



# Finance Act 1954

## 1954 CHAPTER 44

### PART III

#### INCOME TAX AND PROFITS TAX

#### **14 Charge of income tax for 1954-55**

Income tax for the year 1954-55 shall be charged at the standard rate of nine shillings in the pound and, in the case of an individual whose total income exceeds two thousand pounds, at such higher rates in respect of the excess over two thousand pounds as Parliament may hereafter determine.

#### **15 Further provision for repayment of post-war credits**

- (1) Where a man or woman who has died or become bankrupt would, but for that, be entitled on making the proper application under section twenty-six of the Finance Act, 1946 (which provides for the repayment of post-war credits to elderly persons), to payment of a post-war credit to which that section applies, then (subject to the provisions of this section) the person for the time being having the title to the credit shall be entitled to receive the payment.
- (2) Notwithstanding the proviso to subsection (4) of section seven of the Finance Act, 1941, an assignment of or charge on any such credit made by a deceased person's personal representatives acting in their capacity as such, and not made to a legatee or, where the deceased's estate is (or but for the credit would be) insolvent, to a creditor of the estate, and any agreement for such an assignment or charge, shall be void unless made before the commencement of this Act; and a person shall not be entitled to payment of a credit by virtue of this section if his title to the credit depends on such an assignment or charge made before that commencement but after the sixth day of April, nineteen hundred and fifty-four:

Provided that for the purposes of this subsection an assignment or charge made to give effect to an agreement enforceable against the persons making the assignment or charge shall be treated as made at the time of the agreement.

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- (3) A person shall not be entitled to payment of a credit by virtue of this section unless he makes a written application to the Commissioners of Inland Revenue in such form as they may require and they are satisfied of his right, at the time of the application, to payment (subject only to subsection (6) of this section); and the Commissioners may require such evidence as they think fit in support of applications under this section.
- (4) Subsections (6) to (8) of section twenty-six of the Finance Act, 1946 (which make supplementary provision for the purposes of that section), shall apply for the purposes of this section as they apply for the purposes of that section.
- (5) In this section—
  - (a) any reference to the person having title to a credit is a reference to the person who, on the date being fixed by the Treasury under subsection (1) of section seven of the Finance Act, 1941, would be entitled to have it credited to him; and
  - (b) " legatee " means, in relation to a deceased person, a person taking any property or interest in property, whether beneficially or not, under a will or other testamentary disposition of the deceased person or on his intestacy.
- (6) No payments shall be made by virtue of this section before the ninth day of August, nineteen hundred and fifty-four; but anything done before the commencement of this Act, and after the fourth day of July, nineteen hundred and fifty-four, with a view to obtaining or making payment on or as soon as may be after the said ninth day of August shall be and be deemed to have been of the same effect as if this section had been in force at the time.

## **16 New provision for " investment allowances."**

- (1) In the cases provided for by this section, an allowance (in this Act referred to as an " investment allowance ") shall be made in respect of capital expenditure on new assets incurred after the sixth day of April, nineteen hundred and fifty-four.
- (2) An investment allowance equal to one-tenth of the expenditure shall be made instead of an initial allowance under Chapter I of Part X of the Income Tax Act, 1952, in respect of expenditure on the construction of a building or structure which is to be an industrial building or structure, and any provision of the Income Tax Acts applicable to initial allowances under that Chapter shall apply instead to investment allowances under this subsection, except that—
  - (a) the amount of an investment allowance shall not be written off under subsection (2) of section two hundred and sixty-eight of the Income Tax Act, 1952, in ascertaining the residue of the expenditure, nor taken into account under subsection (6) of section two hundred and sixty-seven of that Act in ascertaining the maximum amount on which a balancing charge may be made; and
  - (b) the right to an investment allowance shall not be excluded by section two hundred and seventy-seven of that Act (which relates to cases where mills, factories etc. allowances continue to be allowable); and
  - (c) paragraph (b) of subsection (1) of section two hundred and seventy-eight of that Act (by virtue of which the expenditure treated as incurred on a building or structure does not include expenditure on preparing, cutting, tunnelling or levelling land) shall not apply, but any investment allowance shall be disregarded for the purposes of subsection (3) of that section.

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- (3) An investment allowance equal to one-fifth of the expenditure shall be made instead of an initial allowance under Chapter II of the said Part X in respect of expenditure on the provision of new machinery or plant, and any provision of the Income Tax Acts applicable to initial allowances under that Chapter, so far as it is applicable in relation to allowances for new assets, shall apply also to investment allowances under this subsection, except that—
- (a) references to initial allowances in sections two hundred and eighty-one to two hundred and ninety-seven of and in the Fourteenth Schedule to the Income Tax Act, 1952 (under which an initial allowance affects the right or liability to or amount of other allowances and charges), shall not apply; and
  - (b) in the case of expenditure on the provision of a ship, the proviso to subsection (5) of section two hundred and seventy-nine of the said Act (which contains transitional provisions in connection with the suspension of initial allowances by the Finance Act, 1951) shall not affect the amount of any investment allowance, but where an initial allowance equal to two-fifths of the expenditure falls to be made by virtue of that proviso, either an investment allowance or an initial allowance shall be made at the option of the person entitled; and
  - (c) where the expenditure on new machinery or plant is allowed to be deducted in computing profits or gains for the purposes of income tax, it shall nevertheless be treated as capital expenditure for the purposes of this subsection, if it would be so treated for the purposes of the said Chapter II but for the deduction:

Provided that no investment allowance shall be made under this subsection in respect of expenditure incurred on the provision of road vehicles unless they are of a type not commonly used as private vehicles and unsuitable to be so used or are provided wholly or mainly for hire to or for the carriage of members of the public in the ordinary course of a trade.

