

Status: Point in time view as at 01/02/1991.

Changes to legislation: Income and Corporation Taxes Act 1988, PART 1 is up to date with all changes known to be in force on or before 05 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 19

APPORTIONMENT OF INCOME OF CLOSE COMPANIES

PART I

DETERMINATION OF RELEVANT INCOME AND DISTRIBUTIONS

Relevant income

- 1 ^{M1}(1) *Subject to the provisions of this Part of this Schedule, 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, other than trading 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) ^{M2}*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 necessary or advisable for the maintenance and development of that business but, for this purpose, the provisions of paragraph 8 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.*
- (3) ^{M3}*In arriving at the relevant income for any accounting period of a company which is a trading company or a member of a trading group, regard shall be had not only to the current requirements of the company's business and to such requirements as may be necessary or advisable for the maintenance and development of that business as fall within sub-paragraph (2)(a) above, but also to any other requirements necessary or advisable for the acquisition of a trade or of a controlling interest in a trading company or in a company which is a member of a trading group by virtue of paragraph 7(2)(a) below; but, for this purpose, paragraph 9 below shall apply.*

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- (4) *For the purposes of sub-paragraph (3)above, the acquisition of a controlling interest in a company means the acquisition, whether on a single occasion or otherwise, of such ordinary share capital of that company as enables the acquiring company to exercise the greater part of the voting power in that company.*
- (5) *For the purposes of sub-paragraph (3)above, the requirements of a company's business which are necessary or advisable for such an acquisition as is mentioned in that sub-paragraph include such requirements as are necessary or advisable for—*
- (a) *the redemption or repayment of any share or loan capital or debt (including any premium thereon)issued or incurred in or towards payment for that acquisition, or issued or incurred for the purpose of raising money to be applied in or towards payment therefor, or*
 - (b) *meeting any obligation of the company in respect of that acquisition, so far as any sum so expended or applied, or intended to be expended or applied, does not fall to be treated for the purposes of this Chapter as a distribution by the company.*

Modifications etc. (not altering text)

- C1** *See—1976(D) s.34 and Sch.6 para.9(6)(7)—development land tax. 1976(D)repealed by 1985 s.98(6)and Sch.27 Pt.X.1988 s.127—enterprise allowance.*

Marginal Citations

- M1** *Source—1972 Sch. 16 8(1); 1980 Sch. 9 1*
M2 *Source—1972 Sch. 16 8(2)*
M3 *Source—1972 Sch.16 8(3)-(5); 1978 Sch.5 1*

Maximum amount of relevant income

- 2 (1) ^{M4}*Subject to paragraphs 10and 12below, 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 50per cent. of the estate or trading income for the period.*
- (2) ^{M5}*In the application of sub-paragraph (1)above to a company which is a trading company or a member of a trading group, the trading income shall be disregarded; and in the application of that sub-paragraph to a trading company, the estate income—*
- (a) *if it is less than the appropriate fraction of the relevant maximum amount, shall be treated as reduced by one-half of the amount required to make it up to that fraction of the relevant maximum amount; or*
 - (b) *if it is less than the appropriate fraction of the relevant minimum amount, shall be disregarded;*
- and in this sub-paragraph the appropriate fraction is—*

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

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where—

A is the amount of the estate income, and

B is the amount of the trading income.

(3) ^{M6}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 £75,000 and £25,000 respectively;

(b) where the company has one or more associated companies in the accounting period—

(i) the relevant maximum amount is—

$$\frac{\pounds 75,000}{1 + X}$$

(ii) the relevant minimum amount is—

$$\frac{\pounds 25,000}{1 + X}$$

where *X* is the number of those associated companies.

(4) ^{M7}In applying sub-paragraphs (2) and (3) above to any accounting period of a trading company, an associated company shall be disregarded if—

(a) it was not a trading company, or has not carried on any trade, at any time in that accounting period; or

(b) where it was an associated company during part only of that accounting period, it was not a trading company, or has not carried on any trade, at any time in that part of that accounting period;

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) ^{M8}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 12 months the relevant maximum and minimum amounts determined in accordance with sub-paragraphs (1) to (5) above shall be proportionately reduced.

