditions of subsection (2) above, they shall be taken to have control of the company.

(4) For the purposes of subsection (2) above a person shall be treated as entitled to acquire anything which he is entitled to acquire at a future date, or will at a future date be entitled to acquire.”

*Definition of director*

6 In subsection (5) of section 303 of the Taxes Act (under which a manager is treated as a director if he satisfies the conditions specified in that subsection) paragraph (b) (which requires him to be remunerated out of the funds of the company's trade or business) shall cease to have effect.

*Definition of loan creditor*

7 After section 303(7) of the Taxes Act (definition of loan creditor) there shall be added—

“(8) A person who is not the creditor in respect of any debt or loan capital to which subsection (7) above applies but nevertheless has a beneficial interest therein shall, to the extent of that interest, be treated for the purposes of this Chapter as a loan creditor in respect of that debt or loan capital.”

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*Commencement*

- 8 Paragraphs 1 and 5 to 7 above, so far as relevant for the purposes of Schedule 16 to this Act, have effect in relation to accounting periods ending after 5th April 1973 and, subject as aforesaid, this Schedule has effect from 6th April 1973.

SCHEDULE 18

Section 97.

INSURANCE COMPANIES

*Expenses of management*

- 1 (1) In subsection (2) of section 305 of the Taxes Act (restriction on relief for expenses of management) the reference to income tax shall be omitted, but for the purposes of that subsection—
- (a) any tax credit to which the company is entitled in respect of a distribution received by it shall be treated as an equivalent amount of corporation tax borne or paid in respect of that distribution ; and
  - (b) any payment in respect of that credit under section 254 of that Act shall be treated as reducing the tax so treated as borne or paid.
- (2) The other reliefs mentioned in the said subsection (2) shall not include any set-off under section 85 of this Act.
- (3) In applying the said subsection (2) to an accounting period in which a company carries on any business in addition to life assurance business, or carries on both ordinary life assurance business and industrial life assurance business, the tax that would have been paid if the company had been charged under Case I of Schedule D in respect of its life assurance business, or its life assurance business of either of those classes, shall be calculated as if any advance corporation tax set against the company's liability to corporation tax for that accounting period were apportioned to the corporation tax attributable to each business in proportion to the profits of that business charged to corporation tax for that accounting period.

*Rate relief: investment income reserved for policy holders*

- 2 (1) For the purposes of subsection (2) of section 310 of the Taxes Act (rate relief from corporation tax) the reliefs to be taken into account shall not include any set-off under section 85 of this Act, and "any relief" in subsection (4)(b) of the said section 310 shall be construed accordingly.
- (2) Subsection (3) of the said section 310 (rate relief from income tax where rate exceeds 37.5 per cent.) shall cease to have effect.
- (3) For subsection (5) of the said section 310 there shall be substituted—
- “(5) Any such part of the franked investment income from investments held in connection with a company's life assurance business as is specified in subsection (6) below shall not be used under Part V of the Finance Act 1972 to frank distributions made by the company.”
- (4) For the purposes of section 85 of this Act the income charged to corporation tax for any accounting period (as defined in subsection (6) of that section) shall be reduced

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by an amount equal to the part specified in subsection (6) of the said section 310 of any unrelieved income (as defined in subsection (4) of that section) in respect of which a claim may be made under that section.

- (5) Where sub-paragraph (3) or (4) above would deny to a company any relief to which it would have been entitled if it had been charged to tax in respect of its life assurance business under Case I of Schedule D, corresponding relief shall be afforded to the company by repayment of, or set-off against, corporation tax or by payment of tax credit comprised in franked investment income from investments held in connection with that business.

#### *General annuity business*

- 3 In section 313 of the Taxes Act for subsection (4) there shall be substituted—

“(4) Subject to subsection (5) below, franked investment income which is taken into account under subsection (2) above to enable annuities referable to general annuity business to be treated as charges on income shall not be used under Part V of the Finance Act 1972 to frank distributions made by the company.”

#### *Pension business*

- 4 (1) In subsection (1) of section 314 of the Taxes Act the reference to income tax shall be omitted, but if in the case of an insurance company the income mentioned in that subsection includes a distribution in respect of which the company is entitled to a tax credit, the company may, subject to sub-paragraph (2) below, claim to have the amount of that credit paid to it.
- (2) If the company mentioned in sub-paragraph (1) above is resident in the United Kingdom (so that the distribution and the tax credit there mentioned constitute franked investment income of that company) no franked investment income comprising any tax credit which is paid under that sub-paragraph shall be used under Part V of the Finance Act 1972 to frank the company's distributions; but where the company makes an election under subsection (4) of the said section 314 neither sub-paragraph (1) above nor the foregoing provisions of this sub-paragraph shall apply to the franked investment income to which the election relates.
- (3) Subsection (3)(b) and (c) of the said section 314 shall cease to have effect and in subsection (4) of that section the words from " If an accounting period " to " periods, and " and the words " or part of an accounting period " shall be omitted.
- (4) In section 315(8)(b) for the words "under provisions of the law of that country corresponding with section 314(1) above exemption from income tax is allowable " there shall be substituted the words " the law of that country makes provision corresponding with section 314(1) above and paragraph 4(1) and (2) of Schedule 18 to the Finance Act 1972 ".

#### *Distributions to be taken into account in computing profits*

- 5 (1) Distributions which are not qualifying distributions shall not be taken into account—
- (a) in computing under section 312 of the Taxes Act the profits arising to an insurance company or overseas life insurance company from general annuity business or pension business ;

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- (b) in computing under section 316 of that Act the income of an overseas life insurance company from the investments there mentioned;  
 and the only distributions to be taken into account for the purposes of section 320(2) of that Act (distributions treated as franked investment income in case of overseas life insurance company exempt from charge under the said section 316) shall be distributions in respect of which the company is entitled to a tax credit.
- (2) Accordingly in sections 316(2) and 318(1) for the word " distributions " there shall be substituted the words " qualifying distributions " and in section 320(2) after the word " distributions " there shall be inserted the words " (being distributions in respect of which the company receiving them is entitled to a tax credit) ".

*Set-off of income tax and tax credit against corporation  
 tax borne by overseas life insurance company*

- 6 Where an overseas life insurance company receives a distribution in respect of which it is entitled to a tax credit the company may claim to have that credit set off against any corporation tax assessed on the company under section 316 or 318 of the Taxes Act for the accounting period in which the distribution is received, but the restriction in section 319(2) and (3) of that Act on the amount of income tax that may be set off against corporation tax assessed under the said section 316 or 318 shall apply to the aggregate of that income tax and of the tax credit that can be so set off by virtue of this paragraph.

SCHEDULE 19

Section 99.

TRANSITIONAL RELIEF FOR COMPANIES WITH OVERSEAS TRADING INCOME

*Amendments of section 84 of Finance Act 1965*

- 1 (1) In subsection (3) of section 84 of the Finance Act 1965 for the words "the amount after deducting income tax borne by the company on franked investment income of the income tax deducted or deductible from the company's dividends " there shall be substituted the words " the amount of the advance corporation tax paid or payable in respect of the company's dividends ".
- (2) In subsection (5) of that section for the words " the company by virtue of an election under section 48 of this Act pays any dividends without deduction of income tax " there shall be substituted the words " any of the dividends paid by the company are dividends to which section 84 of the Finance Act 1972 does not apply by virtue of an election under section 256 of the Income and Corporation Taxes Act 1970 " and for the words " if all the dividends so paid are paid without deduction of income tax " there shall be substituted the words " if all the dividends so paid are dividends to which the said section 84 does not so apply ".
- (3) The expressions " unused credit for foreign tax " and " the current charge to corporation tax " (defined in subsection (8)(b) and (c) of the said section 84) shall be construed as if the rate of corporation tax for any relevant financial year were 40 per cent. and as if the law relating to corporation tax were the same as it was on 1st April 1972.
- (4) For paragraph (d) of subsection (8) of that section there shall be substituted—

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“(d) ' dividend' does not include a capital dividend or a dividend which is not a qualifying distribution, and in relation to any dividends ' advance corporation tax paid or payable ' includes advance corporation tax which would have been payable but for the dividends being group income, and for the purposes of this section there shall be disregarded any advance corporation tax which a company is treated as having paid by virtue of section 92 of the Finance Act 1972”.

*Amendments of Schedule 20 to Finance Act 1965*

- 2 (1) In paragraph 3(2)(a)(ii) of Schedule 20 to the Finance Act 1965 for the words " abatement in respect of dividends paid without deduction of income tax" there shall be substituted the words " abatement in respect of dividends to which section 84 of the Finance Act 1972 does not apply ".
- (2) In paragraph 3(2)(b) of that Schedule for the words " dividends without deduction of income tax" there shall be substituted the words " dividends to which the said section 84 did not apply by virtue of an election under section 256 of the Income and Corporation Taxes Act 1970 ".
- (3) In paragraph 3(4) of that Schedule, in the words preceding paragraph (a), for the words " income tax deducted or deductible from dividends" there shall be substituted the words " advance corporation tax paid or payable in respect of dividends ".
- (4) For paragraph 3(4)(a) of that Schedule there shall be substituted—
- “(a) there shall be treated as an amount of advance corporation tax so paid or payable any amount by which the advance corporation tax paid in respect of dividends paid to it by the other member of the group (after deducting a sum equal to any amount of tax credit paid to the company under section 254 or 255 of the Income and Corporation Taxes Act 1970 in respect of the dividends) exceeds the appropriate fraction of the relief falling to be given to the other member in that year, before abatement in respect of dividends to which section 84 of the Finance Act 1972 does not apply”.
- (5) In paragraph 3(5) of that Schedule for the words " income tax deducted or deductible from dividends " there shall be substituted the words " advance corporation tax paid or payable in respect of dividends ".
- (6) In paragraph 3(6) of that Schedule for the words " abatement in respect of dividends paid without deduction of income tax " and " in respect of dividends so paid" there shall be substituted respectively the words " abatement in respect of dividends to which section 84 of the Finance Act 1972 does not apply " and " under subsection (5) of the principal section ".
- (7) In paragraph 4(1) of that Schedule for the words " the amount (before deduction of income tax) of those dividends " there shall be substituted the words " the amount of those dividends (together with such proportion thereof as corresponds to the rate of advance corporation tax applicable to them) ".

## SCHEDULE 20

Section 104.

## COLLECTION OF INCOME TAX ON COMPANY PAYMENTS WHICH ARE NOT DISTRIBUTIONS

*Interpretation*

- 1 In this Schedule "relevant payment" means any payment to which section 104 of this Act applies.

*Duty to make returns*

- 2 (1) A company shall for each of its accounting periods make, in accordance with this Schedule, returns to the collector of the relevant payments made by it in that period and of the income tax for which it is accountable in respect of those payments.
- (2) A return shall be made for—
- (a) each complete quarter falling within the accounting period, that is to say, each of the periods of three months ending with 31st March, 30th June, 30th September or 31st December which falls within that period;
  - (b) each part of the accounting period which is not a complete quarter and ends on the first (or only), or begins immediately after the last (or only), of those dates which falls within the accounting period;
  - (c) if none of those dates falls within the accounting period, the whole accounting period.
- (3) A return for any period for which a return is required to be made under this paragraph shall be made within fourteen days from the end of that period.

*Contents of returns*

- 3 The return made by a company for any period shall show—
- (a) the amount of any relevant payments made by the company in that period ;  
and
  - (b) the income tax in respect of those payments for which the company is accountable.

*Payment of tax*

- 4 (1) Subject to sub-paragraph (4) below, income tax in respect of any payment required to be included in a return under this Schedule shall be due at the time by which the return is to be made, and income tax so due shall be payable by the company without the making of any assessment.
- (2) Income tax which has become due as aforesaid may be assessed on the company (whether or not it has been paid when the assessment is made) if that tax, or any part of it, is not paid on or before the due date.
- (3) If it appears to the inspector that there is a relevant payment which ought to have been and has not been included in a return, or if the inspector is dissatisfied with any return, he may make an assessment on the company to the best of his judgment; and any income tax due under an assessment made by virtue of this sub-paragraph shall be treated for the purposes of interest on unpaid tax as having been payable at the time when it would have been payable if a correct return had been made.