- (4) An investment allowance shall be made instead of an initial allowance under Chapter III of the said Part X in respect of expenditure to which that Chapter applies on the construction of works, and any provision of the Income Tax Acts applicable to initial allowances under that Chapter shall apply also to investment allowances under this subsection, except that—
- (a) the amount of an investment allowance shall be one-fifth of the expenditure in respect of which it is made; and
  - (b) investment allowances shall not be taken into account under sections three hundred and seven and three hundred and eight of the Income Tax Act, 1952, in ascertaining the residue of the expenditure:

Provided that an initial allowance may be made, at the option of the person entitled, and not an investment allowance.

- (5) An investment allowance equal to one-tenth of the expenditure shall be made in respect of expenditure on buildings or works in the case of which an allowance may be made under section three hundred and fourteen of the Income Tax Act, 1952 (which relates to farm and forestry buildings, and works), and any provision of the Income Tax Acts applicable to allowances under that section shall apply also to investment allowances under this subsection, except that—
- (a) so much of subsection (1) of that section as excludes any expenditure by reference to section one hundred and one of the said Act shall not apply; and

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- (b) an investment allowance in respect of any expenditure shall be made only for the first year of assessment for which the allowance under section three hundred and fourteen falls to be made (or would fall to be made but for that exclusion).
- (6) An investment allowance equal to one-fifth of the expenditure shall be made in respect of scientific research expenditure on the construction of buildings or works or the provision of new machinery or plant, being expenditure in respect of which an allowance falls to be made under section three hundred and thirty-six of the Income Tax Act, 1952, and any provision of the Income Tax Acts applicable to allowances under that section, so far as it is applicable in relation to allowances for new assets, shall apply also to investment allowances under this subsection, except that—
  - (a) an investment allowance in respect of any expenditure shall be made only for the first year of assessment for which the allowance under section three hundred and thirty-six falls to be made; and
  - (b) an investment allowance shall not be taken into account for any purpose under section three hundred and thirty-seven of that Act (which relates to the making of an additional allowance or of a charge on the termination of user etc. of assets provided for scientific research purposes) nor shall references to a scientific research allowance in Chapters I and II of Part X of that Act apply.
- (7) A claim for an investment allowance shall have annexed to it a certificate stating that the expenditure was incurred on new assets and giving such particulars of the purposes for which they are to be used as show that an investment allowance falls to be made; and the certificate shall be signed by the claimant and shall be deemed to form part of the claim.
- (8) The Second Schedule to this Act shall have effect to provide for the withholding or withdrawal of investment allowances or the withholding of initial allowances in certain cases, and matters incidental thereto, and to amend sections two hundred and ninety-two and two hundred and ninety-six of the Income Tax Act, 1952, in connection with cases where no initial allowance is made in respect of machinery or plant, whether or not by virtue of this section.
- (9) Subject to that Schedule, where it is provided by this section that an investment allowance shall be made instead of an initial allowance, no initial allowance shall be made notwithstanding that an investment allowance is for any reason not made, except where the person entitled has and exercises an option in favour of an initial allowance.
- (10) In this section, "new" in relation to machinery and plant means unused and not secondhand.
- (11) Notwithstanding anything in the foregoing provisions of this section, expenditure to which it does not otherwise apply shall not be treated for the purposes of it as incurred after the sixth day of April, nineteen hundred and fifty-four, by virtue of any of the following provisions of the Income Tax Act, 1952, that is to say, subsection (6) of section two hundred and sixty-five, subsection (2) of section two hundred and seventy-seven (as it operates on subsection (4) of section two hundred and sixty-five), subsection (2) of section two hundred and seventy-nine and subsection (1) of section three hundred and nine (which relate partly to cases where expenditure is incurred by a person for the purposes of a trade before he begins carrying it on, and partly to cases where mills, factories etc. allowances cease to be allowable).
- (12) Where this section provides for an investment allowance to be made for the purposes of income tax in respect of any expenditure to a person carrying on a trade or business

in respect of which he is chargeable to the profits tax, the amount of the allowance shall be deducted in computing the profits of the trade or business for the purposes of the profits tax for the accounting period in which the expenditure is incurred; and paragraph 1 of the Second Schedule to this Act shall apply to the withdrawal of an allowance for the purposes of the profits tax as it applies to its withdrawal for the purposes of income tax.

