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SCHEDULES

TWELFTH SCHEDULE Sections 49, 50, 54, 58, 63, 65, 68, 70.

EXCESS PROFITS LEVY: INTERCONNECTED BODIES CORPORATE

PART I

INTERPRETATION AND APPLICATION

Meaning of "group"

- 1 (1) Where, at the beginning of the period of charge to the excess profits levy, the following conditions were fulfilled as respects any two or more bodies corporate, that is to say—
- (a) that they were ordinarily resident in the United Kingdom ; and
 - (b) that one of them was not a subsidiary of any other body corporate ordinarily resident in the United Kingdom ; and
 - (c) that the others of them were subsidiaries of that one of them ; and
 - (d) that no other body corporate ordinarily resident in the United Kingdom was a subsidiary of that one of them,
- then, subject to the following provisions of this paragraph, those bodies corporate shall be deemed for the purposes of this Schedule to form a group and references in this Schedule to groups and members of groups shall be construed accordingly.
- (2) Where, at the beginning of the period of charge to the excess profits levy, the conditions specified in paragraphs (a) to (d) of sub-paragraph (1) of this paragraph would have been fulfilled as respects any two or more bodies corporate but for the fact that that one of those bodies corporate of which the others were subsidiaries (in this sub-paragraph referred to as " the intermediate owner") was itself a subsidiary of another body corporate resident in the United Kingdom (in this sub-paragraph referred to as " the ultimate owner ") then, if any of the subsidiaries of the intermediate owner were not also subsidiaries of the ultimate owner, and the ultimate owner and the intermediate owner jointly so elect before the first day of January, nineteen hundred and fifty-four—
- (a) the intermediate owner and its subsidiaries shall be deemed for the purposes of this Schedule to form a group; and
 - (b) the intermediate owner shall not, for the purposes of this Schedule, be deemed to form a group with the ultimate owner or with the ultimate owner and any other bodies corporate.
- (3) If, after the beginning of the said period of charge, a body corporate is incorporated which, when its trade or business commences, is a subsidiary of any member of the group, that body corporate shall also be deemed to be a member of the group, unless, when its trade or business commences, the nexus has been severed as between the body of which it is a subsidiary and the principal member of the group.

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Principal member

- 2 (1) Subject to the provisions, of this paragraph, references in this Schedule to the principal member of a group shall be construed as references to the member of the group of which the other members of the group, or such of them as were then in existence, were subsidiaries at the beginning of the period of charge to the excess profits levy.
- (2) When the nexus is severed as between the principal member and the other members of the group, then—
- (a) if there is then a member of the group of which all the other members of the group (excluding members in whose case the nexus has been severed as between them and the then principal member thereof) are subsidiaries, that member shall thereafter be deemed to be the principal member of the group;
 - (b) if there is then a body corporate, not theretofore carrying on any trade or business to which Part V of this Act applies, of which all the members of the group (excluding members in whose case the nexus has been severed as between them and the then principal member thereof) are subsidiaries and which has no other subsidiaries, that body corporate shall be deemed to be a member of the group and to be the principal member thereof;
 - (c) in any other case such member of the group, if any, as the Commissioners may in their discretion determine shall be deemed to be the principal member of the group either for all purposes or for such purposes, if any, as the Commissioners may so determine.

Severance of nexus

- 3 The references in this Schedule to the severance of the nexus between members of a group shall be construed as follows, that is to say—
- (a) if, after the beginning of the period of charge to the excess profits levy, a member of the group ceases to be ordinarily resident in the United Kingdom or is dissolved, the nexus shall be deemed to be severed as between it and all the other members of the group ;
 - (b) if, after the beginning of the period of charge to the excess profits levy, or, if its trade or business commenced thereafter, after the commencement of its trade or business, any member of the group ceases to be a subsidiary of the principal member, the nexus shall be deemed to be severed as between it and all the other members of the group:

Provided that the nexus shall not be deemed to be severed as between two members of the group both of which are ordinarily resident in the United Kingdom so long as they are under common control.