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- (4) Where a payment has been included in a return under Schedule 14 to this Act by virtue of paragraph 7(1)(b) of that Schedule and it becomes apparent that the payment is not a qualifying distribution but a relevant payment—
- (a) sub-paragraph (1) above shall not apply to that payment; and
  - (b) income tax shall be assessed in respect of it on the company.

*Set-off of income tax borne on company income against tax payable*

- 5 (1) Where in any accounting period a company receives any payment on which it bears income tax by deduction the company may claim to have the income tax thereon set against any income tax which it is liable to pay under this Schedule in respect of payments made by it in that period.
- (2) Any such claim shall be included in a return made under paragraph 2 above for the accounting period in question and (where necessary) income tax paid by the company under this Schedule for that accounting period and before the claim is allowed shall be repaid accordingly.
- 6 (1) Where a claim has been made under paragraph 5 above no proceedings for collecting tax which would fall to be discharged if the claim were allowed shall be instituted pending the final determination of the claim, but this sub-paragraph shall not affect the date when the tax is due.
- (2) When the claim is finally determined any tax underpaid in consequence of sub-paragraph (1) above shall be paid.
- (3) Where proceedings are instituted for collecting tax assessed, or interest on tax assessed, under any provision of paragraph 4 above, effect shall not be given to any claim made after the institution of the proceedings so as to affect or delay the collection or recovery of the tax charged by the assessment or of interest thereon, until the claim has been finally determined.
- (4) When the claim is finally determined any tax overpaid in consequence of sub-paragraph (3) above shall be repaid.
- (5) References in this paragraph to proceedings for the collection of tax include references to proceedings by way of distraint or pouding for tax.
- 7 Income tax set against other tax under paragraph 5 above shall be treated as paid or repaid, as the case may be, and the same tax shall not be taken into account both under this Schedule and under section 240(5) of the Taxes Act.

*Items included in error*

- 8 Where any item has been included in a return or claim under this Schedule as a relevant payment but should have been included in a return under Schedule 14 to this Act, the inspector may make such assessments, adjustments or set-offs as may be required for securing that the resulting liabilities to tax (including interest on unpaid tax) whether of the company or of any other person are the same as they would have been if the item had been included in the right return.

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*Relevant payment made otherwise than in accounting period*

- 9 Where a company makes a relevant payment on a date which does not fall within an accounting period the company shall make a return of that payment within fourteen days from that date, and the income tax for which the company is accountable in respect of that payment shall be due at the time by which the return is to be made.

*Assessments and due date of tax*

- 10 (1) All the provisions of the Income Tax Acts as to the time within which an assessment may be made, so far as they refer or relate to the year of assessment for which an assessment is made, or the year to which an assessment relates, shall apply in relation to any assessment under this Schedule notwithstanding that, under this Schedule, the assessment may be said to relate to a quarter or other period which is not a year of assessment, and the provisions of sections 36 and 37 of the Management Act as to the circumstances in which an assessment may be made out of time shall apply accordingly on the footing that any such assessment relates to the year of assessment in which the quarter or other period ends.
- (2) Income tax assessed on a company under this Schedule shall be due within fourteen days after the issue of the notice of assessment (unless due earlier under paragraph 4(1) or 9 above).
- (3) Sub-paragraph (2) above has effect subject to any appeal against the assessment, but no such appeal shall affect the date when tax is due under paragraph 4(1) or 9 above.
- (4) On the determination of an appeal against an assessment under this Schedule any tax overpaid shall be repaid.
- (5) Any tax assessable under any one or more of the provisions of this Schedule may be included in one assessment if the tax so included is all due on the same date.

*Saving*

- 11 Nothing in the foregoing provisions of this Schedule shall be taken to prejudice any powers conferred by the Income Tax Acts for the recovery of income tax by means of an assessment or otherwise; and any assessment in respect of tax payable under paragraph 9 above shall be treated for the purposes of the provisions mentioned in paragraph 10(1) above as relating to the year of assessment in which the payment is made.

SCHEDULE 21

Section 105.

RETURNS OF DISTRIBUTIONS WHICH ARE NOT QUALIFYING DISTRIBUTIONS

- 1 (1) Where a company makes a distribution which is not a qualifying distribution it shall make a return to the inspector—
- (a) within fourteen days from the end of the accounting period in which the distribution is made; or
  - (b) if the distribution is made on a date not falling in an accounting period, within fourteen days from that date.
- (2) The said return shall contain—



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- (a) particulars of the transaction giving rise to the distribution ; and
  - (b) the name and address of the person, or each of the persons, receiving the distribution, and the amount or value of the distribution received by him or each of them.
- 2 Where it is not in the circumstances apparent whether a transaction gives rise to a distribution in respect of which a return is required to be made under paragraph 1 above, the company shall—
- (a) within the time within which such a return would be required to be made if the transaction did give rise to such a distribution, make a return to the inspector containing particulars of the transaction in question ; and
  - (b) if required by a notice served on the company by the inspector, furnish him within the time specified in the notice with such further information in relation to the transaction as he may reasonably require.
- 3 If it appears to the inspector that particulars of any transaction ought to have been and have not been included in a return under this Schedule, he may by a notice served on the company require the company to furnish him within the time specified in the notice with such information relating thereto as he may reasonably require.
- 4 Any power which the inspector may exercise under paragraph 19 of Schedule 16 to this Act for the purposes of that Schedule may be exercised by him for the purposes of this Schedule.

## SCHEDULE 22

Section 106.

### AMENDMENTS AS TO MEANING OF " DISTRIBUTION "

#### *Distributions out of assets*

- 1 In paragraph (b) of subsection (2) of section 233 of the Taxes Act (distributions out of company's assets otherwise than for new consideration) for the words "new consideration given for the distribution " there shall be substituted the words " new consideration received by the company for the distribution ".

#### *Issues of bonus redeemable share capital and bonus securities*

- 2 (1) Paragraph (c) of the said subsection (2) (redeemable share capital or security issued by company in respect of shares otherwise than for new consideration) shall apply also to any such capital or security issued after 5th April 1972 as is mentioned in that paragraph but in respect of securities and not shares, and accordingly for that paragraph there shall be substituted—
- “(c) any redeemable share capital or any security—
    - (i) issued by the company in respect of shares in the company;  
or
    - (ii) issued by the company after 5th April 1972 in respect of securities of the company,  
otherwise than wholly for new consideration, or such part of any redeemable share capital or any security so issued as is not properly referable to new consideration;”

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and paragraph (d)(i) of that subsection (interest on securities mentioned in the said paragraph (c)) shall have effect accordingly.

- (2) For the purposes of the said paragraph (c)—
- (a) the value of any redeemable share capital shall be taken to be the amount of the share capital together with any premium payable on redemption, or in a winding up, or in any other circumstances; and
  - (b) the value of any security shall be taken to be the principal amount thereby secured (including any premium payable at maturity or in a winding up or in any other circumstances);

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

*Interest etc. on certain kinds of securities*

- 3 (1) Sub-paragraph (ii) of paragraph (d) of the said subsection (2) (securities convertible directly or indirectly into shares, being securities which are not quoted or comparable to any which are quoted) shall apply also to securities issued after 5th April 1972 which are not quoted or comparable as aforesaid and carry any right to receive shares in or securities of the company, and accordingly for that sub-paragraph there shall be substituted—

“(ii) securities convertible directly or indirectly into shares in the company or securities issued after 5th April 1972 and carrying any right to receive shares in or securities of the company, not being (in either case) securities quoted on a recognised stock exchange nor issued on terms which are reasonably comparable with the terms of issue of securities so quoted; or”.

- (2) In the case of any interest or other distribution to which the said paragraph (d) applies by virtue of so much of sub-paragraph (iii) thereof as relates to securities under which the consideration represents more than a reasonable commercial return for the use of the principal secured, that paragraph shall not operate so as to treat as a distribution so much of the interest or other distribution as represents a reasonable commercial return for the use of that principal.
- (3) No amount shall be regarded for the purposes of the said paragraph (d) as representing the principal secured by a security issued after 5th April 1972 in so far as it exceeds any new consideration which has been received by the company for the issue of the security.

This sub-paragraph is without prejudice to section 237(6) of the Taxes Act (calculation of principal secured where securities are issued at a price less than the amount repayable on them).

*Transfer of assets and liabilities between resident companies*

- 4 (1) No transfer of assets (other than cash) or of liabilities between one company and another shall constitute, or be treated as giving rise to, a distribution by virtue of subsection (2)(b) or (3) of the said section 233 if they are companies—
- (a) both of which are resident in the United Kingdom and neither of which is a 51 per cent. subsidiary of a company not so resident; and

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- (b) which neither at the time of the transfer nor as a result of it are under common control.
- (2) For the purposes of this paragraph two companies are under common control if they are under the control of the same person or persons, and for this purpose " control" shall be construed in accordance with section 302 of the Taxes Act.
- (3) Any amount which would be a distribution by virtue of subsection (3) of the said section 233 apart from the proviso to that subsection (groups of companies resident in the United Kingdom), shall not constitute a distribution by virtue of subsection (2) (b) of that section.

*Bonus issue with or following repayment of share capital*

- 5 (1) Section 234 of the Taxes Act (which treats a bonus issue of share capital other than redeemable share capital as a distribution if it is made at the same time as or after a repayment of share capital) shall apply whether or not the bonus issue is of redeemable share capital, and accordingly in subsection (1)(b) of that section the words " not being redeemable share capital" shall be omitted.
- (2) Except in relation to a company within paragraph D of section 461 of the Taxes Act (closely controlled companies), the said section 234 shall not apply if the issue of share capital mentioned in paragraph (b) of subsection (1) of that section—
  - (a) is of share capital other than redeemable share capital; and
  - (b) takes place more than ten years after the repayment of share capital mentioned in paragraph (a) of that subsection.
- (3) This paragraph applies where the issue of share capital mentioned in section 234(1) (b) takes place on or after the 6th April 1973 ; and sub-paragraph (2) above applies whether the repayment of share capital there mentioned takes place before, on or after that date.

*Repayment of capital following bonus issue*

- 6 (1) Subsection (1) of section 235 of the Taxes Act (under which a distribution cannot be treated as a repayment of share capital if it follows a bonus issue which does not itself fall to be treated as a distribution) shall apply where the bonus issue falls to be treated as a distribution other than a qualifying distribution, and accordingly in that subsection for the words " treated as a distribution" and " treated as distributions" there shall be substituted the words " treated as a qualifying distribution " and " treated as qualifying distributions " respectively.
- (2) Except in relation to a company within paragraph D of section 461 of the Taxes Act, subsection (1) of the said section 235 shall not prevent a distribution being treated as a repayment of share capital if it is made—
  - (a) more than ten years after the issue of share capital mentioned in paragraph (a) of that subsection ; and
  - (b) in respect of share capital other than redeemable share capital.
- (3) Sub-paragraph (1) above applies where the issue of share capital mentioned in section 235(1)(a) takes place on or after 6th April 1973 ; and sub-paragraph (2) above applies whether it takes place before, on or after that date.

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*Stock dividend options*

- 7 Section 236 of the Taxes Act (which treats as a distribution any share capital taken in lieu of a cash dividend) shall cease to have effect.

*New consideration derived from shares or securities etc.*

- 8 (1) No consideration derived from the value of any share capital or security of a company, or from voting or other rights in a company, shall be regarded for the purposes of Part X of the Taxes Act or this Schedule as new consideration received by the company unless the consideration consists of—
- (a) money or value received from the company as a qualifying distribution;
  - (b) money received from the company as a payment which for those purposes constitutes a repayment of that share capital or of the principal secured by that security ; or
  - (c) the giving up of the right to that share capital or security on its cancellation, extinguishment or acquisition by the company.
- (2) No amount shall be regarded as new consideration by virtue of sub-paragraph (1)(b) or (c) above in so far as it exceeds any new consideration received by the company for the issue of the share capital or security in question or, in the case of share capital which constituted a qualifying distribution on issue, the nominal value of that share capital.