## **17 Company reconstructions etc. without change of ownership**

- (1) A trade carried on by a company, whether alone or in partnership, shall not be treated for any of the purposes of the Income Tax Acts as permanently discontinued, nor a new trade as set up and commenced, by reason of a change in the year 1954-55 or any subsequent year of assessment in the persons engaged in carrying on the trade, if the company is the person or one of the persons so engaged immediately before the change and on or at any time within two years after the change the trade or an interest amounting to not less than a three-fourths share in it belongs to the same persons as the trade or such an interest belonged to at some time within a year before the change.
- (2) The conditions for the foregoing subsection to apply to a change may be satisfied notwithstanding that some other change, prior or subsequent to the first-mentioned change, intervenes between the times taken for the comparison under that subsection, and if they are (or continue to be) satisfied by reference to a time after some subsequent change (but still within two years after the first-mentioned change) the trade shall not be treated for any of the purposes of the Income Tax Acts as permanently discontinued, nor a new trade as set up and commenced, by reason of that subsequent change.
- (3) If a trade is permanently discontinued, but on the discontinuance the activities of the trade or part of them are carried on by some person as his trade or as part of his trade,—
  - (a) the foregoing subsections shall apply in relation to any change in the persons engaged in carrying on the first-mentioned trade as if the two trades were the same trade, and
  - (b) the two trades shall be treated for all the purposes of the Income Tax Acts as if they were the same trade and as if, instead of the discontinuance, there had been a change in the persons engaged in carrying on that trade, where the effect of so treating them is that either of the foregoing subsections applies to prevent the change being treated as a discontinuance:

Provided that where the activities so carried on are part only of the activities of either of the trades in question they shall so far as necessary be treated for the purposes of this subsection as a separate trade from the other activities of that trade, and for that purpose there shall be made such apportionments as may be just of any profits or gains, losses, allowances or charges.

- (4) For the purposes of this section—
  - (a) a trade carried on by two or more persons shall be treated as belonging to them in the shares in which they are entitled to the profits of the trade;
  - (b) a trade or interest therein belonging to any person as trustee (otherwise than for charitable or public purposes) shall be treated as belonging to the persons for the time being entitled to the income under the trust;
  - (c) a trade or interest therein belonging to a company shall, where the result of so doing is that the conditions for subsection (1) or subsection (2) of this section to apply to a change are satisfied, be treated in any of the ways permitted by the next following subsection.

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- (5) For the purposes of this section, a trade or interest therein which belongs to a company engaged in carrying it on may be regarded—
- (a) as belonging to the persons owning the ordinary share capital of the company and as belonging to them in proportion to the amount of their holdings of that capital, or
  - (b) in the case of a company which is a subsidiary company, as belonging to a company which is its parent company, or as belonging to the persons owning the ordinary share capital of that parent company, and as belonging to them in proportion to the amount of their holdings of that capital,
- and any ordinary share capital owned by a company may, if any person or body of persons has the power to secure by means of the holding of shares or the possession of voting power in or in relation to any company, or by virtue of any power conferred by the articles of association or other document regulating any company, that the affairs of the company owning the share capital are conducted in accordance with his or their wishes, be regarded as owned by the person or body of persons having that power.
- (6) For the purposes of the last foregoing subsection—
- (a) references to ownership shall be construed as references to beneficial ownership, and the expression "ordinary share capital" in relation to a company means all the issued share capital (by whatever name called) of the company, other than capital the holders whereof have a right to a dividend at a fixed rate or at a rate fluctuating in accordance with the standard rate of income tax, but have no other right to share in the profits of the company;
  - (b) a company shall be deemed to be a subsidiary of another company if and so long as not less than three-quarters of its ordinary share capital is owned by that other company, whether directly or through another company or other companies, or partly directly and partly through another company or other companies;
  - (c) the amount of ordinary share capital of one company owned by a second company through another company or other companies, or partly directly and partly through another company or other companies, shall be determined in accordance with the provisions of Part I of the Fourth Schedule to the Finance Act, 1938;
  - (d) where any company is a subsidiary of another company that other company shall be considered as its parent company unless both are subsidiaries of a third company.
- (7) In determining, for the purposes of this section, whether or to what extent a trade belongs at different times to the same persons, persons who are relatives of one another and the persons from time to time entitled to the income under any trust shall respectively be treated as a single person, and for this purpose "relative" means husband, wife, ancestor, lineal descendant, brother or sister.
- (8) For the purposes of this section "company" includes any body corporate.
- (9) The Third Schedule to this Act shall have effect for the purpose of supplementing and giving effect to this section.

## **18 Right to carry back loss sustained in last year of business**

- (1) Where a trade, profession or vocation is permanently discontinued, and any person then carrying it on, either solely or in partnership, has sustained therein a loss to

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which this section applies (hereinafter referred to as a "terminal loss"), then subject to the provisions of this section he may claim that the amount of the terminal loss shall, as far as may be, be deducted from or set off against the amount of profits or gains on which he has been charged to tax under Schedule D in respect of the trade, profession or vocation for the three years of assessment last preceding that in which the discontinuance occurs, and there shall be made all such reductions of assessments or repayments of tax as may be necessary to give effect to the claim:

Provided that relief shall not be given in respect of the same matter both under this section and under some other provision of the Income Tax Acts.