Formation of groups after 1951

- 4 Where—
- (a) at some date after the beginning of the period of charge to the excess profits levy, the conditions specified in paragraphs (a) to (d) of sub-paragraph (1) of paragraph 1 of this Schedule are fulfilled as respects two or more bodies" corporate ; and
 - (b) at that date, none or only one of those bodies corporate has carried on any trade or business to which Part V of this Act applies ; and

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(c) none or only one of the said bodies corporate was incorporated before the beginning of the period of charge to the excess profits levy,
the preceding provisions of this Schedule shall apply in relation to those bodies corporate as if the references in those provisions to the beginning of the period of charge to the excess profits levy were references to the date on which the conditions specified in the said paragraphs (a) to (d) are fulfilled.

Subsidiaries

5 For the purposes of this Schedule, a body corporate shall be deemed to be a subsidiary of another body corporate if and so long as not less than three-quarters of its ordinary share capital is owned by that other body corporate, whether directly or through another body corporate or other bodies corporate, or partly directly and partly through another body corporate or other bodies corporate ; and the provisions of subsections (2) and (3) of section forty-two of, and Part I of the Fourth Schedule to, the Finance Act, 1938 (which defines certain expressions used in this paragraph and in the said section forty-two), shall have effect for the purposes of this paragraph as they have effect for the purposes of the said section forty-two:

Provided that a body corporate which, under the preceding provisions of this paragraph, is a subsidiary of two or more bodies corporate each of which is ordinarily resident in the United Kingdom and none of which is a subsidiary of any other body corporate ordinarily resident in the United Kingdom, shall, for the purposes of this Schedule, be treated as a subsidiary of such one only of those bodies corporate as the Commissioners may in their discretion direct.

Application of Schedule after severance of nexus etc.

6 Save as otherwise expressly provided, the provisions of this Schedule referring to members of a group shall apply notwithstanding that the conditions specified in paragraphs (a) to (d) of sub-paragraph (1) of paragraph 1 of this Schedule have ceased to be fulfilled in relation to all or any of the members of the group and notwithstanding that there has been a severance of the nexus between all or any of the members of the group.

Chargeable accounting periods

7 The Commissioners may in their discretion make such alterations, if any, of the periods which would otherwise be chargeable accounting periods of any member of a group as they may think expedient for the proper operation of the provisions of this Schedule.

PART II

STANDARD PROFITS FOR A FULL YEAR AND COMPUTATION OF PROFITS AND LOSSES

Method of determining standard profits for a full year

8 (1) Subject to the provisions of sub-paragraphs (3) to (5) of this paragraph—
(a) where the trade or business of any of the members of a group commenced on or before the first day of January, nineteen hundred and forty-seven ; or

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- (b) if the principal member so elects, where that one of the trades or businesses of the members of a group which commenced the earliest commenced after the first day of January, nineteen hundred and forty-seven but before the first day of January, nineteen hundred and forty-nine; or
- (c) if the principal member so elects, where that one of the trades or businesses of the members of a group which commenced the earliest commenced after the first day of January, nineteen hundred and forty-seven but before the first day of January, nineteen hundred and fifty and the condition specified in the proviso to subsection (5) of section thirty-eight of this Act would be fulfilled, as respects the trades or businesses of all the members of the group, if they were one trade or business of one body corporate,

the standard profits for a full year of each of the members of the group shall be ascertained under sub-paragraph (3) of paragraph 9 of this Schedule by reference to—

- (i) the composite figure for the group, determined under subparagraph (1) of that paragraph ; and
- (ii) the share therein of the member in question, determined under subparagraph (2) of that paragraph.

- (2) Subject to the provisions of sub-paragraphs (3) to (5) of this paragraph, where—
- (a) the trade or business of none of the members of the group commenced before the first day of January, nineteen hundred and forty-nine ; or
 - (b) the trade or business of none of the members of the group commenced on or before the first day of January, nineteen hundred and forty-seven and no election is made by the principal member under sub-paragraph (1) of this paragraph,

the standard profits for a full year of each of the members of the group shall be ascertained under subsection (3) of section thirty-nine of this Act.