*Reciprocal arrangements*

- 9 (1) Where two or more companies enter into arrangements to make distributions to each other's members, all parties concerned may for the purposes of Part X of the Taxes Act and this Schedule be treated as if anything done by either of those companies had been done by the other.
- (2) This paragraph applies however many companies participate in the arrangements.

*Groups of companies*

- 10 (1) In Part X of the Taxes Act and this Schedule the expressions " in respect of shares in a company " and " in respect of securities of a company " in relation to a company which is a member of a 90 per cent. group, mean respectively in respect of shares in that company or any other company in the group and in respect of securities of that company or any other company in the group.
- (2) Without prejudice to section 233(2)(b) of that Act as extended by the foregoing sub-paragraph, in relation to a company which is a member of a 90 per cent. group, " distribution" includes anything distributed out of assets of the company (whether in cash or otherwise) in respect of shares in or securities of another company in the group.
- (3) Nothing in this paragraph shall require a company to be treated as making a distribution to any other company which is in the same group and is resident in the United Kingdom.
- (4) For the purposes of this paragraph a principal company and all its 90 per cent. subsidiaries form a "90 per cent. group" and " principal company" means a company of which another company is a subsidiary.

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*Commencement and interpretation*

- 11 (1) Paragraphs 5, 6 and 7 above have effect from 6th April 1973 and the other paragraphs of this Schedule from 6th April 1972.
- (2) This Schedule shall be construed as if it were included in Part X of the Taxes Act

SCHEDULE 23

Section 109.

TAXATION OF COMPANIES AND COMPANY DISTRIBUTIONS: TRANSITIONAL PROVISIONS

**PART I**

ADVANCE CORPORATION TAX AVAILABLE FOR SET-OFF IN TRANSITIONAL PERIOD

*Determination of advance corporation tax for straddling accounting periods*

- 1 (1) Subject to paragraph 7 below, this paragraph applies where a company has an accounting period (in this Schedule referred to as " a straddling period ") which begins before 6th April 1973 and ends after 5th April 1973.
- (2) Section 85 of this Act shall have effect in relation to the straddling period as if the company, instead of having paid the advance corporation tax, if any, actually paid by it in respect of distributions made in the part of that period following 5th April 1973, had paid the advance corporation tax that would have been payable (apart from section 89 of this Act) in respect of a distribution made at the end of that part of an amount which, together with the advance corporation tax so payable in respect of it, is equal to such portion of the distributions made in the whole straddling period as would be attributed to that part on an apportionment of those distributions between that part of the straddling period and the remainder.
- (3) For the purposes of sub-paragraph (2) above the distributions made in a straddling period shall be taken to consist of—
- (a) the excess of the distributions made in that period before 6th April 1973 over the franked investment income received in that period before that date (or, if smaller than that excess, the excess of the distributions made in the year 1972-73 over the franked investment income received in that year); and
  - (b) the excess of the franked payments made in that period after 5th April 1973 over the franked investment income received in that period after that date.

*Restriction on advance corporation tax available for set-off in transitional period*

- 2 (1) Subject to paragraph 6(1) below, this paragraph applies to any company which does not satisfy the following conditions, that is to say—
- (a) that it was resident in the United Kingdom and carried on a trade or business throughout the year 1971-72 and is so resident and carries on a trade or business throughout the year 1972-73 ;
  - (b) that the excess of the distributions made by the company in the year 1972-73 over the franked investment income received in that year is not less than the corresponding excess for the year 1971-72 ; and

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- (c) that it was not at any time in its base period after 5th April 1972 a 51 per cent. subsidiary of a company resident in the United Kingdom.
- (2) Subject to sub-paragraph (8) below and to the subsequent provisions of this Schedule, section 85 of this Act shall have effect in relation to the relevant accounting period in a distribution period, or, if more than one, all the relevant accounting periods in a distribution period as if the company, instead of having paid the advance corporation tax, if any, actually paid by it in respect of distributions made in that relevant accounting period or those relevant accounting periods, had paid advance corporation tax in respect of distributions made in that relevant accounting period or those relevant accounting periods of an amount which, in the aggregate, is equal to whichever of the following is the less, that is to say—
- (a) the advance corporation tax, if any, which the company is treated under paragraph 1 above or 7 below as having paid for any accounting period to which that paragraph applies which, or part of which, is a relevant accounting period included in the distribution period, plus the advance corporation tax, if any, actually paid by the company (and not repaid) in respect of distributions made in any other relevant accounting period in the distribution period ; or
  - (b) the advance corporation tax that would have been payable (apart from section 89 of this Act) in respect of a distribution made at the end of the distribution period which, together with the advance corporation tax so payable in respect of it, is equal to—
    - (i) the profit standard for that distribution period; or
    - (ii) the distribution standard for that distribution period, whichever is the greater.
- (3) In this Schedule "the profit standard", in relation to any distribution period, means an amount equal to 50 per cent. of the income, if any, of the company charged to corporation tax for that period (as defined in section 85(6) of this Act).
- (4) In this Schedule " the distribution standard " means an amount equal to the distributions, if any, made by the company in the time beginning with its base date and ending with the last day of the distribution period reduced by multiplying by the fraction
- $$\frac{A}{B}$$
- where A is the number of months or parts of months in the distribution period and B is the number of months or parts of months in the base period up to the end of the distribution period.
- (5) For the purposes of sub-paragraph (4) above the distributions made by the company in the time mentioned in that sub-paragraph shall be taken to consist of the aggregate of—
- (a) the excess of the distributions made in that time before 6th April 1973 over the franked investment income received in that time before that date (or, if smaller than that excess, the aggregate of the excess of the distributions made in the year 1971-72 over the franked investment income received in that year and of the corresponding excess for the year 1972-73) ; and
  - (b) the excess of the franked payments made in each relevant accounting period falling within that time over the franked investment income received in that period.
- (6) Subject to sub-paragraph (7) and paragraphs 3 and 4 below, in this Schedule—

" distribution period " means any of the following, that is to say, the period beginning with 6th April 1973 and ending with the first relevant accounting period in the base period, the period beginning with the said 6th April and ending with the second relevant accounting period in the base period and similarly for each period beginning with the said 6th April and ending with a later relevant accounting period in the base period;

" relevant accounting period " means any accounting period or part of an accounting period beginning after 5th April 1973 and ending on or before the expiration of the base period;

" base period " means the period beginning with the company's base date and ending on the last day of the latest accounting period beginning within four years from the base date ;

" base date " means the day following the end of the company's accounting period or latest accounting period ending in the year 1971-72.

(7) If, in the case of any company, accounts for no period ending in the year 1971-72 have been adopted before 21st March 1972, then—

- (a) if a terminal date or dates for an accounting period or accounting periods ending in that year has or have been decided, or fixed by a decision, before the said 21st March and there is sufficient evidence of the decision in some document in existence before the said 21st March, the base date of the company shall be the day following that terminal date or the last of those terminal dates, as the case may be;
- (b) where paragraph (a) above does not apply, the base date of the company shall be the day following the anniversary in the year 1971-72 of the end of the company's latest accounting period or, if there is no such accounting period, of the date on which the company commenced business or came within the charge to corporation tax.

(8) Sub-paragraph (2) above does not apply to a company if in the case of that company the relevant amount for any distribution period does not exceed—

- (a) £1,000 multiplied by the number of years or parts of years in the distribution period ; or
- (b) the income charged to corporation tax (as defined in section 85(6) of this Act) for that period, whichever is the less ;

and for the purposes of this sub-paragraph the relevant amount in relation to a company is—

- (i) in the case of a distribution period that includes all or any part of an accounting period to which paragraph 1 above or 7 below applies, an amount equal to the distribution on which the advance corporation tax mentioned in sub-paragraph (2)(a) above would be calculated (if that sub-paragraph were applied to the company) plus that advance corporation tax ;
- (ii) in the case of any other distribution period, the excess of the franked payments made in that period over the franked investment income received in that period.

#### *New businesses*

- 3 (1) Where the first accounting period of a company began in the year 1971-72 the base date of the company shall be the first day of that accounting period.
- (2) Where the first accounting period of a company begins in the year 1972-73—

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- (a) the base date of the company shall be the first day of that accounting period ;
  - (b) the base period of the company shall be the period beginning with that day and ending on the last day of the latest accounting period beginning within three years from the base date; and
  - (c) the distribution standard shall not apply to the company.
- (3) Where the first accounting period of a company begins after 5th April 1973—
- (a) the base date of the company shall be the first day of that accounting period;
  - (b) the base period of the company shall be the period beginning with the base date and ending on—
    - (i) the last day of the latest accounting period beginning within two years from the base date; or
    - (ii) the last day of the latest accounting period beginning before 5th April 1976,
 whichever is the earlier ;
  - (c) any distribution period of the company shall begin with the base date; and
  - (d) the distribution standard shall not apply to the company.
- (4) Where a company which has ceased to be a chargeable company (that is to say, a company within the charge to corporation tax or resident in the United Kingdom) at any time before 6th April 1973 again becomes such a company before that date, its first accounting period for the purposes of this paragraph shall be taken to be the accounting period beginning on the occasion (or last occasion) on which it became such a company before that date; and where a company which has ceased to be a chargeable company at any time does not again become such a company until after 5th April 1973 its first accounting period for the purposes of this paragraph shall be taken to be the accounting period beginning on the occasion (or the first occasion) on which it becomes such a company after that date.

#### *Cessation of business*

- 4 (1) Where after 5th April 1973 a company ceases to be, and does not again before the expiration of the period mentioned in sub-paragraph (2) below come, within the charge to corporation tax, its base period shall end on the day on which it ceases to be within the charge to corporation tax.
- (2) The period mentioned above is—
- (a) in the case of a company with a base date in the year 1971-72, four years from the base date ;
  - (b) in the case of a company with a base date in the year 1972-73, three years from the base date ;
  - (c) in the case of a company with a base date in the year 1973-74, the period ending 5th April 1976.

#### *Close companies*

- 5 (1) Where a company is a close company for all the accounting periods in its base period, then, if the effect would be to increase the amount of advance corporation tax which the company is treated as having paid in respect of any distribution period, paragraph 2(2) above shall apply to the company as if for paragraph (b) there were substituted—



- “(b) the advance corporation tax that would have been payable if the company had made in each accounting period or part of an accounting period in the distribution period a distribution equal to the amount to be taken in accordance with paragraph 9 of Schedule 16 to this Act as the company's relevant income for that accounting period or part of an accounting period”.
- (2) For the purposes of the paragraph (b) mentioned above, the amount to be taken as a company's relevant income for a part of an accounting period shall be arrived at by apportioning the relevant income for the whole of that accounting period between that part and the remainder.
- (3) If a company makes a claim in that behalf and shows that the distributions made by it in an accounting period or part of an accounting period in the distribution period were made for the purpose—
- (a) of avoiding an apportionment under the said Schedule 16 in respect of relevant income (as defined in paragraph 8 of that Schedule) of an earlier accounting period to which that Schedule applies ; or
  - (b) of avoiding a shortfall (as defined in section 290 of the Taxes Act) for an accounting period to which that section applies,
- the paragraph (b) mentioned in sub-paragraph (1) above shall have effect in relation to the accounting period or part in which the distributions were made as if instead of referring to the amount to be taken as the company's relevant income it referred to the amount of those distributions.