- (2) Any relief under this section shall be given as far as possible from the assessment for a later rather than for an earlier year.
- (3) Where a claim is made under this section in respect of a terminal loss sustained in a trade, and relief cannot be given, or cannot be wholly given, against the profits or gains of the trade charged to tax under Schedule D for any year because the amount of those profits or gains is insufficient, then any interest or dividends on investments arising in that year, being interest or dividends which would fall to be taken into account as trading receipts in computing the profits or gains of the trade for the purpose of assessment under Case I of Schedule D but for the fact that they have been subjected to tax under other provisions of the Income Tax Acts, shall be treated for the purposes of the application of this section as if they were profits or gains on which the person carrying on the trade was assessed under the said Case I in respect of that trade for that year of assessment, and relief shall be given accordingly by repayment or otherwise.
- (4) The profits or gains on which a person or partnership has been charged to tax for any year of assessment shall be treated, for the purposes of any relief under this section from the assessment for that year, as reduced by the amount of those profits or gains applied in making any payment, where tax was deducted from the payment and was not accounted for because the payment was made out of profits or gains brought into charge, and in the case of a body of persons by the amount of those profits or gains applied in payment of dividends; and where those profits or gains are so treated as reduced by an amount applied in making any payment other than a payment of dividends, then the like reduction shall be made in the amount of the terminal loss for which relief may be given under this section from the assessments for earlier years, unless the payment was one which, if not made out of profits or gains brought into charge, could have been assessed to tax under section one hundred and seventy of the Income Tax Act, 1952, and, if so assessed, could have been treated as a loss by virtue of section three hundred and forty-five of that Act.
- (5) The question whether a person has sustained any, and if so what, terminal loss in a trade, profession or vocation shall for the purposes of this section be determined by taking the amounts, if any, of the following (in so far as they have not been otherwise taken into account so as to reduce or relieve any charge to tax), that is to say—
  - (a) the loss sustained by him in the trade, profession or vocation in the year of assessment in which it is permanently discontinued;
  - (b) the relevant capital allowances for that year of assessment;
  - (c) the loss sustained by him in the trade, profession or vocation in the part of the preceding year of assessment beginning twelve months before the date of the discontinuance;
  - (d) the same fraction of the relevant capital allowances for that preceding year of assessment as the part beginning as aforesaid is of a year.

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- (6) In the last foregoing subsection " the relevant capital allowances " means, in relation to any year of assessment, any allowances falling to be made in charging the profits or gains of the trade, profession or vocation for that year under Parts X and XI of the Income Tax Act, 1952, excluding amounts carried forward from an earlier year, and for the purposes of paragraphs (a) and (c) of that subsection the amount of a loss shall, subject to the provisions of this section, be computed in like manner as profits or gains under the provisions of the Income Tax Acts applicable to Cases I and II of Schedule D.
- (7) Where a person claiming relief under this section on a discontinuance has, since the beginning of the third year of assessment preceding that in which the discontinuance occurs, carried on the trade, profession or vocation in partnership,—
- (a) " the amount of profits or gains on which he has been charged to tax " shall be taken to mean, in respect of any year or part of a year for which the partnership was assessed in respect of the trade, profession or vocation, such portion of the amount of the profits or gains on which the partnership has been, or is treated by virtue of subsection (4) of this section as having been, charged to tax in respect of it for that year or part of a year as would be required by the Income Tax Acts to be included in a return of his total income for that year; and
  - (b) any reduction in the amount of his terminal loss which falls to be made under the said subsection (4) by reason of profits or gains having been applied by the partnership in any such year or part of a year in making any payment shall be limited to the same proportion of the profits or gains brought into charge which were so applied; and
  - (c) if he was carrying on the trade, profession or vocation in partnership immediately before the discontinuance, the amounts to be included in his terminal loss by virtue of paragraph (b) or (d) of subsection (5) of this section shall be such part only of the amounts therein mentioned (in so far as they have not been otherwise taken into account so as to reduce or relieve any charge to tax) as would fall to his share on a division made according to the shares in which the partners were then entitled to the profits of the trade, profession or vocation.
- (8) For all the purposes of this section a trade, profession or vocation shall be treated as permanently discontinued, and a new trade, profession or vocation as set up and commenced, when it is so treated for the purposes of section nineteen of the Finance Act, 1953; but—
- (a) a person who continues to be engaged in carrying it on immediately after such a discontinuance shall not be entitled to relief in respect of any terminal loss on that discontinuance; and
  - (b) on any discontinuance, a person not continuing to be so engaged may be given relief in respect of a terminal loss against profits or gains on which he was charged in respect of the same trade, profession or vocation for a period before a previous discontinuance, if he has been continuously engaged in carrying it on between the two discontinuances, and, in his case, if the previous discontinuance occurred within twelve months before the other.—
    - (i) it shall be disregarded for the purposes of paragraphs (a) and (c) of subsection (5) of this section, except that those paragraphs shall be taken to include any amount on which relief could have been allowed to him as for a loss sustained before the previous discontinuance by virtue of paragraph (c) of subsection (2) of the said section nineteen, so far as it is referable to a period within those twelve months; and



