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SCHEDULES

SCHEDULE 9

STOCK RELIEF

PART IV

GENERAL RULES

Partnerships

- 18 (1) Where a trade is carried on by persons in partnership, entitlement to relief or liability to charge under this Schedule is a joint entitlement or liability, and any claim for relief under this Schedule shall be a single claim made in the partnership name.
- (2) Where none of those persons is a company, entitlement to relief and liability to charge under this Schedule shall be ascertained and given effect as if the trade were carried on by an individual.
- (3) Where any of those persons is a company, entitlement to relief and liability to charge under this Schedule shall be ascertained as if the partnership were a company and shall be given effect in accordance with the following provisions of this paragraph.
- (4) A company's share in any such entitlement or liability in any accounting period of the partnership shall be determined according to the interests of the partners during that period, and shall be given effect as if the share derived from a trade carried on by the company alone in its corresponding accounting period or periods.
- In this sub-paragraph " 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.
- (5) The share in any such entitlement or liability of the partner or partners other than companies shall be given as if that share derived from a trade carried on by him, or, as the case may be, by them in partnership, otherwise than in partnership with a company.

New businesses

- 19 (1) A person's entitlement to relief under this Schedule for a trade in respect of a period of account shall be determined in accordance with this paragraph if the trade is set up and commenced at the beginning of that period or in the course of it
- (2) The relief to which the person is entitled for the trade in respect of the period of account shall be determined—

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- (a) as if the value of his trading stock at the end of that period, as reduced in accordance with sub-paragraph (3) below, were the value of his trading stock at the end of the preceding period of account; and
 - (b) if the period of account begins before the date on which the trade is set up and commenced, by reference to the increase, if any, in the all stocks index over the part of that period beginning with that date.
- (3) For the purposes of sub-paragraph (2)(a) above the value of the person's trading stock at the end of the period of account in respect of which the relief is given shall be reduced by multiplying it by the fraction of which—
- (a) the numerator is the figure given by the all stocks index for the month containing the last day before the beginning of that period; and
 - (b) the denominator is the figure given by that index for the month containing the last day of that period.
- (4) If the period of account begins before the date on which the trade is set up and commenced the reference in sub-paragraph (3)(a) above to that period of account shall be construed as a reference to the part of it beginning with that date.
- (5) Sub-paragraph (2) has effect subject to paragraph 23 below.

Successions

- 20 (1) The provisions of this paragraph apply—
- (a) where the whole or part of a trade carried on by one company (" the predecessor ") is transferred to another company (" the successor ") and section 252 of the Taxes Act (company reconstructions) has effect in relation to that event; or
 - (b) where the whole of a trade carried on by an individual or by persons in partnership ("the predecessor") is transferred to a company resident in the United Kingdom ("the successor") and at the date of the transfer not less than three-quarters of the ordinary share capital of the company is held by that individual or those persons,
- and, in either case, the trading stock is transferred at cost or at market value.
- (2) Where the whole of a trade is transferred and the predecessor and successor so elect—
- (a) paragraphs 4 and 13 above shall not apply to the predecessor's period of account which ends with or includes the date of transfer but, in ascertaining in the successor's period of account which begins with or includes that date and in any later period of account, the amount of unrecovered past relief allowed to a person in respect of the trade, the successor shall be treated as having carried on the trade since the predecessor began (or is himself treated, by virtue of this sub-paragraph or of any other provision of this Schedule or of Schedule 5 to the Finance Act 1976, as having begun) to do so ;
 - (b) the relief to which the predecessor is entitled under this Schedule for that trade in respect of a period of account which begins before and ends after the date of transfer shall be determined by reference to the increase, if any, in the all stocks index over the part of the period before that date;
 - (c) the relief to which the successor is entitled under this Schedule for that trade in respect of a period of account which begins with or includes the date of transfer shall be determined—