*Authorised unit trusts and investment trusts*

- 6 (1) Paragraph 2 above shall not apply to any authorised unit trust.
- (2) Where a company is an investment trust for all the accounting periods in its base period, then, if the effect would be to increase the amount of advance corporation tax which the company is treated as having paid in respect of any distribution period and the company makes a claim in that behalf, paragraph 2(2) above shall apply to the company as if for paragraph (b) there were substituted—
- “(b) the advance corporation tax that would have been payable (having regard to section 89 of this Act) if the distributions made by the company in the relevant accounting period or, if more than one, each relevant accounting period in the distribution period had not exceeded the distributions that it was necessary for the company to make in that period in order to comply with subsection (1)(e) of section 359 of the Taxes Act (limit on income that may be retained by investment trust as condition for approval under that section)”.
- (3) In relation to a relevant accounting period which is a fraction of a straddling period, the advance corporation tax to be taken into account for the purposes of the paragraph (b) mentioned above shall be a corresponding fraction of the advance corporation tax that would have been payable (having regard to section 89 of this Act) if the distributions made by the company in the straddling period had all been made at the end of that period and had not exceeded the distributions that it was necessary for the company to make in the straddling period in order to comply with the said subsection (1)(e).

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- (4) In this paragraph " authorised unit trust" has the meaning given in section 358 of the Taxes Act and, subject to section 93(6) of this Act, " investment trust" has the meaning given in section 359 of that Act.

*Modification of paragraph 1(2) and (3) in case of change of accounting date*

- 7 (1) This paragraph applies instead of paragraph 1(2) and (3) above where a company has a straddling period—
- (a) which does not begin on the anniversary of the company's base date (as defined in the foregoing provisions of this Schedule); or
  - (b) which does not run for twelve months from that anniversary or, in the case of a company within paragraph 3(2) above, from its base date.
- (2) In this paragraph—
- " notional straddling period " means the period beginning on the anniversary in the year 1972-73 of the company's base date, or in the case of a company within paragraph 3(2) above on its base date, and ending after twelve months or at the end of the base period (as defined in the foregoing provisions of this Schedule) whichever is the earlier;
- " the second part of the notional straddling period " means the part of it beginning with 6th April 1973 ;
- " the distributions made in the notional straddling period " shall, subject to sub-paragraph (5) below, be determined in accordance with paragraph 1(3) above as for an actual straddling period.
- (3) Section 85 of this Act shall have effect in relation to any accounting period of the company which includes the whole of the second part of the notional straddling period as if the company, instead of having paid the advance corporation tax, if any, actually paid by it in respect of distributions made in that accounting period, had paid—
- (a) the advance corporation tax that would have been payable (apart from section 89 of this Act) in respect of a distribution made at the end of the second part of the notional straddling period of an amount which, together with the advance corporation tax so payable in respect of it, is equal to such portion of the distributions made in the whole notional straddling period as would be attributed to the second part of that period on an apportionment of those distributions between that part and the remainder; and
  - (b) the advance corporation tax, if any, paid by the company (and not repaid) in respect of the excess of franked payments made over the franked investment income received in the accounting period less the advance corporation tax, if any, paid by the company (and not repaid) in respect of any such excess as is by virtue of paragraph 1(3) above included in the distributions made in the notional straddling period.
- (4) Sub-paragraph (3) above shall have effect in relation to any accounting period of the company which includes a fraction of the second part of the notional straddling period as it applies in relation to an accounting period which includes the whole of that part but as if the reference in paragraph (a) to a portion of the distributions made in the whole of the notional period were a reference to a corresponding fraction of that portion.

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- (5) The distributions to be included by virtue of paragraph 1(3)(b) above in the distributions made in a notional straddling period shall not exceed—
- (a) in relation to an accounting period which includes the whole of the second part of the notional straddling period, the excess of the franked payments made in that accounting period after 5th April 1973 over the franked investment income received in that period after that date;
  - (b) in relation to an accounting period which includes a fraction of the second part of the notional straddling period, the excess of the franked payments made in that accounting period after that date over the franked investment income received in that period after that date plus the excess of the franked payments made after that date in each other accounting period which includes a fraction of the second part of the notional straddling period over the franked investment income received after that date in that other accounting period.

*Change of ownership of company*

- 8 (1) Sub-paragraphs (2) and (3) below apply if—
- (a) within any period of three years there is both a change in the ownership of a company and (either earlier or later in that period, or at the same time) a major change in the nature or conduct of a trade or business carried on by the company; or
  - (b) at any time after the scale of the activities in a trade or business carried on by a company has become small or negligible, and before any considerable revival of the trade or business, there is a change in the ownership of the company.
- (2) Where the change of ownership occurs in a straddling period or in a notional straddling period as defined in paragraph 7 above, the advance corporation tax which the company is treated under paragraph 1(2) or 7(3)(a) above as having paid shall not exceed the advance corporation tax actually paid by the company (and not repaid) in respect of distributions made in the straddling period or notional straddling period.
- (3) Where the change of ownership occurs after 5th April 1972—
- (a) paragraph 2 above shall apply to the company even though it satisfies the conditions mentioned in sub-paragraph (1) of that paragraph; and
  - (b) the distribution standard shall not apply to the company.
- (4) Where after 5th April 1972 there is a change in the ownership of, or a major change in the nature or conduct of a trade or business carried on by, a company, paragraph 2 above shall apply to the company even though it satisfies the conditions mentioned in sub-paragraph (1) of that paragraph.
- (5) Subsections (4), (5) and (7) of section 101 of this Act shall, so far as applicable, have effect in relation to this paragraph as they have effect in relation to that section.

*Groups of companies*

- 9 Regard shall be had to the provisions of this Schedule in determining whether a company has surplus advance corporation tax of which it can surrender the benefit under section 92 of this Act and the amount of any such surplus advance corporation tax, but those provisions shall not affect any advance corporation tax which a

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company is treated by virtue of that section as having paid in consequence of the surrender to it of any such surplus by another company.

*Bonus issues*

- 10 (1) For the purposes of this Schedule there shall be disregarded any distribution if, by virtue of the following provisions of this paragraph, section 85 of this Act does not apply to the advance corporation tax payable in respect of it; and, subject to sub-paragraph (3) below, references in this Schedule to advance corporation tax paid by a company do not include references to advance corporation tax to which by virtue of those provisions the said section 85 does not apply.
- (2) Subject to sub-paragraph (4) below, section 85 of this Act shall not apply to advance corporation tax payable by a company in respect of any amount treated as a distribution—
- (a) by virtue of section 234 of the Taxes Act (bonus issues following repayment of share capital) where the repayment of share capital mentioned in subsection (1)(a) of that section has taken place before the passing of this Act or takes place thereafter but before 6th April 1973 ;
  - (b) by virtue of subsection (1) of section 235 of that Act (matters not to be treated as repayments of share capital) where the issue mentioned in paragraph (a) of that subsection has taken place before the passing of this Act or takes place thereafter but before 6th April 1973 ;
  - (c) by virtue of paragraph 3(3) of Schedule 22 to this Act where the security there mentioned was issued before the passing of this Act or is issued thereafter but before 6th April 1973.
- (3) Subject to sub-paragraph (4) below, the said section 85 shall not apply to advance corporation tax payable by a company in respect of any amount treated as a distribution—
- (a) by virtue of the said section 234 where the repayment of share capital mentioned in subsection (1)(a) of that section takes place in a distribution period ;
  - (b) by virtue of subsection (1) of the said section 235 where the issue mentioned in paragraph (a) of that subsection takes place in a distribution period ;
  - (c) by virtue of paragraph 3(3) of the said Schedule 22 where the security there mentioned was issued in a distribution period,
- except to the extent, if any, to which the said section 85 would have applied to that advance corporation tax if it had been included for that distribution period in the advance corporation tax mentioned in paragraph 2(2)(a) above.
- (4) Sub-paragraphs (2) and (3) above do not apply where the distribution on which the advance corporation tax is payable is made more than ten years after the repayment of share capital mentioned in the said section 234(1)(a), the issue mentioned in the said section 235(1)(a) or the issue mentioned in the said paragraph 3(3), as the case may be.
- (5) This paragraph shall be construed as if it were included in Part X of the Taxes Act.

*Supplementary*

- 11 (1) For the purposes of this Schedule there shall be disregarded any distribution consisting of a dividend paid without deduction of income tax by virtue of an

election under section 256 of the Taxes Act as originally enacted or a dividend to which section 84 of this Act does not apply by virtue of an election under the said section 256 as amended by this Act.

- (2) Where a company has made a claim or claims under section 254 or 255 of the Taxes Act for an accounting period ending in the year 1972-73, or for an accounting period ending after 6th April 1973 but in a distribution period, the franked investment income to be taken into account under this Schedule shall be calculated as if that claim or those claims had not been made, and the advance corporation tax referred to in paragraph 2(2)(a) and 7(3)(b) above as having been paid by a company (and not repaid) shall be calculated accordingly.
- (3) Where in consequence of the application of this Schedule to any distribution period a company has been denied the benefit of any advance corporation tax and in consequence of the subsequent application of this Schedule to another distribution period it appears that the company ought not have been denied the benefit of that tax, relief shall be given by discharge or repayment of tax.
- (4) In this Schedule references to franked investment income received in any year or period include references to franked investment income treated as received in that year or period; and for the purposes of paragraph 1(3)(b) above in its application to a notional straddling period as defined in paragraph 7 above, franked investment income which is treated by virtue of section 89(3) of this Act as having been received in any accounting period shall be treated as received on the first day of that period.
- (5) In this Schedule references to franked investment income do not include references to franked investment income which by virtue of section 89(5) of this Act cannot be used to frank distributions of a company.

## PART II

### OTHER TRANSITIONAL PROVISIONS

#### *Limit on set-off of advance corporation tax for accounting period beginning before 1st April 1973 and ending after 31st March 1973*

- 12 Subsection (2) of section 85 of this Act shall have effect in relation to an accounting period beginning before 1st April 1973 and ending after 31st March 1973 as if the income charged to corporation tax for that period (determined in accordance with subsection (6) of that section) were such part thereof as would be attributed to the part of that accounting period beginning with the said 1st April if that income were apportioned between that part of the accounting period and the remainder.

#### *Returns for straddling period*

- 13 Schedules 14 and 20 to this Act shall have effect in relation to a straddling period as if the part of it before 6th April 1973 were not included in that period.

#### *Surplus of franked investment income on hand at 5th April 1973*

- 14 Subject to paragraph 15 below, where a company has a surplus of franked investment income (within the meaning of section 240 of the Taxes Act) for the year 1972-73 that surplus shall be treated for the purposes of this Act as an equivalent

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amount of franked investment income (within the meaning of this Act) received by the company on 6th April 1973.

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

15 Paragraph 14 above shall not apply for the purposes of a claim under section 254 or 255 of the Taxes Act for any accounting period beginning with 6th April 1973 ; and for the purposes of any such claim for a straddling period that paragraph shall have effect in relation to any such surplus as is there mentioned exclusive of any part thereof which—

- (a) is carried forward from a year of assessment before the year 1972-73 ; or
- (b) would be apportioned, under section 254(3)(a) or 255(2) of that Act as originally enacted, to an accounting period beginning before the straddling period.

16 (1) For the purposes of this paragraph " a relevant section 240 amount" means any amount which by virtue of paragraphs 14 and 15 above falls to be treated as franked investment income for the purposes of a claim for a straddling period under section 254 or 255 of the Taxes Act.

(2) Where a company has franked investment income for a straddling period which consists of or includes a relevant section 240 amount, and a surplus of franked investment income for that period falls to be reduced in consequence of a claim under section 254 or 255 of the Taxes Act—

- (a) income tax at 38-75 per cent. shall be repaid to the company in respect of the relevant section 240 amount or the amount of the reduction, whichever is the less ; and
- (b) the amount in respect of which income tax is to be repaid as aforesaid shall be deducted from the amount in respect of which any payment of tax credit falls to be made in consequence of the claim.

(3) Where a company makes claims under both the said sections 254 and 255 for a straddling period the total amount in respect of which income tax is repayable under this paragraph shall not exceed the relevant section 240 amount.

17 Where in consequence of a claim under section 254 or 255 of the Taxes Act in respect of a surplus of franked investment income for the year 1972-73 a company is entitled to repayment of a sum of income tax, section 90(3) of this Act shall apply as if—

- (a) for the reference to payment of a sum in respect of tax credit there were substituted a reference to repayment of a sum of income tax ; and
- (b) for the reference to the next accounting period there were substituted a reference to the accounting period which begins with or contains 6th April 1973.