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- (ii) paragraph (d) of the said subsection (5) shall be taken to include the whole amount of the allowances in question, instead of the fraction there mentioned.
- (9) A claim for relief under this section may require that, in so far as they have not been otherwise taken into account so as to reduce or relieve any charge to tax, allowances under Part X of the Income Tax Act, 1952, in respect of the trade, profession or vocation, being allowances which fall to be made to the claimant by way of discharge or repayment of tax and to be so made for the year of assessment in which the discontinuance occurs or the preceding year of assessment, shall be added to the terminal loss sustained by him (or, if he has not sustained a terminal loss computed in accordance with the foregoing subsections, shall be treated as a terminal loss so sustained), and the allowances to be taken into account for this purpose may include allowances arising before a previous discontinuance:
- Provided that—
- (a) there shall be taken into account such fraction only of the allowances for the said preceding year of assessment as the part of that year beginning twelve months before the discontinuance giving rise to the claim is of a year; and
- (b) the allowances for any year shall not be treated as including any amounts carried forward from an earlier year.
- (10) The Fourth Schedule to this Act shall have effect to adapt and apply to the purposes of this section the provisions of the Income Tax Acts referred to in the Schedule.
- (11) Where a person occupying woodlands has elected to be charged to tax in respect thereof under Schedule D, this section shall apply to a terminal loss sustained by him in the occupation thereof as it applies to a terminal loss sustained in a trade.
- (12) This section shall apply where a trade, profession or vocation is permanently discontinued in the year 1954-55 or any subsequent year of assessment, and where relief falls to be given for the year 1951-52 shall apply with the necessary adaptations of references to the Income Tax Act, 1952.

## **19 Carry forward of management expenses by life assurance and other companies**

The Income Tax Act, 1952, shall have effect as if in section four hundred and twenty-five (which enables life assurance and other companies to claim repayment of tax on an amount equal to the sums disbursed by the company as expenses of management) there were inserted after subsection (1) the following subsection:—

- “(1A) If, in the case of the year 1954-55 or any subsequent year of assessment, effect cannot be given, or cannot be fully given, to the foregoing subsection because the company has not been charged to tax for that year by deduction or otherwise, or because the sums disbursed for that year exceed the amount on which the company has been charged to tax for the year, an amount equal to the sums so disbursed, less any amount on which the company has been so charged, may be carried forward and treated for the purposes of this section as if it had been disbursed for any subsequent year of assessment:

Provided that relief in respect of an amount so carried forward shall be given for the first year of assessment next following, in so far as relief can be so given in accordance with the provisions of this section in respect of that amount as well

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as in respect of other sums disbursed or treated as disbursed for that year, and so far as it cannot be so given, then for the next year of assessment, and so on.”

## **20 Capital allowances (right to set against general income)**

- (1) Subject to the provisions of this section, any claim made under section three hundred and forty-one of the Income Tax Act, 1952, for relief in respect of a loss sustained by the claimant in any trade may require the amount of the loss to be determined as if an amount equal to the capital allowances falling to be made in charging the profits or gains of the trade for the relevant year of assessment, in so far as effect cannot be so given to those allowances because of an insufficiency of profits or gains, were to be deducted in computing the profits or gains or losses of the trade in that year, and a claim may be so made notwithstanding that apart from those allowances the claimant has not sustained a loss in the trade in that year:

Provided that in the case of a claim made by virtue of subsection (3) of section fifteen of the Finance Act, 1953 (which enables a loss to be carried forward for one year for the purposes of the said section three hundred and forty-one), the deduction shall be of an amount equal to the said capital allowances in so far as, by reason of an insufficiency of profits or gains, effect cannot be given to them in charging the profits or gains of the trade for the relevant year of assessment or for the following year.

- (2) Where on any claim made by virtue of this section relief is not given under the said section three hundred and forty-one for the full amount of the loss determined as aforesaid, the relief shall be referred as far as may be to the loss sustained by the claimant in the trade rather than to the capital allowances in respect of the trade.
- (3) For the purposes of this section, the capital allowances falling to be made in charging the profits or gains of the trade for the relevant year of assessment shall be treated as not including any part of the allowances for an earlier year, notwithstanding that it is carried forward to the relevant year under subsection (2) of section three hundred and twenty-three of the Income Tax Act, 1952; but effect shall be deemed to be given in charging the profits or gains of the trade to allowances carried forward from an earlier year before it is given to allowances arising in a later year.
- (4) Subject to the next following subsection, where for any year of assessment relief is given under the said section three hundred and forty-one by reference to any capital allowances, then for all purposes of the Income Tax Acts effect shall be deemed to have been given to those allowances up to the amount in respect of which relief is given, as if a deduction in respect thereof had been allowed in charging the profits or gains of the trade for that year, and any relief previously given for a subsequent year on the basis that effect had not been given to the allowances as aforesaid shall be adjusted, where necessary, by an additional assessment.
- (5) Where in any year of assessment a trade is permanently discontinued, or is treated for the purposes of section nineteen of the Finance Act, 1953, as permanently discontinued, and immediately before the discontinuance the trade was being carried on in partnership, then, notwithstanding the last foregoing subsection, for the purposes of any claim for relief made by virtue of paragraph (c) of subsection (2) of the said section nineteen or by virtue of section eighteen of this Act, and relating to that discontinuance, effect shall not be deemed to have been given either—
- (a) to any part of the capital allowances falling to be made in charging the profits or gains of the trade for that year by reason of relief given under the said section three hundred and forty-one by reference to those allowances; or