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- (i) as if the value at which the trading stock was transferred were the value of his trading stock at the end of the preceding period of account; and
 - (ii) if the period of account begins before the date of the transfer, by reference to the increase, if any, in the all stocks index over the part of that period beginning with that date.
 - (3) Where sub-paragraph (2)(a) above has effect in a case within sub-paragraph (1)(b) above the unrecovered past relief shall not include relief to which the predecessor was entitled but to which effect has not been given owing to an insufficiency of profits or gains.
 - (4) Sub-paragraph (2)(b) and (c) above has effect subject to paragraph 23 below.
 - (5) Where part of a trade is transferred and the predecessor and successor so elect, then, for the purposes of this Schedule the predecessor shall be treated as having carried on in the period of account during or at the end of which the transfer occurred a separate trade consisting of the part transferred; and all necessary apportionments between the two parts of the trade (including the apportionment of unrecovered past relief allowed for the trade) shall be made by reference to the respective values of the trading stock of each part immediately after the transfer.
 - (6) An election under this paragraph shall be by notice in writing signed by both the predecessor and the successor and sent to the inspector within two years after the end of the successor's period of account which begins with or includes the date of the transfer.
- 21 (1) Subject to the provisions of this paragraph, where there is a change in the persons engaged in carrying on a trade, this Schedule applies as if the trade had been permanently discontinued at the date of the change and a new trade had been then set up and commenced.

For the purposes of this paragraph, a change in the personal representatives of any person, or in the trustees of any trust, shall not be treated as a change in the persons carrying on any trade carried on by those personal representatives or trustees as such.

- (2) Where there is a change of persons but—
 - (a) a person engaged in carrying on the trade immediately before the change continues to be so engaged immediately after the change; and
 - (b) the trading stock of the trade immediately before the change is the trading stock immediately after the change,an election may be made to the effect that sub-paragraph (1) above shall not apply to the change.
- (3) An election under this paragraph must be made by all the persons engaged in carrying on the trade before the change ("the predecessors") and all those so engaged immediately after the change ("the successors") and be signed by them and sent to the inspector within two years after the end of the successors' period of account which begins with or includes the date of the change.

Where those persons have elected under section 154(2) of the Taxes Act that the trade be treated as continuing for income tax purposes, they shall be treated as having also made an election under this paragraph.

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- (4) In ascertaining for the purposes of this Schedule the amount of unrecovered past relief allowed to a person in respect of a trade where at an earlier date a change in the persons carrying on that trade has been the subject of an election under the provisions of this paragraph or paragraph 21 of Schedule 5 to the Finance Act 1976, the successors (in relation to that change) shall be treated as having carried on the trade since the predecessors began (or are themselves treated by virtue of this sub-paragraph or any other provision of this Schedule or of Schedule 5 to the said Act of 1976. as having begun) to do so.
- (5) Where during a period of account there is a change in the persons engaged in carrying on a trade, and—
- (a) an election is made under this paragraph; but
 - (b) no election is made under section 154(2) of the Taxes Act in relation to that change,
- any relief or charge under this Schedule in respect of that period of account shall be apportioned between the predecessors and successors according to the respective lengths of the parts of the period falling before and after the change, and for the purpose of giving effect to that relief or charge each of those parts shall be treated as if it were a separate period of account.

Adjustment for special circumstances

- 22 (1) An adjustment shall be made under this paragraph where any arrangements have been effected by a person carrying on a trade, or by him and other persons acting together, such in particular as those mentioned in sub-paragraph (2) below, and it appears that the sole or main benefit which, but for this paragraph, might have been expected to accrue to that person was—
- (a) the obtaining of relief or the reduction of the amount of a charge under this Schedule; or
 - (b) a reduction in the amount of relief to which effect cannot be given by virtue of paragraph 10 or 17(1) above.
- (2) The arrangements referred to in sub-paragraph (1) above are—
- (a) any acquisition or disposal of trading stock otherwise than in the normal course of the trade in question ; or
 - (b) any change in the normal pattern or method of carrying on the trade; or
 - (c) any change in the date to which the accounts of the trade are made up ; or
 - (d) any increase in the value of a person's trading stock or any acquisition by a person of trading stock, being an increase or acquisition which is associated with a decrease in the trading stock of another person connected with him (within the meaning of section 533(5) or (6) of the Taxes Act).
- (3) In a case within sub-paragraph (1)(a) above the adjustment is to substitute for the purposes of this Schedule, for the value of the trading stock of the person concerned at the end of any period of account which appears to have been affected by the arrangements, the value which it appears that the trading stock would then have had if those arrangements had not been made.
- (4) In a case within sub-paragraph (1)(b) above the adjustment is to determine the amount of relief to which effect cannot be given by virtue of paragraph 10 or 17(1) above as if the arrangements had not been made.