*Dividends and other distributions at gross rate or of gross amount*

18 (1) Where any right or obligation created before 6th April 1973 is expressed by reference to a dividend at a gross rate or of a gross amount, that right or obligation shall, in relation to a dividend payable on or after that date, take effect as if the reference were to a dividend of an amount which, when there is added to it such proportion thereof as corresponds to the rate of advance corporation tax in force on that date, is equal to a dividend at that gross rate or of that gross amount.

- (2) Sub-paragraph (1) above shall apply with the necessary modifications to a dividend partly at a gross rate or of a gross amount and shall apply to any distribution other than a dividend as it applies to a dividend.

*Shortfall assessments*

- 19 (1) Nothing in this Act shall preclude the making of an assessment under subsection (1) of section 289 of the Taxes Act (shortfall in distributions) for the year 1973-74 in respect of a shortfall in an accounting period ending before 6th April 1973, and for the purposes of any such assessment it shall be assumed that section 232(2) of that Act is in force on the date on which the distribution mentioned in subsection (1) of the said section 289 is to be taken as having been made.
- (2) Subsections (3) and (4) of the said section 289 shall have effect in relation to the year 1973-74 as if references to a surplus of franked investment income were references only to so much, if any, of any such surplus as corresponds to franked investment income treated by virtue of paragraph 14 above as received by the company on 6th April 1973.
- (3) In subsection (5) of the said section 289 references to a later accounting period do not include references to any accounting period beginning with or after 6th April 1973 ; and—
- (a) that subsection shall have effect in relation to a later accounting period which is a straddling period as if for the words " for which there is no such shortfall" and " the required standard" there were substituted respectively the words " for which there is on such excess as is mentioned in paragraph 1(2) of Schedule 16 to the Finance Act 1972 " and " the company's relevant income as defined for the purposes of that Schedule " ; and
- (b) if the distributions for a later accounting period beginning before 6th April 1973 (whether or not a straddling period) include distributions made after 5th April 1973, the amount that would, apart from this sub-paragraph, fall to be deducted under that subsection from the distributions made by the company for that accounting period shall be reduced to such a fraction of that amount as corresponds to the fraction of those distributions made before 6th April 1973 and that amount, as so reduced, shall be deducted rateably from such of those distributions as were made before 6th April 1973.
- (4) This paragraph shall be construed as if it were included in Schedule 16 to this Act.

*Small companies, industrial and provident societies etc.*

- 20 Sections 95 and 96 of this Act shall have effect in relation to an accounting period beginning before 1st April 1973 and ending after 31st March 1973 as if the part of that period before the said 1st April and the part after the said 31st March were separate accounting periods, and the profits and income of the company for that accounting period (as defined in those sections) shall be apportioned between those parts.

SCHEDULE 24

Section 111.

TAXATION OF COMPANIES AND COMPANY DISTRIBUTIONS : CONSEQUENTIAL AMENDMENTS

*Finance Act 1965*

- 1        In section 34(6) of the Finance Act 1965, in the definition of " trading company " for the words " section 292(1) of the Income and Corporation Taxes Act 1970" there shall be substituted the words " paragraph 11 of Schedule 16 to the Finance Act 1972 ".
- 2        In paragraph 18(1) of Schedule 6 to the said Act of 1965 for the words from " section 297 " to " 1970 " there shall be substituted the words " paragraph 5 of Schedule 16 to the Finance Act 1972 (consequences for income tax of apportionment of income etc. of close company) "; in paragraph 18(2) of that Schedule for the words " subsection (8) of the said section 297 " and " subsection (2) (b) of that section" there shall be substituted respectively the words " sub-paragraph (6) of the said paragraph 5 " and " sub-paragraph (2)(b) of that paragraph " ; and in paragraph 18(5) of that Schedule for the words " the said section 297 " there shall be substituted the words " the said paragraph 5 ".

*Provisional Collection of Taxes Act 1968*

- 3        In section 5 of the Provisional Collection of Taxes Act 1968, in subsection (1)(c) after the words " section 243(6) of the Income and Corporation Taxes Act 1970" there shall be inserted the words " or advance corporation tax could be payable or assessed by virtue of section 103(2) of the Finance Act 1972 ", and in subsection (2) of that section after the word " Act)" there shall be inserted the words " and the said section 103(2) of the Finance Act 1972 ".

*Taxes Management Act 1970*

- 4        In section 8 of the Management Act, after subsection (8) there shall be added—
- “(9) Where a person's income of which particulars are required to be included in a return under this section comprises a distribution chargeable under Schedule F there shall be separately stated in the return the amount or value of the distribution and the amount of any tax credit under section 86 of the Finance Act 1972 to which that person is entitled in respect of that distribution.”
- 5        In section 11 of the Management Act, after subsection (5) there shall be added—
- “(6) A notice under this section may require the inclusion in the return of particulars of advance corporation tax paid by the company (and not repaid) and of any surplus advance corporation tax carried forward under section 85(4) of the Finance Act 1972.”
- 6        In section 29 of the Management Act for subsection (2) (as substituted by the Finance Act 1971) there shall be substituted—
- “(2) Assessments under Schedule 16 to the Finance Act 1972 shall be made by the inspector or the Board.”
- 7        In section 31(3)(b) of the Management Act the figure " 297 " (inserted by the Finance Act 1971) shall be omitted and at the end there shall be inserted " or under paragraph 5 of Schedule 16 to the Finance Act 1972 ".



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- 8 In section 55(1)(e) of the Management Act for the words " Schedule 9 to the principal Act (income tax on company distributions etc.)" there shall be substituted the words " Schedule 20 to the Finance Act 1972 (income tax on company payments other than distributions) ".
- 9 In section 86(1)(d) of the Management Act after the words " corporation tax " there shall be inserted the words " other than advance corporation tax ".
- 10 For section 87 of the Management Act there shall be substituted—

**“87 Interest on overdue advance corporation tax and income tax on company payments.**

- (1) Any tax assessable in accordance with Schedule 14 or 20 to the Finance Act 1972 shall carry interest at the prescribed rate from the date when the tax becomes due and payable until payment.
- (2) Where—
- (a) advance corporation tax paid in respect of distributions made in any return period is repaid under paragraph 4 of the said Schedule 14 in consequence of the receipt of franked investment income in a later return period ; or
  - (b) income tax paid in respect of payments made in any return period is repaid or discharged under paragraph 5 of the said Schedule 20 in consequence of the receipt in a later return period of a payment on which income tax is borne by deduction,
- the repayment or discharge shall not affect interest under this section on the tax so repaid or discharged for such time as is specified in subsection (3) below but, subject to that, this section shall apply as if any such tax which is repaid or discharged had never become payable.
- (3) The time for which interest is not affected is—
- (a) any time before the expiration of fourteen days from the end of the later return period, unless the return for that period is made earlier in those fourteen days ; and
  - (b) if that return is made earlier in those fourteen days, any time ending before the date on which the return is made.
- (4) Interest shall not be payable under this section on the tax charged by any assessment unless the total amount of the interest exceeds £5.
- (5) Subsection (4) above shall have effect as if all advance corporation tax due from a company in accordance with paragraph 3(1) of the said Schedule 14 for any return period, whether or not it is actually assessed, were included in a single assessment, and similarly in the case of all income tax due from a company in accordance with paragraph 4(1) of the said Schedule 20 for any return period.
- (6) In this section " return period " means a period for which a return is required to be made under the said Schedule 14 or 20.
- (7) It is hereby declared that this section applies to advance corporation tax and income tax which, in accordance with either of those Schedules, is paid without the making of any assessment (but is paid after it is due), and that where the tax is charged by an assessment (whether or not any part of it

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has been paid when the assessment is made) this section applies as respects interest running before as well as after the making of the assessment.”

11 In section 88(2) of the Management Act, for the words " Schedule 9 to the principal Act" there shall be substituted the words " Schedule 14 or 20 to the Finance Act 1972. "

12 In section 98 of the Management Act the following shall be added in the first column—

“Paragraph 19 of Schedule 16 and paragraphs 2(b), 3 and 4 of Schedule 21 to the Finance Act 1972”;

and the following shall be added in the second column—

“Schedules 14 and 20, and paragraphs 1 and 2(a) of Schedule 21, to the Finance Act 1972”.

13 For section 109 of the Management Act there shall be substituted—

**“109 Corporation tax on close company in connection with loans to participators etc.**

(1) The provisions of section 286 of the principal Act (charge of tax in connection with loans by close companies to participators etc.) directing that tax be assessed and recoverable as if it were an amount of corporation tax shall be taken as applying, subject to the provisions of the Taxes Act, and to any necessary modifications, all enactments applying generally to corporation tax, including those relating to the assessing, collecting and receiving of corporation tax, those conferring or regulating a right of appeal and those concerning administration, penalties, interest on unpaid tax and priority of tax in cases of insolvency under the law of any part of the United Kingdom.

(2) Section 86 of this Act shall apply in relation to tax under the said section 286 as if subsections (2) and (3)(a) of the said section 86 were omitted.

(3) For the purposes of section 88 of this Act as applied by subsection (1) above, the date when tax charged under the said section 286 ought to have been paid shall be taken to be the first day of the year of assessment following that in which the loan or advance was made.

(4) Section 91 of this Act shall not apply in consequence of any discharge or repayment of tax under section 286(5) of the principal Act.

(5) For the purposes of the said section 91, a relief from tax under the said section 286 shall not be treated as affecting tax charged by any assessment unless the assessment is to tax under that section.”

14 In Schedule 3 to the Management Act, in column 1 of rule 8 the words " 288 or 289 " shall be omitted and at the end there shall be inserted the words " or relating to a notice under paragraph 15 of Schedule 16 to the Finance Act 1972 " .

*Income and Corporation Taxes Act 1970*

- 15 In section 4(3) of the Taxes Act (as substituted by the Finance Act 1971) after the words " or is treated as having been deducted " there shall be inserted the words " or income chargeable under Schedule F " .
- 16 In section 53(4) of the Taxes Act for the words " Schedule 9 to this Act" there shall be substituted the words " Schedule 20 to the Finance Act 1972 " .
- 17 In section 226(9) of the Taxes Act for the words " section 292(1) of this Act" there shall be substituted the words " paragraph 11 of Schedule 16 to the Finance Act 1972 " .
- 18 For section 232(4) of the Taxes Act there shall be substituted—
- “(4) A company which makes a qualifying distribution shall, if the recipient so requests in writing, furnish to him a statement in writing showing the amount or value of the distribution and (whether or not the recipient is a person entitled to a tax credit in respect of the distribution) the amount of the tax credit to which a recipient who is such a person is entitled in respect thereof.
- The duty imposed by this subsection shall be enforceable at the suit or instance of the person requesting the statement.”
- 19 In section 242(1) of the Taxes Act for paragraphs (a) to (c) there shall be substituted—
- “(a) in the case of interest which is not a qualifying distribution—
- (i) the gross amount which, after deduction of the income tax appropriate thereto, corresponds to the net amount actually paid,
- (ii) the rate and the amount of income tax appropriate to such gross amount, and
- (iii) the net amount actually paid ;
- (b) in the case of a dividend or of interest which is a qualifying distribution, each of the following amounts—
- (i) the amount of the dividend or interest paid, and
- (ii) (whether or not the recipient is a person entitled to a tax credit in respect thereof) the amount of the tax credit to which a recipient who is such a person is entitled in respect thereof.”
- 20 In section 248 of the Taxes Act, in subsection (4)(a) for the words " Schedule 9 to this Act" there shall be substituted the words " Schedule 20 to the Finance Act 1972 ", and in subsection (8) for the words " by reason of section 284(1)(a) or any other provision " there shall be substituted the words " by reason of any provision " .
- 21 In section 302(1) of the Taxes Act the words " other than section 290 above " shall be omitted and at the end there shall be inserted—
- “Provided that this subsection shall not by virtue of section 94(3) of the Finance Act 1972 apply to paragraph 9 of Schedule 16 to that Act”.
- 22 In section 343 of the Taxes Act, in subsection (2)(b), for the words " Schedule 9 to this Act" there shall be substituted the words " Schedule 20 to the Finance Act 1972 " and in subsection (7) for the word " distribution " there shall be substituted the words " qualifying distribution " .