Modifications etc. (not altering text)

C2 See 1976(D) s.34 and Sch.6 para.9(6)(7)—development land tax. 1976(D) repealed by 1985 s.98(6) and Sch.27 Pt.X.

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Marginal Citations

- M4** Source—1972 Sch.16 9(1)
M5 Source—1972 Sch.16 9(2); 1980 Sch.9 2
M6 Source—1972 Sch.16 9(3); 1978 s.35(1)]
M7 Source—1972 Sch.16 9(4); 1978 s.35(2)]
M8 Source—1972 Sch.16 9(5), (6)

Distributions

- 3 (1) ^{M9}For the purposes of this Chapter the distributions of a company for an accounting period shall, subject to sub-paragraphs (2) to (4) and paragraph 12 below, 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;
 - (b) all distributions made in the period except dividends which, in relation to any previous period, would fall under paragraph (a) above; and
 - (c) ^{M10}anything that would be a distribution but for section 213 or 219 (or both).
- (2) ^{M11}Where a period of account is not an accounting period, dividends which, if it were an accounting period, would be treated under sub-paragraph (1)(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.
- (3) ^{M12}For the purposes of determining whether there is any such excess as is referred to in section 424(1), no account shall be taken of a distribution which, in relation to the company making it, is a bonus distribution unless—
- (a) it is made to a person other than a close company, or
 - (b) it is made to a close company and the share capital or security of which it consists is subsequently distributed, by that or any other close company, by a distribution falling within section 14(2)(b) to a person other than a close company.
- (4) Where a bonus distribution has occurred and, by virtue of paragraph (a) or paragraph (b) of sub-paragraph (3) above, it falls to be taken into account for the purpose of determining whether there is any such excess as is referred to in section 424(1), no account shall be taken for that purpose of a qualifying distribution which consists of the repayment of the share capital or, as the case may be, the principal of the security, which constituted the bonus distribution.
- (5) In sub-paragraphs (3) and (4) above “bonus distribution” means a distribution which in relation to the company making it is a distribution by virtue only of paragraph (c) of section 209(2).

Marginal Citations

- M9** Source—1972 Sch.16 10(1); 1975 (No.2) Sch.8 4
M10 Source—1982 s.56(1)
M11 Source—1972 Sch.16 10(1)

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M12 Source—1972 Sch.16 10A; 1973 Sch.9 3

Distributable income and estate or trading income

- 4 (1) ^{M13} For the purposes of this Chapter, 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 242 or 243; 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 242 did not include subsection (5) or (6) of that section (and as if section 243 did not apply section 242(5));
- and for the purposes of sub-paragraph (a)(ii) above relief under section 242 or 243 shall be treated as having been given first against franked investment income which is not trading income and secondly, so far as it cannot be so given, against franked investment income which is trading income.
- (2) ^{M14} For the purposes of this Chapter, 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) £1,000 or, if the company is a trading company or a member of a trading group, £3,000 or (in either case) if the accounting period is of less than 12 months, a proportionately reduced amount.

Modifications etc. (not altering text)

- C3** See 1976(D) s.34 and Sch.6 para.9(6)(7)—development land tax. 1976(D) repealed by 1985 s.98(6) and Sch.27 Pt.X.
- C4** See ss.539 and 547—certain gains under life policies.
- C5** See ss.539 and 547—certain gains under life policies.

Marginal Citations

- M13** Source—1972 Sch.16 10(2); 1980 Sch.9 3
- M14** Source—1972 Sch.16 10(3); 1978 s.35(3); 1980 s.44(2)

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- 5 (1) ^{M15}For the purposes of this Chapter, “estate or trading income” means estate income and trading income.
- (2) For those purposes “estate income” means 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, but does not include trading income.
- (3) ^{M16}For those purposes “trading income” means income which is not investment income for the purposes of paragraph 7(1) below; and, 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 the trade consists wholly or mainly of one or more of the following, that is to say, life assurance business (within the meaning of section 431), 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 also be trading income.
- (4) ^{M17}For the purposes of sub-paragraph (3) 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.