- (3) Whenever the trades or businesses of the members of the group commenced, the standard profits for a full year of the members of a group shall, if the principal member so elects, be, for such chargeable accounting period of the principal member as may be specified in the election and for all chargeable accounting periods of other members of the group which coincide with or fall within that chargeable accounting period, such proportion of the sum of five thousand pounds as may be apportioned by the Commissioners to those members respectively.
- (4) Any member of the group dissatisfied with an apportionment made by the Commissioners under sub-paragraph (3) of this paragraph may appeal to the Special Commissioners, and on any such appeal any other member of the group shall be entitled to appear and be heard, and the Special Commissioners may make a new apportionment of the said sum of five thousand pounds or may confirm the apportionment made by the Commissioners.

The decision of the Special Commissioners on any such appeal shall (subject to any appeal therefrom which is competent under the provisions applied by or under the subsequent provisions of this sub-paragraph) be binding on the Commissioners and on the appellant and on all other members of the group.

The provisions of this Act relating to appeals from assessments to the excess profits levy (including the provisions thereof authorising the Commissioners to make regulations) shall, with any necessary modifications, apply in relation to any appeal under this sub-paragraph.

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- (5) If, before the end of a chargeable accounting period of a member of a group, the nexus has been severed as between that member and the principal member of the group, nothing in this paragraph shall prevent that member from exercising, as respects that chargeable accounting period, such rights of election, if any, as it would have apart from this paragraph under section forty-one of this Act (which relates to the minimum standard profits for a full year).
- (6) Where there is a transfer to which paragraph 2 or paragraph 3 of the Eleventh Schedule to this Act applies, the adjustments required to be made by those paragraphs shall be made to the standard profits for a full year as arrived at under the preceding provisions of this paragraph or, as the case may be, to the standard profits computed by reference to the standard profits for a full year so arrived at:

Provided that the references in the said paragraphs 2 and 3 to elections under section forty-one of this Act shall be deemed to include references to an election under sub-paragraph (3) of this paragraph.

Determination of composite figure and share of members therein

- 9 (1) Subject to the provisions of sub-paragraphs (4) and (5) of this paragraph, the composite figure for the group referred to in sub-paragraph (1) of the last preceding paragraph shall be the sum arrived at by—
- (a) aggregating the profits and losses for the standard years of the members of the group whose trades or businesses commenced before the end of the second standard year ; and
 - (b) reducing the result so that it bears to the full amount thereof the same proportion as one year bears to two years less so much, if any, of the first of the standard years as preceded the commencement of that one of the trades or businesses of the members of the group which commenced the earliest.
- (2) The share of each member of the group in the composite figure for the group—
- (a) shall, if its trade or business commenced before the end of the second standard year and it had profits for the standard years, be the sum which bears to the composite figure for the group the same proportion as its profits for the standard years bear to the total of the profits for the standard years of all the members of the group which had profits for the standard years; and
 - (b) shall, if its trade or business commenced after the end of the second standard year or if it had no profits or a loss for the standard years, be nil.
- (3) Where the standard profits for a full year of a member of the group fall to be determined under this paragraph, they shall be determined by applying the provisions of subsections (2) and (3) of section thirty-eight of this Act—
- (a) as if its share of the composite figure for the group were the amount arrived at under subsection (1) of that section ;
 - (b) as if (in a case where that one of the trades or businesses of the members of the group which commenced earliest commenced after the beginning of the first of the standard years) there were substituted, in the said subsection (2), for the reference to the beginning of the first of the standard years, a reference to the commencement of that trade or business, and for the reference to two years, a reference to two years less so much of the first of the standard years as preceded the commencement of that trade or business;