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- 23 In section 393(1) of the Taxes Act for the words " tax under section 289 of this Act (shortfall in distributions of close company)" there shall be substituted the words " tax under Schedule 16 to the Finance Act 1972 (apportionment of income of close companies) ".
- 24 In section 399(1)(b) of the Taxes Act for the words from " then " onwards there shall be substituted the words "then, for the purposes of Schedule 16 to the Finance Act 1972—
- (i) the amount of the gain shall be deemed to form part of the company's income for the accounting period in which the event happened, and
  - (ii) the company's distributable income (but not its estate or trading income) for that period shall be treated as increased by the amount of the gain ".
- 25 In section 432(7) of the Taxes Act the words " section 297(3) (close companies: apportionments)" shall be omitted and there shall be added at the end the words " and paragraph 5(3) of Schedule 16 to the Finance Act 1972 (close companies: apportionments) ".
- 26 In section 454(1) of the Taxes Act, in paragraph (b) after the words " has been apportioned" there shall be inserted the words " under Schedule 16 to the Finance Act 1972 or (as respects income of accounting periods ending before 6th April 1973) " and at the end there shall be inserted—
- “Where the income of a body corporate has been, or could have been, apportioned under Schedule 16 to the Finance Act 1972 any amount of that income which by virtue of paragraph (b) above is to be included in the income arising under a settlement shall be increased by such proportion thereof as corresponds to the rate of advance corporation tax applicable to a distribution made at the end of the accounting period to which the apportionment relates.”
- 27 In section 478(8)(d) of the Taxes Act for the words " section 296 of this Act" there shall be substituted the words " paragraph 1 of Schedule 16 to the Finance Act 1972 " and at the end there shall be inserted the words " and that amount shall be treated as increased by such proportion thereof as corresponds to the rate of advance corporation tax applicable to a distribution made at the end of the accounting period to which the apportionment relates ".
- 28 In section 481(3) of the Taxes Act for the words " section 292(1) of this Act" there shall be substituted the words " paragraph 11 of Schedule 16 to the Finance Act 1972 ".
- 29 In section 521 of the Taxes Act subsection (3)(a) shall be omitted, and at the end there shall be added—
- “(4) In this section " interest" and " dividends" do not include any interest or dividend which is a distribution.”
- 30 In section 522 of the Taxes Act for the words " interest on any of its securities, or under section 232(3) of this Act from payments of preference dividends on any of its shares " there shall be substituted the words " interest (not being a distribution) on any of its securities " and the words " or share " (three times) and the words " In this section ' share' includes stock " shall be omitted.

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- 31 In section 526(5) of the Taxes Act for the definition of " franked investment income " there shall be substituted—  
    “ ' franked investment income ' shall be construed in accordance with section 88 of the Finance Act 1972 but subject to section 256(1) of this Act;  
    ' franked payment ' shall be construed in accordance with section 84 of the Finance Act 1972 but subject to section 256(1) of this Act  
  
    and after the definition of " preference dividend " there shall be inserted—”;  
    “ ' qualifying distribution ' has the meaning given in section 84 of the Finance Act 1972 ;  
    ' surplus of franked investment income ' has the meaning given in section 89 of the Finance Act 1972 ;  
    ' tax credit ' means a credit under section 86 of the Finance Act 1972”.
- 32 In section 528(3)(a) of the Taxes Act after the words " for any year " there shall be inserted the words " or which for the purposes of Schedule F comprises an amount equal to a tax credit calculated by reference to the rate of advance corporation tax in force for any year ".
- 33 In Schedule 14 to the Taxes Act, in paragraph 15, for the words " Board may exercise under section 301 of this Act for the purposes of sections 296 to 300 " there shall be substituted the words " inspector may exercise under paragraph 19 of Schedule 16 to the Finance Act 1972 for the purposes of that Schedule ".

## SCHEDULE 25

Sections 119, 121.

### RELIEF FROM ESTATE DUTY AND CAPITAL GAINS TAX—RECIPIENT BODIES

The National Gallery.

The British Museum.

The Royal Scottish Museum.

The National Museum of Wales.

Any other similar national institution which exists wholly or mainly for the purpose of preserving for the public benefit a collection of scientific, historic or artistic interest and which is approved for the purposes of this Schedule by the Treasury.

Any museum or art gallery in the United Kingdom which exists wholly or mainly for that purpose and is maintained by a local authority or university in the United Kingdom.

Any library the main function of which is to serve the needs of teaching and research at a university in the United Kingdom.

The National Art Collections Fund.

The National Trust for Places of Historic Interest or Natural Beauty.

The National Trust for Scotland for Places of Historic Interest or Natural Beauty.

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## SCHEDULE 26

Section 121.

RELIEF FROM ESTATE DUTY  
SUPPLEMENTARY PROVISIONS

## PART I

## GIFTS EXCEPTED FROM SECTION 121

- 1 A gift is excepted from each of the paragraphs of subsection (1) of the principal section if it takes effect on the termination of any interest or on the termination of any period, other than an interest or period terminating on or before the death ; but this paragraph shall not be taken to except a gift from paragraph (c) of that subsection by reason only that the gift is dependent on the widow or widower surviving the deceased for a specified period.
- 2 A gift is excepted from each of the paragraphs of that subsection if it depends on a condition which is not satisfied within twelve months after the death.
- 3 (1) A gift is excepted from paragraphs (a) and (b) of that subsection if it is less than the donor's full interest in the property given or is for a limited period or is defeasible or if it or any part of it is or may become applicable for other than charitable purposes or the purposes of a body falling within Schedule 25 to this Act.
- (2) For the purposes of this paragraph—
- (a) any question whether a gift is less than the donor's full interest in the property given shall be decided as at a time twelve months after the death ; and
  - (b) any gift which has not been defeated at that time and is not defeasible after that time shall be treated as not being defeasible, whether or not it was capable of being defeated before that time.

## PART II

## ALLOCATION OF RELIEF

- 4 Any question how the reduction in estate duty resulting from the principal section and this Schedule is to be attributed to the duty payable respectively on property to which different persons become entitled on the death shall be determined in accordance with the following provisions of this Part of this Schedule ; and nothing in Part III of this Schedule shall be taken to affect that question.
- 5 The reduction referred to in the following provisions of this Part of this Schedule is the reduction in estate duty after allowing for any reduction in the estate rate and for any reduction attributable to section 16(3) of the Finance Act 1894.
- 6 No part of the reduction shall reduce the duty on chargeable property except in so far as the duty would be attributable to property specifically given but would fall on residue ; and in particular, where property given as a share in residue or in a fund is exempt property the reduction resulting from that property being exempt property shall not reduce the duty on any share in the residue or fund which is chargeable property.
- 7 Where any of the exempt property is property falling within paragraph (c) of subsection (1) of the principal section, the reduction shall be so made as to be most

favourable to the widow or widower ; and subject thereto and to paragraph 6 above, the reduction shall be treated as reducing duty on property bearing its own duty (whether or not specifically given) before duty on property not bearing its own duty.

### PART III

#### ASCERTAINMENT OF EXEMPT AND CHARGEABLE PROPERTY

##### *Exempt and chargeable property*

- 8 Any question whether or to what extent the value attributable to any property is to be disregarded under the principal section shall be determined in accordance with the following provisions of this Schedule ; and in this Schedule " exempt property " means so much of any property as corresponds to the value to be so disregarded and "chargeable property" means the remainder of the property forming part of the estate.

##### *General principle*

- 9 Where it is material for any purpose which of two or more possible assets are taken to constitute exempt property—
- (a) such assets shall be taken to fall within paragraph (c) of subsection (1) of the principal section as are most favourable to the widow or widower, and any agreement between the widow or the widower and the Commissioners as to what assets will be most favourable shall be conclusive ;
  - (b) subject to sub-paragraph (a) above, property bearing its own duty shall be taken to be exempt property before property not bearing its own duty ; and
  - (c) subject to sub-paragraphs (a) and (b) above, each of the assets shall be so taken to the extent proportionate to its value.

##### *Small estates and separable property*

- 10 Where, under section 16(3) of the Finance Act 1894 (and apart from the principal section and this Schedule), any property is treated as an estate by itself the principal section and this Schedule shall have effect as if that property were not included in the property passing on the death.
- 11 Any property which, under section 16(3) of the Finance Act 1894 would fall to be treated as an estate by itself if its net value did not exceed that mentioned therein is in this Schedule referred to as separable property.

##### *Annuities*

- 12 For the purposes of the principal section and of this Schedule the value of any annuity or other periodical payment of any amount shall be taken to be the value of property needed to produce income of that amount; and the value of the property out of which the annuity or other sum is paid shall be taken to be reduced accordingly.

##### *Abatement not attributable to duty*

- 13 Where any gift would fall to be abated owing to the insufficiency of the estate and apart from any estate duty payable on the estate, so much only of any property

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comprised in the gift shall be taken into account under the following provisions of this Schedule as remains after the abatement.

*Abatement for estate duty*

- 14 So much only of the property passing on the death shall be exempt property as remains after making any deductions required by the following paragraphs.
- 15 There shall first be calculated the aggregate of the following values of the property which is specifically given or to which the widow or widower is specifically entitled—
- (a) the principal value of any property falling within paragraph (a) of subsection (1) of the principal section ;
  - (b) the appropriate value of any property falling within paragraph (b) or (c) of that subsection ; and
  - (c) the appropriate value of any property not falling within any of those paragraphs;
- and for this purpose any debt incurred by the deceased for which no allowance is to be made under section 7(1) of the Finance Act 1894 shall be treated as property specifically given.
- 16 If the aggregate calculated under paragraph 15 above exceeds the principal value of the estate, the property specifically given (whether exempt or chargeable property) shall be taken to be reduced by such proportion thereof as would result in the aggregate being equal to that principal value; and in making the reduction due effect shall be given to any disposition under which any property is given.

*Residue*

- 17 If the aggregate calculated under paragraph 15 above is less than the principal value of the estate, so much of the remainder as is property falling within subsection (1) of the principal section shall be exempt property so far as—
- (a) it is property falling within paragraph (a) of that subsection; or
  - (b) it is property falling within paragraph (b) or (c) of that subsection and does not, when added to the amount taken into account under paragraph 15(b) above, exceed the limit specified in paragraph (b) or (c) of that subsection.

*Appropriate value*

- 18 The appropriate value of any property bearing its own duty is its principal value.
- 19 Where property does not bear its own duty then—
- (a) if the property is property falling within paragraph (b) or (c) of subsection (1) of the principal section, its appropriate value is the aggregate of—
    - (i) its principal value, so far as it does not exceed the limit mentioned in that paragraph as reduced under paragraph 20 below ; and
    - (ii) the grossed-up equivalent of the remainder ; and
  - (b) if it is property not falling within that subsection its appropriate value is the grossed-up equivalent of its principal value.
- 20 Where property specifically given and bearing its own duty falls within paragraph (b) or (c) of subsection (1) of the principal section the limit mentioned



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therein shall for the purposes of paragraph 19 above be reduced by the principal value of that property (and accordingly shall for those purposes be nil if it is equalled or exceeded by that principal value).

*Grossed-up equivalent*

- 21 For the purposes of paragraph 19 above the grossed-up equivalent of the principal value or part of the principal value of any property is such amount as would, after deduction of estate duty at the appropriate rate, be equal to the principal value or part; and for this purpose the appropriate rate—
- (a) in relation to any property other than separable property, is the rate which would be the estate rate apart from the principal section and this Schedule ; and
  - (b) in relation to separable property is the rate found by taking the amount of the estate duty that would be payable on that property (apart from the principal section and this Schedule) if no relief were given other than relief under section 16(3) of the Finance Act 1894 and dividing the amount so taken by the principal value of that property.