Marginal Citations

M15 Source—1972 Sch.16 10(4), (4A); 1980 Sch.9 4

M16 Source—1972 Sch.16 10(5); 1980 Sch.9 5

M17 Source—1972 Sch.16 10(6)

- 6 (1) The amount for part of an accounting period of any description of income referred to in paragraph 4 or 5 above shall be a proportionate part of the amount for the whole period.
- ^{M18}(2) ^{M19}In determining the amount for any period of any description of income referred to in paragraph 4 or 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) ^{M20}secondly, so far as it cannot be made under paragraph (a) above, from the company’s estate or trading income so charged;
 - (c) thirdly, so far as it cannot be made under paragraph (a) or (b) above, from the amount included in the company’s profits in respect of chargeable gains.

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- (3) ^{M21}In the application of sub-paragraph (2) above to a company which is a trading company or a member of a trading group there shall be substituted for paragraph (b) the following paragraphs—
- “(b) secondly, so far as it cannot be made under (a) above, from the company’s estate income so charged;
 - (bb) thirdly, so far as it cannot be made under (a) or (b) above, from the company’s trading income so charged;” and in paragraph (c) for “thirdly” there shall be substituted “fourthly”, and for “(a) or (b)” there shall be substituted “(a), (b) or (bb)”.

Marginal Citations

- M18** Source—1972 Sch.16 10(7)
M19 Source—[1972 Sch.16 10(8)(a)]
M20 Source—[1972 Sch.16 10(8)(b), (c); 1985 Sch.25 9]
M21 Source—[1972 Sch.16 10(9); 1980 Sch.9 6; 1987 Sch.15 4]

Meaning of “trading company” and “member of a trading group”

- 7 (1) ^{M22}For the purposes of this Chapter, 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 section 423(1) shall be deemed to be income of the company and to be investment income.
- (2) Subject to sub-paragraph (3) below, for the purposes of this Chapter, 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 that trade or trades.
- (3) A company shall not be treated as a member of a trading group by reason only 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.

Modifications etc. (not altering text)

- C6** See 1974 s.44(4) and Sch.7 para.4(2)—development gains.

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C7 See—s.623(2)—definition of “investment income” applied for purposes of retirement annuities.s.745(4)—definition of “trading company” applied for purpose of Ch.III Part XVIII (transfer of assets abroad).

Marginal Citations

M22 Source—[1972 Sch.16 11]

Requirements of a company’s business

- 8 (1) ^{M23}For the purposes of paragraph 1(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—
 - (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 transactions; 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; and
 - (d) 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 acquisition of an estate or interest in land or the construction or extension of a building, not being a construction or extension which constitutes an improvement or development of farm land or market garden land.

Sub-paragraph (d)above does not apply where the acquisition, construction or extension concerned was made in pursuance of a contract entered into before 24thMarch 1973.

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- (2) ^{M24} 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) above or which represents, directly or indirectly, any share or loan capital or debt which itself was issued or incurred for such consideration.
- (3) ^{M25} In relation to any loan capital or debt mentioned in sub-paragraph (1)(c) above which was issued or incurred by the company for money borrowed by it for the purpose of financing expenditure on any acquisition, construction or extension falling within sub-paragraph (1)(d) above, the expression “loan creditor” in sub-paragraph (1)(c) above shall be construed as if, in the definition of that expression in subsections (7) to (9) of section 417, subsection (9) were omitted.
- (4) ^{M26} References in sub-paragraphs (1)(a) and (2)(b) above to the redemption or repayment of a company’s share capital shall be construed as including references to the purchase by the company of its own shares.
- (5) ^{M27} References in sub-paragraphs (1) to (4) above 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.

Marginal Citations

M23 Source—[1972 Sch.16 12(1); 1973 Sch.9 4(2), (4)]

M24 Source—[1972 Sch.16 12(2)]

M25 Source—[1972 Sch.16 12(2A); 1973 Sch.9 4(3)]

M26 Source—[1972 Sch.16 12(2B); 1982 s.56(2)]

M27 Source—[1972 Sch.16 12(3)]

- 9 (1) ^{M28} Paragraph 1(3) above shall not apply to—
- (a) the acquisition of a trade, or of an asset to be used in a trade, or of an interest in any such asset, which at the date of the acquisition or at any time within one year previously was owned by an associated company of the acquiring company; or
 - (b) the intended acquisition of a trade, or of such an asset or interest as is referred to in paragraph (a) above, which, at the end of the accounting period for which the acquiring company’s relevant income is to be ascertained, is owned by a company which is then an associated company of the acquiring company;
- and, where the trade, asset or interest was, or is, in part owned as mentioned above, paragraph 1(3) above shall not apply with respect to that part.
- (2) Paragraph 1(3) above shall not apply to—