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- (c) as if, in the said subsection (3), the reference to the relevant date as defined in subsection (6) of that section were a reference to the relevant date as defined in sub-paragraph (7) of this paragraph.
- (4) Where the trade or business of any of the members of the group commenced on or before the first day of January, nineteen hundred and forty-seven, the principal member may elect either—
- (a) that the aggregated profits and losses referred to in paragraph (a) of sub-paragraph (1) of this paragraph shall be computed as if the aggregated profits and losses of the members of the group for one of the two standard years (to be specified in the election) had been an amount of profit equal to eight per cent. of the average amount of the aggregate paid-up share capital of the members of the group in that year, share capital of any member of the group other than the principal member which was beneficially owned by any member of the group being left out of account; or
 - (b) that the composite figure for the group shall be ten per cent. of the amount of the aggregate paid-up share capital of the members of the group at the end of the year nineteen hundred and forty-six or the year nineteen hundred and fifty-one (as may be specified in the election), share capital of any member of the group other than the principal member which was beneficially owned by any member of the group being left out of account; or
 - (c) that the composite figure for the group shall be an amount equal to eight per cent. of the amount by which at the end of the year nineteen hundred and forty-six or the year nineteen hundred and fifty-one (as may be specified in the election) the value of the aggregate assets of the members of the group, computed in accordance with the provisions of the Eighth Schedule to this Act but leaving out of account the value of any share capital of a member which is beneficially owned by another member, exceeds the aggregate amount of their liabilities so computed ;

and the preceding provisions of this paragraph shall have effect accordingly:

Provided that where an election is made under paragraph (b) or paragraph (c) of this sub-paragraph.—

- (i) subsection (2) of section thirty-eight of this Act, as applied by sub-paragraph (3) of this paragraph, shall not apply to sums received or paid before the end of the year specified in that election ; and
 - (ii) sub-paragraph (2) of this paragraph shall have effect as if the references to the end of the second standard year were references to the end of the first chargeable accounting period of the principal member and the references to profits for the standard years were references to profits for that chargeable accounting period.
- (5) Where the condition specified in the proviso to subsection (5) of section thirty-eight of this Act is fulfilled as respects one or more members of the group but no election can be made under paragraph (c) of the proviso to sub-paragraph (6) of this paragraph or under paragraph (c) of sub-paragraph (1) of paragraph 8 of this Schedule, and no election is made under the last preceding sub-paragraph, the principal member may elect that the composite figure for the group, and the share of each member in that figure shall be calculated as if the profits or losses of the first-mentioned member or members for the years nineteen hundred and forty-nine and nineteen hundred and fifty were its or their profits or losses for the standard years; and where an election is made under this sub-paragraph, then—

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- (a) subsection (2) of section thirty-eight of this Act, as applied by sub-paragraph (3) of this paragraph, shall have effect in relation to the said member or members as if the references therein to the first and the second of the standard years were respectively references to the year nineteen hundred and forty-nine and nineteen hundred and fifty; and
 - (b) notwithstanding anything in this paragraph, the relevant date referred to in subsection (3) of the said section thirty-eight shall, in relation to the said member or members, be whichever of the following dates is the later, that is to say the first day of July, nineteen hundred and forty-nine or the commencement of the trade or business of that member or, as the case may be, the commencement of that one of the trades or businesses of those members which commenced the earliest.
- (6) The standard years for all the members of the group shall be the years nineteen hundred and forty-seven and nineteen hundred and forty-eight, the years nineteen hundred and forty-seven and nineteen hundred and forty-nine or the years nineteen hundred and forty-eight and nineteen hundred and forty-nine, as the principal member may elect:

Provided that—

- (a) where that one of the trades or businesses of the members of the group which commenced the earliest commenced after the first day of January, nineteen hundred and forty-seven but before the first day of January, nineteen hundred and forty-eight the principal member may elect that the standard years for all the members of the group shall be the year beginning with the commencement of the said trade or business and the subsequent year ;
 - (b) where that one of the trades or businesses of the members of the group which commenced the earliest commenced after the first day of January, nineteen hundred and forty-seven, and either no election is made under paragraph (a) of this proviso or the said trade or business commenced on or after the first day of January, nineteen hundred and forty-eight, the standard years for all the members of the group shall be the years nineteen hundred and forty-eight and nineteen hundred and forty-nine ;
 - (c) where the condition specified in the proviso to subsection (5) of section thirty-eight of this Act would be fulfilled, as respects the trades or businesses of all the members of the group, if they were one trade or business of one body corporate and the principal member so elects, or where an election is made under paragraph (c) of sub-paragraph (1) of paragraph 8 of this Schedule, the standard years for all the members of the group shall be the years nineteen hundred and forty-nine and nineteen hundred and fifty.
- (7) The relevant date referred to in sub-paragraph (3) of this paragraph is—
- (a) where an election is made under paragraph (b) or paragraph (c) of sub-paragraph (4) of this paragraph, the first day of January immediately following the year specified in the election;
 - (b) where an election is made under paragraph (a) of the last preceding sub-paragraph, the date falling six months after the date of the commencement of the trade or business referred to therein ;
 - (c) where no such election as aforesaid is made and that one of the trades or businesses of the members of the group which commenced the earliest commenced on or after the first day of January, nineteen hundred and forty-eight, whichever of the following two dates is the later, that is to say,