*Amounts payable out of different funds*

- 22 Where amounts are payable out of different funds the calculations required by the preceding provisions of this Part of this Schedule shall be made separately for each of those funds, with the necessary adjustments of the values and amounts referred to therein.

**PART IV**

EFFECT OF CERTAIN EVENTS AFTER DEATH

*Failure of charitable object*

- 23 Where property given to a charity or property representing such property ceases at any time to be applicable to charitable purposes (without being replaced by other property) there shall be calculated the amount by which the estate duty chargeable on the death would have been increased if so much of the property falling within paragraph (b) of subsection (1) of the principal section and treated as exempt property as corresponds to the principal value at that time of the property ceasing to be so applicable had been treated as chargeable property ; and that amount shall be an amount of estate duty and the persons entitled to the property immediately after that time shall be accountable for it.

*Works of national importance, etc., and timber*

- 24 Where objects to which section 40 of the Finance Act 1930 (objects of national, etc., interest) applies would, had they not been enjoyed in kind, have been property falling within subsection (1) of the principal section, then, to the extent that they would have been exempt property they shall remain exempt from estate duty notwithstanding that they are sold, or that an undertaking given under section 48(1) of the Finance Act 1950 has not been observed, but, in the case of objects which would have fallen within paragraph (c) of that subsection, only if they are sold,

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or the failure to observe the undertaking occurs, within the lifetime of the widow or widower ; and similarly with respect to timber, trees and wood exempted under section 61(5) of the Finance (1909-10) Act 1910.

*Deeds of family arrangement*

- 25 If not more than two years after the death any of the dispositions of the property of which the deceased was competent to dispose, whether effected by will or under the law relating to intestacies, or otherwise, are varied by a deed of family arrangement or similar instrument the principal section and this Schedule shall apply as if the variation made by the deed or other instrument had been effected by the deceased.

**PART V**

AMENDMENT, REPEALS AND INTERPRETATION

*Amendment of Finance Act 1954 s. 32(2)*

- 26 In section 32(2) of the Finance Act 1954 after the words " by reason only" there shall be inserted the words " of section 121 of and Schedule 26 to the Finance Act 1972 or ".

*Repeal of superseded provisions*

- 27 The enactments mentioned in Part VII of Schedule 28 to this Act are hereby repealed to the extent specified in the third column of that Part, except—
- (a) in relation to deaths occurring before 22nd March 1972 ; and
  - (b) in their application, by virtue of section 33(2) of the Finance Act 1951, to Government departments, local authorities and the other bodies mentioned therein.

*Interpretation*

- 28 In this Schedule " the principal section " means section 121 of this Act.
- 29 In the principal section and in this Schedule " charity " and "charitable" have the same meanings as in the Income Tax Acts and " gift" means—
- (a) any testamentary disposition ; and
  - (b) any disposition by virtue of which property passes on the death;
- whether the disposition is made by the deceased or any other person ; and " given " and " donor " shall be construed accordingly.
- 30 In this Schedule—
- " appropriate value " has the meaning assigned to it by paragraphs 18 and 19 above ;
  - " chargeable property " and " exempt property " have the meanings assigned to them by paragraph 8 above ;
  - " separable property " has the meaning assigned to it by paragraph 11 above.
- 31 Where the deceased's widow or widower is entitled to a joint tenancy of any property and becomes on the death beneficially entitled to a share of that property

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that share shall be treated for the purposes of the principal section and this Schedule in like manner as property given to or devolving on the widow or widower.

32 References in this Schedule to property specifically given are references to property given otherwise than as residue or a share in residue.

33 For the purposes of this Schedule any question whether property bears its own duty shall be determined as at the time of the death.

## SCHEDULE 27

Section 122.

### REGIONAL EMPLOYMENT PREMIUMS CONSEQUENTIAL AMENDMENTS

#### *The Selective Employment Payments Act 1966*

1 In section 1(1) of the Selective Employment Payments Act 1966, for the words from the beginning to " this section applies " there shall be substituted the words " Where an employer has paid an employer's insurance contribution for any contribution week in respect of a person in an employment to which this section applies and the case falls within subsection (1) of section 26 of the Finance Act 1967 " and for the words " a payment of an amount equal to the tax paid " there shall be substituted the words " a payment of an amount specified in that section ".

2 In section 3(2) of that Act, for the words " selective employment tax " there shall be substituted the words " employer's insurance contributions " and for the words from " amount of the tax " to the end there shall be substituted the words " appropriate amount specified in section 26 of the Finance Act 1967 ".

3 In section 7(1) of that Act, for the words " selective employment tax ", in both places, there shall be substituted the words " employer's insurance contribution ".

#### *The Finance Act 1967, s. 26*

4 For subsection (1) of section 26 of the Finance Act 1967 there shall be substituted the following subsection:—

“(1) A payment under section 1 of the principal Act in respect of a person in an employment to which that section applies shall be made in any case where the establishment in or from which that employment is carried out is situated wholly within a development area and, subject to subsections (2), (4) and (5) of this section, the amount of that payment shall be—

- (a) if that person was treated for the purpose of the employer's insurance contribution as a man over the age of 18, £1.50;
- (b) if that person was treated for that purpose as a woman over the age of 18, 75p;
- (c) if that person was treated for that purpose as a boy under the age of 18, 75p; and
- (d) if that person was treated for that purpose as a girl under the age of 18, 47½ p.”

5 In subsection (2) of that section, for the words " any increase " there shall be substituted the words " any payment falling to be made ".

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- 6 In subsection (4) of that section, for the word " increase " there shall be substituted the word " make ".
- 7 In subsection (5) of that section, for the words " increases " and " paid in both places, there shall be substituted respectively the words " payments " and " made ".

## SCHEDULE 28

Section 134.

## ENACTMENTS REPEALED

## PART I

## PURCHASE TAX—INITIAL REPEALS

Chapter	Short Title	Extent of Repeal
1961 c. 36.	The Finance Act 1961.	In section 9, in subsection (3), the words " and (c) purchase tax ", subsection (4)(a), and, in subsection (8), the words from " and those subsections" to " 1948 ".
1963 c 9.	The Purchase Tax Act 1963.	In section 2, subsections (3) and (4). Section 4. Sections 6 to 11. Section 12(1). In section 13, subsections (1), (3) and (5). In section 14, subsections (2) to (4), (8) and (9). In section 15, in subsection (2) the words from " and the power" to the end, and subsection (3). Section 16. Section 22. Section 28(1). In section 39, subsections (2) and (3) and, in subsection (4), the words from the beginning to " section ".

These repeals take effect on 1st April 1973.

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Chapter	Short Title	Extent of Repeal
1964 c. 49.	The Finance Act 1964.	Section 40(6).
1964 c. 92.	The Finance (No. 2) Act 1964.	Section 8(2)(d).
1967 c. 54.	The Finance Act 1967.	Section 3(4).
1968 c. 2.	The Provisional Collection of Taxes Act 1968.	Section 9(2).
		In section 1(1) the words "purchase tax".

These repeals take effect on 1st April 1973.

## PART II

### PURCHASE TAX—POSTPONED REPEALS

Chapter	Short Title	Extent of Repeal
10 & 11 Geo. 6. c. 44.	The Crown Proceedings Act 1947.	In section 26(2), the words "or purchase tax".
		In section 49, the words "and purchase tax".
11 & 12 Geo. 6. c. 38.	The Companies Act 1948.	In section 319(1)(a), subparagraph (iii).
6 & 7 Eliz. 2. c. 11.	The Isle of Man Act 1958.	Section 2(4)(c).
1960 c. 22. (N.I.)	The Companies Act (Northern Ireland) 1960.	In section 287(1)(a), subparagraph (iii).
1963 c. 9.	The Purchase Tax Act 1963.	The whole Act, so far as unrepealed.
1964 c. 49.	The Finance Act 1964.	Section 10(2).
1964 c. 92.	The Finance (No. 2) Act 1964.	In section 7, in subsections (1) and (2) the words "and purchase tax".
		In section 10(2), the words from "and nothing" to the end.
1964 c. 32. (N.I.)	The Preferential Payments (Bankruptcies and Arrangements) Act (Northern Ireland) 1964.	In section 1(1)(a), subparagraph (iii).
1965 c. 25.	The Finance Act 1965.	Section 3.
1966 c. 18.	The Finance Act 1966.	In section 2, in subsections (1) and (13) the words "and purchase tax".

These repeals take effect on the date appointed or the dates respectively appointed under section 54 of this Act.

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

Chapter	Short Title	Extent of Repeal
1967 c. 54.	The Finance Act 1967.	Section 8. Section 9, so far as unrepealed. Section 45(3)(b).
1968 c. 44.	The Finance Act 1968.	Section 5. Schedule 6.
1969 c. 32.	The Finance Act 1969.	Section 1(4). Section 55. Section 61(3)(b). Schedule 6.
1971 c. 10.	The Vehicles (Excise) Act 1971.	In section 6, subsection (2) and, in subsection (3), the words " or (2)" in both places.
1971 c. 68.	The Finance Act 1971.	Sections 4 and 5.

These repeals take effect on the date appointed or the dates respectively appointed under section 54 of this Act.

### PART III

#### SPIRITS AND MECHANICAL LIGHTERS

Chapter	Short Title	Extent of Repeal
12, 13 & 14 Geo. 6 c. 47.	The Finance Act 1949.	Section 8(1).
1969 c. 32.	The Finance Act 1969.	In section 1(2), paragraph (a) and in the words following the paragraphs, the word Schedule 1.

These repeals take effect on 8th August 1972.

### PART IV

#### OCCUPATIONAL PENSION SCHEMES

Chapter	Short Title	Extent of Repeal
61 & 62 Vict. c. 44.	The Merchant Shipping (Mercantile Marine Fund) Act 1898.	Section 1A(2).

These repeals take effect on 6th April 1973.

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

Chapter	Short Title	Extent of Repeal
10 Edw. 7 & 1 Geo. 5. c. 7.	The Development and Road Improvement Fund Act 1910.	Section 2(3).
10 & 11 Geo. 6. No. 2.	The Church Commissioners Measure 1947.	Section 17(3).
10 & 11 Eliz. 2. c. 46.	The Transport Act 1962.	In Schedule 10, in paragraph 8(1A), the words from " and also " to " 1972 ".
1967 c. 10.	The Forestry Act 1967.	In Schedule 1, in paragraph 9(2)(b), the words from " and also " to " 1972 ".
1969 c. 50.	The Trustee Savings Bank Act 1969.	In section 82(3), the words following paragraph (e).
1970 c. 10.	The Income and Corporation Taxes Act 1970.	In section 20(1), the words " 210 ".
1970 c. 24.	The Finance Act 1970.	Section 210. Section 22(3).
1972 c. 11.	The Superannuation Act 1972.	In section 17(1), subsection (2) of the section set out therein.  In Schedule 6, in paragraph 4, subsection (3) of the section partly set out therein; in paragraph 13, subsection (2) of the section set out therein; paragraph 22; in paragraph 41 the words from " and also " to " 1972"; in paragraph 60(b) the words from " and also " to " 1972 ".

These repeals take effect on 6th April 1973.

## PART V

### INTEREST RELIEF

Chapter	Short Title	Extent of Repeal
1970 c. 10.	The Income and Corporation Taxes Act 1970.	Sections 57 to 64A.  In section 122(1), paragraph (c) and the word " and " preceding it.  Section 190.

These repeals have effect in relation to interest paid and payable on or after 6th April 1972.