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- (a) *the acquisition of shares which at the date of the acquisition or at any time within one year previously were owned by an associated company of the acquiring company or by a person who then had control of the acquiring company; or*
 - (b) *the intended acquisition of shares which at the end of the accounting period for which the acquiring company's relevant income is to be ascertained are owned by a company which is then an associated company of the acquiring company or by a person who has control of the acquiring company;*
- and where shares were, or are, in part owned as mentioned above, paragraph 1(3)above shall not apply with respect to that part.*
- (3) *Paragraph 1(3)above shall not apply to—*
- (a) *the acquisition of shares in a company which immediately before the acquisition or at any time within one year previously was an associated company of the acquiring company; or*
 - (b) *the intended acquisition of shares in a company which, at the end of the accounting period for which the acquiring company's relevant income is to be ascertained, is an associated company of the acquiring company.*
- (4) *Section 416(1)—*
- (a) *shall not apply for the purposes of paragraph (a)of sub-paragraphs (1), (2)and (3)above; and*
 - (b) *shall apply for the purposes of paragraph (b)of each of those sub-paragraphs with the omission of the words “or at any time within one year previously”.*
- (5) *For the purposes of paragraph (a)of sub-paragraphs (1), (2)and (3)above, another company is an associated company of the acquiring company if—*
- (a) *the acquiring company controlled that other company or that other company controlled the acquiring company either at the date of the acquisition of the trade, asset or interest or at any time within one year previously; or*
 - (b) *a person who had control of the acquiring company at that date also controlled that other company either at that date or at any time within one year previously.*
- (6) *In ascertaining for the purposes of sub-paragraphs (2)and (5)above or for the purposes of section 416(1)as it applies for the purposes of paragraph (b)of sub-paragraphs (1), (2)and (3)above, whether any person has control of a company—*
- (a) *there shall be left out of account for the purposes of section 416(2)(c)the rights of another company as loan creditor in respect of a debt incurred or redeemable loan capital issued in connection with the acquisition from that company of any trade, any asset to be used in a trade, or any interest in any such asset;*
 - (b) *section 417(3)(a)shall have effect as if the reference to a partner of a participator were omitted;*
 - (c) *section 417(3)(a)and (b)shall have effect as if the expression “relative” did not have the meaning assigned to it by section 417(4)but meant husband or wife or, in the case of a director of the company, husband or wife or any child or remoter issue who is an infant; and*
 - (d) *section 417(3)(c)shall have effect as if the reference to any other person interested were a reference (and a reference only)to the trustees or to the personal representatives as defined in section 701.*

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- (7) *For the purposes of this paragraph the time of acquisition of a trade, asset or interest, or shares, acquired under a contract shall be—*
- (a) *the time at which the contract is made, or*
 - (b) *if it is conditional (and in particular if it is conditional on the exercise of an option), the time at which the condition is satisfied,*
- and not, if different, the time at which the trade, asset, interest or shares is or are conveyed or transferred.*
- (8) *For the purposes of paragraph 1(3) above there shall be regarded as income available for distribution and not as having been applied, or as being applicable, to such requirements of a company's business as may be necessary or advisable for such an acquisition as is mentioned in paragraph 1(3) above any sum expended or applied, or intended to be expended or applied, as mentioned in paragraph 8(1)(a) (iv) or (b) above; and paragraph 8(2) and (5) above shall apply for the purposes of this sub-paragraph as they apply for the purposes of paragraph 8.*

Marginal Citations

M28 Source—[1972 Sch.16 12A; 1978 Sch.5 2]

Cessations and liquidations

- 10 (1) ^{M29} *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 12 months ending with that event, shall be calculated as if—*
- (a) *paragraph 1(1)(a) and (b)(i) above referred respectively to the whole of the company's distributable income other than trading 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 1(2)(a) and 8 above were omitted;*
 - (b) *in paragraph 2(1) above the words "50 per cent. of" were omitted.*
- (2) ^{M30} *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 section 424(1) 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) ^{M31} *Subject to sub-paragraph (4) below, 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.*
- (4) *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*