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- (b) to any part of the capital allowances falling to be made in charging the profits or gains of the trade for the preceding year by reason of relief so given by reference to them, in so far as that relief must be referred to the part of the allowances apportionable to the part of the year within twelve months of the discontinuance on an apportionment made by reference to the comparative lengths of the two parts of the year;

but, where the same partner claims relief both under the said section three hundred and forty-one and under one or other of the said sections nineteen and eighteen in respect of the same allowances, the total amount for which relief is to be given to him by reference thereto shall not exceed the greater of the amounts for which, apart from any deficiency of income, relief might have been given under either section separately, and the total amount for which relief is to be given to all the partners under those sections in respect of any allowances shall not in any event exceed the amount of the allowances to which effect has not been given apart from those sections.

- (6) Where a person claiming relief under the said section three hundred and forty-one has, since the end of the year for which the claim is made, carried on the trade in question in partnership, effect shall not be given to this section in relation to that claim, except with the written consent of, or of the personal representatives of, every other person who has been engaged in carrying on the trade between the end of that year and the making of the claim:

Provided that where the claim is for a loss sustained before an event treated as the permanent discontinuance of the trade, this subsection shall not require the consent of any person as having been so engaged since that discontinuance or as the personal representative of such a person.

- (7) In the foregoing subsections, " capital allowances " means allowances under Parts X and XI of the Income Tax Act, 1952, and " relevant year of assessment " means, in relation to any claim under the said section three hundred and forty-one, the year of assessment in which a loss is claimed to have been sustained.
- (8) An election under the proviso to subsection (1) of section three hundred and twenty-four of the Income Tax Act, 1952 (which enables an allowance under Part X of that Act of a kind given by way of discharge or repayment of tax and available primarily against a specified class of income to be set off against other income of the year in which the allowance arises), may be made for the year 1954-55 or any subsequent year of assessment with respect to an allowance for the last preceding year, so far as not previously allowed, as if the allowance were or formed part of the allowance for the year for which the election is made; and in applying that subsection as amended by this provision to any allowances, relief shall be deemed to be given in respect of an allowance carried forward from an earlier year before it is given in respect of an allowance arising in a later year.
- (9) This section applies, with any necessary adaptations in relation to a profession, employment or vocation and in relation to the occupation of woodlands where the profits or gains thereof are assessable under Schedule D, as it applies in relation to a trade.

## **21 Treatment of demolition costs for purposes of capital allowances etc.**

- (1) Where a building or structure is demolished, and the demolition gives rise, or might give rise, to a balancing allowance or charge under Chapter I of Part X to or on the person incurring the cost of demolition for a year of assessment not earlier than the

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year 1954-55, the net cost to him of the demolition shall be added for the purposes of that Chapter to the residue immediately before the demolition of the expenditure incurred on the construction of the property.

- (2) Where machinery or plant is demolished, and the demolition either gives rise, or might give rise, to a balancing allowance or charge under Chapter II of Part X for any such year to or on the person incurring the cost of demolition, or (by virtue of paragraph 2 of the Sixth Schedule to the Finance Act, 1952) affects or might affect such an allowance or charge on the permanent discontinuance of a trade, the net cost to him of the demolition shall be added for the purposes of that Chapter to the amount of the capital expenditure incurred on the provision of that machinery or plant still unallowed as at the time of the demolition or of the discontinuance, as the case may be.
- (3) The net cost to a person of the demolition of an asset representing expenditure of his to which Chapter III of Part X applies (if the cost is incurred in his basis period for any such year of assessment) shall be added for the purposes of that Chapter to the residue immediately before the demolition of the expenditure represented by the asset.
- (4) Where subsection (3) of section three hundred and thirty-seven of the Income Tax Act, 1952, has effect on the demolition of an asset representing scientific research expenditure, the cost of the demolition to the person carrying on the trade shall for the purposes of subsection (2) of section three hundred and thirty-seven of that Act (as applied by the said subsection (3)) be added to the scientific research expenditure represented by the asset.
- (5) The cost or net cost to a person of the demolition of any property shall not, if any of the foregoing subsections applies to it, be treated for the purposes of Part X or XI as expenditure incurred in respect of any other property by which that property is replaced.
- (6) Notwithstanding the last foregoing subsection, the cost of demolishing any machinery or plant which is replaced by other machinery or plant shall be treated, for the purposes of subsection (2) of section two hundred and ninety-six of the Income Tax Act, 1952 (which relates to the allowances on the replacement of obsolete machinery or plant, but applies only to machinery or plant provided before the appointed day), both as an amount expended in replacing the machinery or plant and as part of the cost of the machinery or plant replaced.
- (7) In this section, any reference to Part X or to Part XI is a reference to that Part of the Income Tax Act, 1952, and any reference to the net cost of the demolition of any property is a reference to the excess, if any, of the cost of the demolition over any moneys received for the remains of the property.
- (8) This section, so far as it relates to any Chapter of Part X or to Part XI, shall be construed as if contained in that Chapter or in Part XI, as the case may be.