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the first day of July, nineteen hundred and forty-eight, or the date of the commencement of that trade or business ;

and in any other case the date specified in the Table set out in subsection (6) of section thirty-eight of this Act opposite the years which, in the case of the members of the group, are the standard years.

- (8) Where, in the chargeable accounting period, the directors of the principal member have a controlling interest therein, sub-paragraph (4) of this paragraph shall have effect as if the references to eight per cent. were references to ten per cent. and the reference to ten per cent. were a reference to twelve per cent.:

Provided that where the directors of the principal member have a controlling interest therein during part only of the chargeable accounting period, the increase provided for by this sub-paragraph in the said percentages shall be reduced so as to bear to the full amount of the increase the same proportion as the length of that part of the chargeable accounting period bears to the full length of the chargeable accounting period.

- (9) Where, before the beginning of the period of charge to the excess profits levy, there has been a transfer to or by a member of the group to which paragraph 1 of the Eleventh Schedule to this Act applies, the reference in sub-paragraph (1) of this paragraph to the profits or losses of the members of the group shall be construed as including a reference to any profits and losses which, under the said paragraph 1, are to be treated for the purposes therein mentioned as profits and losses of that member and as not including any profits or losses which, under the said paragraph 1, are to be treated for those purposes as not being profits or losses of that member.
- (10) In this paragraph " profits for the standard years " and " loss for the standard years " mean, in relation to a member of the group the trade or business of which commenced after the beginning of the first standard year, profits or a loss for so much of the standard years as follows the commencement of its trade or business.

Borrowed money

- 10 Section forty of this Act shall apply in relation to a member of a group as if references to borrowed money did not include references to money borrowed from a member of the group:

Provided that if, before the end of a chargeable accounting period, the nexus has been severed between two members of a group, this paragraph shall not apply to them in relation to that period.

Application of ss. 40, 50 and 56 to members of a group

- 11 Sections forty, fifty and fifty-six of this Act shall apply in relation to a member of a group as if—
- (a) references to profits for the standard years were references to its share in the composite figure determined under sub-paragraph (1) of paragraph 9 of this Schedule;
 - (b) references to an election under paragraph (a), (b) or (c) of subsection (4) of section thirty-eight of this Act included respectively a reference to an election under paragraph (a), (b) or (c) of sub-paragraph (4) of paragraph 9 of this Schedule ; and

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- (c) references to an election under section forty-one of this Act included a reference to an election under sub-paragraph (3) of paragraph 8 of this Schedule.

Sums received or paid in respect of share capital

- 12 (1) Subject to the provisions of sub-paragraph (3) of this paragraph, where any member of the group—
- (a) pays to any other member thereof any sum in cash in respect of any issue of share capital of that other member; or
 - (b) pays to any person any sum in cash as the price of any share capital of any other member of the group purchased by it,
- then, without prejudice to the application of subsection (2) of section thirty-eight of this Act, or, as the case may be, of subsections (3) to (6) of section thirty-nine of this Act, to the said other member, the first-mentioned member shall be deemed for the purposes of subsection (2) of the said section thirty-eight, or, as the case may be, of subsections (3) to (6) of the said section thirty-nine, to have paid that sum in cash by way of repayment of its own share capital.
- (2) Subject to the provisions of sub-paragraph (3) of this paragraph, where any member of the group—
- (a) receives from any other member of the group any sum in cash by way of repayment of share capital of the last-mentioned member; or
 - (b) receives from any other person any sum in cash as, or as part of, the price of any share capital of any other member of the group sold by it,
- then, without prejudice to the application of subsection (2) of section thirty-eight of this Act, or, as the case may be, of subsections (3) to (6) of section thirty-nine of this Act, to the said other member, the first-mentioned member shall be deemed for the purposes of subsection (2) of the said section thirty-eight or, as the case may be, of subsections (3) to (6) of the said section thirty-nine, to have received that sum in cash in respect of an issue of its own share capital.
- (3) The preceding provisions of this paragraph shall not affect the computation of the standard profits for a full year of a member of a group for any chargeable accounting period if, before the end of that chargeable accounting period, there has been a severance of the nexus between it and the principal member of the group.