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

Chapter	Short Title	Extent of Repeal
1970 c. 24.	The Finance Act 1970.	Section 248(6). In section 296(2) the words "not being interest". Section 300. Section 440. In section 455, in paragraph (a), the words "excluding all payments of interest" and, in paragraph (b), the words "subject to section 456 below". Section 456. Section 469(6). In section 496, subsections (3) to (7). In Part III of Schedule 12, paragraph 2(1)(c) and the word "and" preceding it. In Schedule 14, in paragraph 5 the words "section 57(10) and " and paragraph 10.
1971 c. 68.	The Finance Act 1971.	Section 17. In Scheduled, paragraph 9, except sub-paragraph (6). In Schedule 6, paragraphs 23, 44, 60 and 66. In Schedule 8, paragraph 16(4) and, in paragraph 16(5), the words " 190(1)".

These repeals have effect in relation to interest paid and payable on or after 6th April 1972.

## PART VI

### TAXATION OF COMPANIES AND COMPANY DISTRIBUTIONS

Chapter	Short Title	Extent of Repeal
1965 c. 25.	The Finance Act 1965.	In section 84, subsections (2) (a), (3)(b) and (4).
1966 c. 18.	The Finance Act 1966.	Sections 31 and 32. Schedule 9.



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

Chapter	Short Title	Extent of Repeal
1968 c. 44.	The Finance Act 1968.	In section 32(6) the words " or a rate fluctuating in accordance with the basic rate of income tax ".
1970 c. 9.	The Taxes Management Act 1970.	<p>In section 31(3)(b) the figure " 297 ".</p> <p>In section 98, in the Table, the words " section 301" and " Company tax regulations ".</p> <p>In Schedule 3, in paragraph 8 the words " 288 or 289 ".</p>
1970 c. 10.	The Income and Corporation Taxes Act 1970.	<p>In section 27(4) the words from " or under section 31" to " non-residents) ".</p> <p>Section 232(2) and (3).</p> <p>In section 234, in subsection (1)(b) the words " not being redeemable share capital" and in subsection (3) the words " or fluctuates only with the basic rate of income tax ".</p> <p>Section 236.</p> <p>In section 240, subsections (1) to (3), in subsection (5) the words " (not being franked investment income)" except as respects franked investment income arising before 6th April 1973, subsection (6) and in subsection (7) the words " distributions or " and the words from " and nothing " onwards.</p> <p>Section 240A.</p> <p>Section 284(1)(a) and (b).</p> <p>In section 286 subsection (6) and in subsection (7) the words "the grossed up equivalent of".</p> <p>Sections 288 to 301.</p>

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

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Chapter	Short Title	Extent of Repeal
		<p>In section 302(1), the words " other than section 290 above "</p> <p>Section 303(5)(b).</p> <p>In section 305(2) the words " income tax and "</p> <p>In section 310, subsection (3) and in subsection (4) the words from the beginning to " company, and "</p> <p>Section 311.</p> <p>In section 314, in subsection (1) the words " income tax and", subsection (3)(b) and (c) and, in subsection (4), the words from "If an accounting period" to " accounting periods, and ", and the words " or part of an accounting period "</p> <p>In section 322(3) the proviso.</p> <p>In section 354(2), paragraph (b) and, in paragraph (c), the words " of income tax deductions "</p> <p>Section 356.</p> <p>Section 499.</p> <p>Section 517(2).</p> <p>Section 521(3)(a).</p> <p>In section 522 the words " or share" wherever they occur and the words " In this section ' share' includes stock "</p> <p>In section 526(5), in the definition of " ordinary share capital" the words " or a rate fluctuating in accordance with the basic rate of income tax " and in the definition of " preference dividend " the word " gross " (three times)</p>

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

Chapter	Short Title	Extent of Repeal
1970. c. 24.	The Finance Act 1970.	and the words from " but it does not include " onwards. Schedule 9. In Schedule 14, paragraph 19(1), in paragraph 23(3), the words from the beginning to " 256 of this Act, and ", and paragraph 23(4) except for years of assessment before the year 1973-74. In Schedule 4, paragraphs 1 to 5. In Schedule 8, in Part VI, the entries relating to section 240(6) of, and Schedule 9 to, the Income and Corporation Taxes Act 1970.
1971 c. 68.	The Finance Act 1971.	Section 25(1), (2), (3) and (4) (a). In Schedule 6, paragraphs 27 to 29, 31(a), 33 to 38, 77, 84(a), 85(b) and 92.

NOTES:

1. Subject to the following paragraphs, these repeals take effect on 6th April 1973 and do not affect the operation of any enactment in relation to any previous time.
2. The repeal of section 84(4) of the Finance Act 1965 has effect in relation to the year 1972-73 and subsequent years of assessment.
3. The repeals in the Finance Act 1968, in sections 234(3) and 526(5) of the Income and Corporation Taxes Act 1970 and of paragraphs 28, 77 and 92 of Schedule 6 to the Finance Act 1971 do not apply in relation to dividends payable before 6th April 1973.
4. The repeal of sections 289 to 301 of the said Act of 1970, the repeal in section 302(1) of that Act and the repeal of section 25(1), (2), (3) and (4)(a) of, and paragraphs 34 to 37 and 84(a) and 85(b) of Schedule 6 to, the Finance Act 1971 have effect in relation to accounting periods ending after 5th April 1973; and the repeal of the said section 289 has effect subject to paragraph 19 of Schedule 23 to this Act.
5. The repeal of section 356 of the said Act of 1970 takes effect on 1st April 1972, and the repeal of that section and of section 311 of that Act have effect subject to section 93(7) of this Act.
6. The repeal of the proviso to section 322(3) of the said Act of 1970 takes effect on 1st April 1974 and does not affect disposals before that date.
7. The repeal of section 499 of the said Act of 1970 takes effect on 1st April 1973.

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

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**PART VII**

## ESTATE DUTY

Chapter	Short Title	Extent of Repeal
21 & 22 Geo. 5. c. 28.	The Finance Act 1931.	In section 40, subsections (1) (a) and (2).
1 Edw.8 and 1 Geo. 6. c. 54.	The Finance Act 1937.	Section 31.
12, 13 & 14 Geo. 6. c. 47.	The Finance Act 1949.	Section 31.
14 & 15 Geo. 6. c. 43.	The Finance Act 1951.	Section 33(1).

The repeal of these enactments has effect in relation to deaths occurring after 21st March 1972 and does not extend to them as applied by section 33(2) of the Finance Act 1951.

**PART VIII**

## SELECTIVE EMPLOYMENT TAX

Chapter	Short Title	Extent of Repeal
1966 c. 18.	The Finance Act 1966.	In section 44, subsections (1) and (2).  In Schedule 11, paragraphs 1 and 2.
1968 c. 44.	The Finance Act 1968.	Section 51, so far as unrepealed.
1971 c. 68.	The Finance Act 1971.	Section 63.

These repeals take effect on 2nd April 1973.

**PART IX**

## SELECTIVE EMPLOYMENT PAYMENTS

Chapter	Short Title	Extent of Repeal
1966 c. 18.	The Finance Act 1966.	Section 44 and Schedule 11, so far as unrepealed.
1966 c. 32.	The Selective Employment Payments Act 1966.	The whole Act.
1967 c. 54.	The Finance Act 1967.	Sections 25 and 26.  Schedule 12.
1968 c. 44.	The Finance Act 1968.	Section 52.  Schedule 17.

These repeals take effect on the day appointed under section 122(5) of this Act.

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

Chapter	Short Title	Extent of Repeal
1969 c. 32.	The Finance Act 1969.	Section 51.
1970 c. 7.	The Local Employment Act 1970.	Section 7.

These repeals take effect on the day appointed under section 122(5) of this Act.

## PART X

### UNIT TRUSTS, INVESTMENT TRUSTS AND FUNDS IN COURT

Chapter	Short Title	Extent of Repeal
1965 c. 25.	The Finance Act 1965.	Section 37(1). In section 38(2), the words from " and section 37" onwards. Section 94(2).
1970 c. 10.	The Income and Corporation Taxes Act 1970.	Section 357.

These repeals do not affect disposals before 6th April 1972.

## PART XI

### STAMP DUTY REPEALS

Chapter	Short Title	Extent of Repeal
55 Geo. 3. c. 184.	The Stamp Act 1815.	Sections 24, 27 and 28. In the Schedule, Part I so far as unrepealed.
7 & 8 Vict. c. 32.	The Bank Charter Act 1844.	Section 7.
16 & 17 Vict. c. 63.	The Bankers' Composition (Scotland) Act 1853.	Section 7.
17 & 18 Vict. c. 83.	The Stamp Act 1854.	Section 12.
54 & 55 Vict. c. 39.	The Stamp Act 1891.	Sections 29, 30 and 31. In Schedule 1 the heading " BANK NOTE ".
18 & 19 Geo. 5. c. 13.	The Currency and Bank Notes Act 1928.	Section 6(4).

These repeals take effect on 25th June 1972 except that the repeals in the Finance Act 1963 and the Finance Act 1967 take effect on 1st August 1972 and do not affect instruments executed before that date.

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

Chapter	Short Title	Extent of Repeal
<a href="#">1963 c. 25.</a>	The Finance Act 1963.	In section 56(1) the words " and in paragraph (2)(a) " onwards.
<a href="#">1967 c. 54.</a>	The Finance Act 1967.	Section 27(1).
<a href="#">1970 c. 24.</a>	The Finance Act 1970.	In Schedule 7 paragraphs 5 and 18.

These repeals take effect on 25th June 1972 except that the repeals in the Finance Act 1963 and the Finance Act 1967 take effect on 1st August 1972 and do not affect instruments executed before that date.

## PART XII

### MISCELLANEOUS REPEALS

Chapter	Short Title	Extent of Repeal
<a href="#">1964 c. 49.</a>	The Finance Act 1964.	Section 1(4).
<a href="#">1965 c. 25.</a>	The Finance Act 1965.	In Schedule 6, in paragraph 14, sub-paragraphs (2) to (4). In Schedule 7, paragraph (a) of the proviso to paragraph 17(3). In Schedule 8, paragraph 5(3).
<a href="#">1970 c. 10.</a>	The Income and Corporation Taxes Act 1970.	In section 83(1), in paragraph (a) the words " (except subsection (6))", in paragraph (b) the words " the said subsection (6) or ", and in the words following the paragraphs and in the proviso the words from " where no claim " to " section 80(6)". In section 84(1), paragraph (a). In section 85(2), the words " (except subsection (6))". In section 134(1), in paragraph (a), the words " (except subsection (6))"

#### NOTES:

1. The repeal of section 1(4) of the Finance Act 1964 takes effect on 8th August 1972.
2. The repeals in sections 134 and 142 of the Taxes Act do not affect the operation of those sections in relation to claims that were or could have been made under section 80(6) of that Act as originally enacted.
3. The repeal in section 42 of the Finance Act 1971 has effect in relation to expenditure incurred after 21st March 1972 and the repeals in Schedule 8 to that Act have effect in accordance with section 68(9) of this Act.

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

Chapter	Short Title	Extent of Repeal
<a href="#">1971 c. 68.</a>	The Finance Act 1971.	and, in paragraph (b), the words " the said section 80(6) or " Section 142(3). In section 7, the words from "fitted with controls" to " or a vehicle;" and paragraphs (a) and (b). In section 42, in subsection (1), the words from " Except " to " below "; and subsections (2) to (6). In Schedule 8, in paragraph 3(1) the words " which has been in use for the purposes of a trade carried on by the seller ", in paragraph 3(3) the words " which has been in use for the purposes of his trade ", and, in paragraph 4, sub-paragraph (1)(b) and sub-paragraph 2(b) together with the word " and " preceding it. In Schedule 11, paragraph 5.
<a href="#">1972 c. 25.</a>	The Betting and Gaming Duties Act 1972.	In Schedule 2, in paragraph 18(1), the words " but before 1st April 1973 ".

NOTES:

1. The repeal of section 1(4) of the Finance Act 1964 takes effect on 8th August 1972.
2. The repeals in sections 134 and 142 of the Taxes Act do not affect the operation of those sections in relation to claims that were or could have been made under section 80(6) of that Act as originally enacted.
3. The repeal in section 42 of the Finance Act 1971 has effect in relation to expenditure incurred after 21st March 1972 and the repeals in Schedule 8 to that Act have effect in accordance with section 68(9) of this Act.