## **22 Provision for capital allowances in respect of certain land**

- (1) In computing the profits and gains or losses for any period of a trade which consists of or includes the carrying on of a cemetery there shall be allowed as a deduction—
  - (a) any capital expenditure incurred by the person engaged in carrying on the trade in providing any land in the cemetery sold during that period for the purpose of interments; and
  - (b) the appropriate fraction of the residue at the end of that period of the capital expenditure defined in subsection (2) of this section.

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- (2) The capital expenditure mentioned in paragraph (b) of the foregoing subsection is capital expenditure incurred for the purposes of the trade in question by the person engaged in carrying it on, being—
- (a) expenditure on any building or structure other than a dwelling-house, being a building or structure in the cemetery likely to have little or no value when the cemetery is full; and
  - (b) expenditure incurred in providing land taken up by any such building or structure and any other land in the cemetery not suitable or adaptable for use for interments and likely to have little or no value when the cemetery is full:

Provided that it does not include expenditure incurred on buildings or structures which have been destroyed before the beginning of the first period to which subsection (1) of this section applies in the case of the trade, and only includes that fraction of other expenditure incurred before that time which is equal to the number of grave-spaces which at that time were or could have been made available in the cemetery for sale divided by that number plus the number already sold.

- (3) For the purposes of this section—
- (a) the residue of any expenditure at the end of a period is the amount incurred before that time which remains after deducting—
    - (i) any amount allowed in respect of that expenditure under paragraph (b) of subsection (1) of this section in computing the profits and gains or losses of the trade for any previous period, and
    - (ii) if after the beginning of the first period to which subsection (1) of this section applies in the case of the trade and before the end of the period mentioned at the beginning of this subsection any asset representing that expenditure is sold or destroyed, the net proceeds of sale, or, as the case may be, any insurance money or other compensation of any description received by the person carrying on the trade in respect of the destruction and any money received by him for the remains of the asset; and
  - (b) the appropriate fraction of the residue of any expenditure at the end of any period is that represented by the number of grave-spaces in the cemetery sold in the period divided by that number added to the number of grave-spaces which at the end of the period are or could be made available in the cemetery for sale.
- (4) Where in the year 1954-55 or any subsequent year of assessment there is a change in the persons engaged in carrying on a trade which consists of or includes the carrying on of a cemetery, any allowance to be made under this section to the persons carrying on the trade after the change shall, whether or not it is to be assumed for other purposes that the trade was discontinued and a new trade set up and commenced, be computed as if they had at all times been engaged in carrying on the trade, and as if everything done to or by any of their predecessors in carrying on the trade had been done to or by them, and without regard to the price paid on any sale on the occasion of any such change.
- (5) No expenditure shall be taken into account both under paragraph (a) and paragraph (b) of subsection (1) of this section, whether for the same or different periods.
- (6) This section shall apply in relation to a trade which consists of or includes the carrying on of a crematorium and in connection therewith the maintenance of memorial garden plots, as it applies in relation to a trade which consists of or includes the carrying on of a cemetery, but subject to the modifications that—

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- (a) references to the cemetery or land in the cemetery shall be taken as references to the land which is devoted wholly to memorial garden plots; and
  - (b) references to grave-spaces shall be taken as references to memorial garden plots; and
  - (c) references to the sale or use of land for interments shall be taken as references to its sale or use for memorial garden plots.
- (7) In this section references to the sale of land include references to the sale of a right of interment in land and to the appropriation of part of a memorial garden in return for a dedication fee or similar payment, and references to capital expenditure incurred in providing land shall be taken as references to the cost of purchase and to any capital expenditure incurred in levelling or draining it or otherwise rendering it suitable for the purposes of a cemetery or memorial garden.
- (8) Section three hundred and thirty-two of the Income Tax Act, 1952 (which relates to expenditure which is reimbursed to a person carrying on a trade), shall apply for the purposes of this section as it applies for the purposes of Part X of that Act.