Dividends received by one member from another member and application of Schedule 9, paragraph 12

- 13 In computing the profits and losses of a member of a group for the purposes of the excess profits levy—
- (a) dividends received from any other member of the group shall be left out of account, except for the purpose of computing the undistributed profits or over-distributions of profits of the member receiving the dividends ; and
 - (b) any election by the principal member under paragraph (a), paragraph (b) or paragraph (c) of sub-paragraph (4) of paragraph 9 of this Schedule shall be deemed, for the purposes of paragraph 12 of the Ninth Schedule to this Act, to be an election by each of the members of the group under paragraph (a), paragraph (b) or paragraph (c), as the case may be, of subsection (4) of section thirty-eight of this Act, and the proviso to the said paragraph 12 shall, with any necessary adaptations, have effect accordingly.

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Director-controlled companies

- 14 A member of a group shall be deemed for the purposes of the provisions of this Act relating to the excess profits levy to be a body corporate the directors whereof have a controlling interest therein during such period, and during such period only, as the principal member of the group is such a body corporate:

Provided that this paragraph shall not apply to a member of a group in relation to any chargeable accounting period if, before the end of that period, there has been a severance of the nexus between that member and the principal member of the group.

Elections under Schedule 9, paragraph 3 or 4

- 15 Any election under sub-paragraph (2) of paragraph 3 or sub-paragraph (2) of paragraph 4 of the Ninth Schedule to this Act shall be exercisable only as respects all members of the group and shall be so exercisable only by the principal member of the group.

Addition to certain percentages in respect of certain minerals

- 16 Where, in any chargeable accounting period, the trade or business of any member of a group consists of or includes the working of such a source of mineral deposits as is mentioned in section fifty-five of this Act, the preceding provisions of this Schedule relating to the ascertainment of the standard profits for a full year of the members of the group shall, in relation to that chargeable accounting period and any chargeable accounting period of any other member of the group which coincides with or falls within that chargeable accounting period, have effect subject to such modifications as may appear to the Commissioners, or, on appeal, to the Special Commissioners, to be necessary to secure the just operation of the said section fifty-five in relation to the members of the group and, in particular, to secure that, as nearly as may be, the said section fifty-five operates in relation to the members of the group as if all their trades or businesses were one trade or business of one body corporate.

PART III

ASSESSMENT AND RELIEF

Assessment

- 17 (1) Subject to the provisions of this paragraph, every assessment to the excess profits levy made in respect of the profits of a member of a group shall be made on the principal member of the group but the tax shall, in the case of an assessment in respect of the profits of any other member, be recoverable from the principal member and that other member jointly and severally.
- (2) If the Commissioners think fit and the principal member does not object, one assessment for any particular period may be made on the principal member in respect of the profits of all or any of the members of the group, but the amount of tax, and the incidence of the burden of tax, shall not be affected, and the Commissioners may in their discretion discharge any such assessment, and make separate assessments in lieu thereof.

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- (3) Nothing in this paragraph applies to the profits of a member of a group other than the principal member for any chargeable accounting period if, before the end of that chargeable accounting period, there has been a severance of the nexus between that member and the principal member of the group.