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Long periods of account

- 23 (1) Where a person's period of account is longer than eighteen months his entitlement to relief under this Schedule in respect of that period shall be determined by—
- (a) calculating the relief for separate parts of the period as if they were separate periods of account; and
 - (b) aggregating the reliefs for those parts.
- (2) Each of the separate parts of the period shall (so far as length of the period permits) consist of twelve months, any remaining months being used to form the last part.

Valuation of stock at intermediate dates

- 24 (1) If for the purposes of this Schedule it is necessary to ascertain the value of a person's trading stock at a date other than the end of a period of account and that value has not in fact been ascertained, that person shall be treated as having at that date trading stock of such value as may be attributed in accordance with sub-paragraph (2) below.
- (2) The value to be attributed under sub-paragraph (1) above is such value as is reasonable and just having regard to all the relevant circumstances of the case, and in particular—
- (a) to the values of trading stock of the trade at the beginning and end of the period of account which includes the date in question;
 - (b) to movements during that period of account in the costs of items of a kind comprised in the person's trading stock during the period; and
 - (c) to changes during that period in the volume of the trade carried on by that person.
- (3) In applying this paragraph for the purposes of paragraph 23 above, the period of account referred to in sub-paragraph (2) above is the period of account which by virtue of that paragraph is treated as consisting of separate parts.
- (4) Sub-paragraph (1) above shall apply also where by virtue of the provisions of section 35(2) of this Act it is necessary to ascertain the value of a person's trading stock at 13th November 1980 ; and for that purpose the period of account referred to in sub-paragraph (2) above shall be the period treated by virtue of those provisions as if it were two separate periods.

Farm animals

- 25 (1) Animals treated as trading stock under Schedule 6 to the Taxes Act (farm animals etc.), shall, subject to the provisions of this paragraph, be so treated for the purposes of this Schedule.
- (2) Where a person makes an election for the herd basis under that Schedule which takes effect during a period of account, animals forming part of a herd with respect to which the election has effect shall be treated for the purposes of this Schedule as not having been trading stock of that person at the end of the preceding period of account or at any subsequent time.
- (3) Where a person makes an election for the herd basis under that Schedule, then, at the end of the period of account preceding that in which the election takes effect (" the point of election ") the unrecovered past relief allowed to him for the farming or other trade in question (including the relief in respect of that period of account)

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shall be apportioned between the herd and the rest of his trading stock by reference to their respective values at the point of election.

- (4) Where a company which has made an election for the herd basis under the said Schedule 6 transfers part of its trade, the part of its unrecovered past relief which represents relief apportioned to the herd under sub-paragraph (3) above or paragraph 25(3) of Schedule 5 to the Finance Act 1976—
- (a) shall not be apportioned in accordance with paragraph 20(5) above; but
 - (b) if all the animals or none of them are included in the transfer, shall be allocated to the part of the trade that is transferred or, as the case may be, the part that is retained and, if some of them are included, shall be apportioned between those parts by reference to the respective values of the animals transferred and the animals retained.
- (5) In this paragraph " herd " has the same meaning as in Schedule 6 to the Taxes Act, and this paragraph applies (as does that Schedule), with the necessary adaptations, to animals or other creatures kept singly as it applies in relation to herds.