### **23 Capital allowances etc. (amendment as to certain sales)**

As respects allowances and charges under Parts X and XI of the Income Tax Act, 1952, for the year 1954-55 and subsequent years of assessment, the following provisions shall have effect with respect to section three hundred and twenty-seven of and the Fourteenth Schedule to that Act (which make special provision as to the effect of sales between companies under common control and other cases):—

- (a) an election may not be made under paragraph 4 of the Schedule if—
  - (i) any of the parties to the sale is not resident in the United Kingdom at the time of sale; and
  - (ii) the circumstances are not at that time such that an allowance or charge under Part X or XI of that Act falls or might fall to be made to or on that party in consequence of the sale;
 but except for that the Schedule shall have effect in relation to a sale notwithstanding that it is not fully applicable by reason of the non-residence of a party to the sale or otherwise;
- (b) the operation of paragraphs 3 and 4 of the Schedule shall not be restricted to cases where the property is sold at a price other than that which it would have fetched if sold in the open market (and accordingly those paragraphs shall have effect as if in paragraph (b) of sub-paragraph (1) of paragraph 3 and in paragraph (a) of sub-paragraph (1) of paragraph 4 for the words " the reference " there were substituted the words " each of the references " ):

Provided that paragraph (a) of this section shall not apply in the case of a sale made before the sixth day of April, nineteen hundred and fifty-four, where the property was sold at a price other than that which it would have fetched if sold in the open market.

### **24 Consular officers and employees**

- (1) Where a consular officer or employee in the United Kingdom of any foreign state to which this section applies—
- (a) is not a citizen of the United Kingdom and colonies; and
  - (b) is not engaged in any trade, profession, vocation or employment in the United Kingdom, otherwise than as such a consular officer or employee; and

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- (c) either is a permanent employee of that state or was not ordinarily resident in the United Kingdom immediately before he became a consular officer or employee in the United Kingdom of that state;

then any income of his falling within Case IV or V of Schedule D (which relate to income from overseas property) shall be exempt from income tax, and he shall be treated as not resident in the United Kingdom for the purposes of sections one hundred and twenty and one hundred and ninety of the Income Tax Act, 1952 (which exempt certain dividends etc. of non-residents).

- (2) Without prejudice to section four hundred and sixty-two of the Income Tax Act, 1952 (which exempts from tax the emoluments of foreign consular officers and certain foreign consular employees), the income arising from a person's employment in the United Kingdom as a consular employee of any foreign state to which this section applies shall be exempt from income tax, except in the case of a person who is not a national of that state but is a citizen of the United Kingdom and colonies.
- (3) For the purposes of this section, "consular employee " includes any person employed, for the purposes of the official business of a consular officer, at any consulate or consular establishment or at any other premises used for those purposes.
- (4) This section shall apply to any foreign state to which Her Majesty by Order in Council directs that it shall apply for the purpose of giving effect to any consular convention or other arrangement with that state making similar provision in the case of Her Majesty's consular officers or employees in that state:

Provided that any such Order in Council may limit the operation of this section in relation to any state in such manner as appears to Her Majesty to be necessary or expedient having regard to the arrangement with that state.

- (5) Any Order in Council under this section may be made so as to have effect from a date earlier than the making of the Order or the passing of this Act (but not earlier than the coming into force of the arrangement with regard to which it is made), may be varied or revoked by a subsequent Order in Council and may contain such transitional provisions as appear to Her Majesty to be necessary or expedient.
- (6) Any statutory instrument under this section shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

## **25 Salaries of employees of International Wheat Council**

- (1) So long as the seat of the International Wheat Council established by the International Wheat Agreement signed at Washington on the twenty-third day of March, nineteen hundred and forty-nine, is in the United Kingdom, an employee of the said Council who is not a citizen of the United Kingdom and colonies shall enjoy exemption from income tax in respect of any emoluments received by him as an officer or servant of the said Council.
- (2) This section shall be deemed to have applied to emoluments for any period since the thirty-first day of July, nineteen hundred and fifty-three (that is to say the date on which the Government of the United Kingdom ceased to be a member of the said Council).
- (3) This section shall be without prejudice to the powers conferred by the International Organisations (Immunities and Privileges) Act, 1950 (which relates to organisations of which the Government of the United Kingdom is a member).

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## **26 Form of Schedule A assessments etc.**

In the Income Tax Act, 1952, there shall be omitted—

- (a) subsections (2) and (3) of section thirty-four (which relate to the form of assessments under Schedules A and B and to the abstracts of particulars contained in returns made for the purposes of Schedule A);
- (b) in subsection (2) of section sixty-seven (which relates to the arrangements for securing the collection of tax after assessments have been made) the words "the clerk to the Commissioners shall transmit the books of assessment to the surveyor and ", and the proviso.

## **27 Relief from first assessments on trades, etc., in Isles of Scilly**

Where a person is charged to income tax in the Isles of Scilly for the year 1954-55 under Case I or II of Schedule D in respect of a trade, profession or vocation not carried on by him elsewhere in the United Kingdom, and on a claim made for the purposes of this section within twelve months from the end of that year it is proved that the actual profits or gains of the trade, profession or vocation for that year are less than those by reference to which tax falls to be charged in respect of it for that year, then—

- (a) that person shall be entitled to such relief from income tax, other than surtax, as will reduce the amount of income tax, other than surtax, payable to the amount which would have been payable if the tax had fallen to be charged by reference to the actual profits or gains for that year; and
- (b) if that person is an individual or a partnership of or including individuals, any individual concerned shall be entitled to such relief from the surtax, if any, payable by him for that year as will reduce the amount of surtax so payable to the amount which would have been payable if the tax had fallen to be charged as aforesaid.