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- (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*
- [^{F1}(i) *tangible property,*
- (ii) ^{M32}*copyright in a literary, dramatic, musical or artistic work within the meaning of Part I of the Copyright, Designs and Patents Act 1988 (or any similar right under the law of a country to which that Part does not extend), or*
- (iii) *design right,]* , ^{M33}*and not representing more than a reasonable commercial consideration for that use.*
- (5) ^{M34}*Where sub-paragraph (1) above applies for any accounting period, there shall be disregarded for the purposes of any apportionment made by virtue of section 424(2) 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.*
- (6) *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 ^{M35}Insolvency Act 1986, sub-paragraphs (1) to (5) above shall apply for any accounting period ending in or with the 12 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.*

Textual Amendments

F1 [Sch.7 para.36\(8\)](#) Copyright, Designs and Patents Act 1988 from 1 August 1989—commencement order S.I. 1989 No.816 (not reproduced). Previously “*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)*”.

Modifications etc. (not altering text)

C8 See 1976(D) s.34 and [Sch.6 para.9\(8\)](#)—development land tax. 1976(D) repealed by 1985 s.98(6) and [Sch.27 Pt.X](#).

Marginal Citations

M29 Source—[1972 Sch.16 13(1); 1980 Sch.9 7]

M30 Source—[1972 Sch.16 13(2)]

M31 Source—[1972 Sch.16 13(3)]

M32 Source—[1956 c. 74](#).

M33 [1956 c.74](#)

M34 Source—[1972 Sch.16 13(4), (5)]

M35 [1986 c. 45](#).

Legal restrictions on distributions

- 11 (1) ^{M36}*Subject to paragraph 12 below, where a company is subject to any restriction imposed by law as regards the making of distributions, the excess mentioned in section 424(1) shall be disregarded to the extent to which the company could not*

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make distributions up to the amount of its relevant income without contravening that restriction.

- (2) *Except where paragraph 10(1)above applies, there shall be disregarded for the purposes of any apportionment made by virtue of section 424(2)so much of the relevant income of the company as is equal to any amount which would be disregarded under sub-paragraph (1)above.*

Marginal Citations

M36 Source—[1972 Sch.16 14; 1975 (No.2) Sch.8 3(3)]

Stock dividends

- 12 (1) ^{M37}*Where a company issues to a close company any relevant share capital, sub-paragraphs (2)and (3)below shall apply as regards that share capital, and in this paragraph—*
- “the relevant accounting period” means the accounting period of the close company in which the due date of issue falls;*
- “relevant share capital” means share capital to which section 249applies; and*
- “appropriate amount in cash” has the meaning given by section 251(2).*
- (2) *The relevant income of the close company for the relevant accounting period, as determined under paragraph 1above, and the amount which, under paragraph 2above (read, where appropriate, with paragraph 10above)the relevant income of the close company for that period cannot exceed, shall each be increased by an amount equal to the appropriate amount in cash (or, if it would otherwise be nil, be treated as equal to the appropriate amount in cash).*
- (3) *The amount, if any, which would otherwise be disregarded under paragraph 11(1)above shall be reduced by an amount equal to the appropriate amount in cash.*
- (4) *Where a close company issues any relevant share capital in a case falling within section 249(4), (5)or (6)or sub-paragraph (1)above (read in each case with section 249(3)),the company shall be treated for the purposes of paragraph 3(1)and (2)above—*
- (a) *as if a dividend of an amount equal to the appropriate amount in cash had been paid on the due date of issue; and*
- (b) *where, in relation to that share capital, “the appropriate amount in cash” has the meaning given by section 251(2)(a),as if that dividend had been declared in respect of the accounting period (if any)in respect of which the relevant cash dividend (as defined in section 251(3))was declared^{F2}.*

Textual Amendments

F2 *Repealed by 1989 s.187and Sch.17 Part Vbut Part Icontinues to have effect where the subsequent distribution referred to in 1988 s.427(4)is made before 1April 1992.*

Marginal Citations

M37 Source—[1975 (No.2) Sch.8 3(4).]

Status:

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