Relief for deficiency of profits

- 18 (1) Subject to the provisions of this paragraph, any deficiency of profits of any member of a group for any chargeable accounting period shall be applied as follows, that is to say—
- (a) first, in reducing the profits chargeable to the excess profits levy of that member for previous chargeable accounting periods;
 - (b) as to the balance, if any, in reducing other profits on which the principal member of the group is assessable to the excess profits levy, being profits for chargeable accounting periods ending not later than the end of the first-mentioned chargeable accounting period; and
 - (c) as to the balance, if any, in reducing the profits chargeable to the excess profits levy of the first-mentioned member for the next chargeable accounting period; and
 - (d) as to the balance, if any, in reducing other profits chargeable to the excess profits levy on which the principal member is assessable for chargeable accounting periods ending not later than the said next chargeable accounting period ;

and so on, and relief from the excess profits levy shall be given accordingly:

Provided that where the nexus has been severed as between the principal member and another member of the group—

- (i) any deficiency of profits of that other member for a chargeable accounting period ending at or before the severance shall not be applied in reducing the profits of that other member for any chargeable accounting period ending after the severance; and
 - (ii) any deficiency of profits of that other member for any chargeable accounting period ending after the severance shall not be applied in reducing any profits on which the principal member of the group is assessable.
- (2) The references in this paragraph to profits on which the principal member of the group is assessable shall, in the case of such a group as is mentioned in paragraph 4 of this Schedule, be deemed to include references to any profits on which any member of the group was assessable for any chargeable accounting period beginning before the date referred to in that paragraph.

Overriding limit

- 19 (1) Section forty-three of this Act (which provides for an overriding limit on the amount charged by way of the excess profits levy) shall, subject to the following provisions of this paragraph, have effect in relation to the members of a group as if the profits of all the members of the group and the amounts payable by them by way of the excess profits levy belonged to or were payable by one body corporate, and any relief falling to be given under the said section forty-three shall be given to such of the members of the group as the principal member may determine.

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- (2) Where one or more but not all members of the group are such bodies as are mentioned in subsection (2) of the said section forty-three, such relief and adjustments (if any) shall be given or made under that section as are necessary to secure that the aggregate amount payable by all the members by way of the excess profits levy is reduced to, but not below, the sum of the following amounts—
- (a) ten per cent. of the profits of the first-mentioned members for the whole period mentioned in subsection (1) of the said section forty-three ; and
 - (b) fifteen per cent. of the profits of the other members for the said period.
- (3) Where the nexus has been severed between the principal member and another member of the group—
- (a) this paragraph shall not apply to the profits of that other member for, or amounts payable by that other member by way of the excess profits levy for any chargeable accounting period of that other member ending after the severance ; and
 - (b) the relief given to that other member under the said section forty-three by virtue of this paragraph shall be equal to the relief which could be given to it if this paragraph did not apply to any profits of, or any amounts payable by way of the excess profits levy by, any member of the group for any chargeable accounting period ending after the severance,
- (4) The reference, in this paragraph to profits on which the principal member of the group is assessable shall, in the case of such a group as is mentioned in paragraph 4 of this Schedule, be deemed to include a reference to any profits on which any member of the group was assessable for any chargeable accounting period beginning before the date referred to in that paragraph.

Adjustments between members of a group

- 20 (1) Where any sum is paid by the principal member of a group on account of the excess profits levy in respect of the profits of another member of the group, the principal member may recover the amount paid from the said other member:
- Provided that where the recovery of any such sum from a member of the group would result in the burden in respect of the excess profits levy borne by that member for the chargeable accounting period in question and all previous chargeable accounting periods being greater than the burden in respect of the excess profits levy that would have fallen to be borne by it for that and the said previous chargeable accounting periods if sub-paragraph (6) of paragraph 13 and paragraphs 17 to 19 of this Schedule had not applied to the group, the amount recoverable shall be reduced by the amount of the excess.
- (2) If the burden borne by any member of a group other than the principal member thereof in respect of the excess profits levy up to the end of any chargeable accounting period exceeds the burden that would have fallen to be borne by it in respect of the excess profits levy up to the end of that period if sub-paragraph (b) of paragraph 13 and paragraphs 17 to 19 of this Schedule had not applied to the group, the amount of the excess shall be recoverable by that member from the principal member of the group.