SCHEDULES.

SCHEDULE 5

Section 27.

AMENDMENTS OF CORPORATION TAX ACTS.

Payments without deduction of income tax: trading companies owned through a holding company.

1 (1) Section 48(3)(b) of the Finance Act 1965 (under which, as extended by subsection (7) of that section, dividends or payments which are charges on income may, subject to Schedule 12 to that Act, be paid by a trading company owned by a consortium without deduction of income tax) shall apply where the business of the company paying the dividends (that is the company owned by the consortium) consists wholly or mainly in the holding of shares or securities of companies which are its ninety per cent. subsidiaries, and which are companies whose business consists wholly or mainly of the carrying on of a trade or trades, as it applies where the business of the company paying the dividends consists wholly or mainly of the carrying on of a trade or trades.

(2) For the purposes of this paragraph a body corporate shall be deemed to be a ninety per cent. subsidiary of another body corporate if and so long as not less than ninety per cent. of its ordinary share capital is directly owned by that other body corporate, and Part II of Schedule 12 to the Finance Act 1965 shall apply for the purposes of this paragraph as it applies for purposes of section 48 of that Act.

Payments by parent company to subsidiary.

2 In the said section 48(7) of the Finance Act 1965 (which applies the conditions in subsection (3) of that section to payments which are charges on income)—

(a) before the words " the conditions" there shall be added the word " either ", and

(b) after the word " dividends " there shall be added the words " or the company receiving the payments is a subsidiary (as defined for the purposes of subsection (3) above) of the other company ".

Exemptions in respect of income tax under Schedule F.

3 (1) For the purposes of section 48(4) of the Finance Act 1965 (which excludes from franked investment income distributions which fall within any exemption from income tax having effect at the passing of that Act) the exemptions conferred by sections 439, 440, 447(1)(b) and 449 of the Income Tax Act 1952 (savings banks, friendly societies, trade unions, charities and certain scientific research associations), and the exemption conferred by section 6(2) of the Atomic Energy Authority Act 1954, shall be deemed to be exemptions which at the passing of the Finance Act 1965 extended to dividends on shares of companies resident in the United Kingdom.

(2) The said section 447(1)(b) of the Income Tax Act 1952 (which includes an exemption for charities which are not companies) shall apply to income tax accounted for under Schedule 12 to the Finance Act 1965 in respect of distributions charged under Schedule F as it applies to tax chargeable under Schedule D in respect of any yearly interest or other payment, and section 451 of the Income Tax Act 1952 (which extends that exemption to certain museums) shall have effect accordingly.

Covenanted donations to charity.

4 A covenanted donation to charity as defined in section 52(4) of the Finance Act 1965 shall not be regarded for the purposes of the definition of " charges on income" in subsection (2) of that section, or for any of the other purposes of the Corporation Tax Acts, as being (by reason of paragraph 9(1)(b) of Schedule 11 to that Act (meaning of " distribution") or of any other provision of that Schedule) a distribution of the company.

Cases IV and V: interest and other annual payments before 1966-67 to be allowed as a deduction.

5 The amount of any income assessed under Case IV or V of Schedule D as applied by sections 53 and 54 of the Finance Act 1965 to corporation tax shall be treated as reduced by any yearly interest, annuity or other annual payment payable out of the income to a person not resident in the United Kingdom and paid before the year 1966-67.

Interest payable overseas before 1966-67 to be allowed as a deduction.

6 At the end of section 54(3) of the Finance Act 1965 (which prevents interest payable overseas being allowed under section 138 of the Income Tax Act 1952 as a deduction in computing income from a trade) there shall be added the words " in respect of payments made after the year 1965-66 ".

Chargeable gains: assets vested in company liquidator.

7 Where assets of a company are vested in a liquidator under section 244 of the Companies Act. 1948, or section 226 of the Companies Act (Northern Ireland) 1960, or otherwise, sections 55 and 82 of the Finance Act 1965 and the enactments applied by those sections (computation of capital gains accruing to companies) shall apply as if the assets were vested in, and the acts of the liquidator in relation to the assets were the acts of, the company (acquisitions from or disposals to him by the company being disregarded accordingly).

Chargeable gains attributable to investments in life assurance business held for policy holders.

8 (1) The limit on the rate of corporation tax imposed by section 69(6) of the Finance Act 1965 as it applies to chargeable gains shall be (instead of seven shillings and sixpence in the pound which is equivalent to 37£ per cent.) 37 ½ per cent. or the rate at which capital gains tax is for the time being chargeable under section 20(3) of that Act, whichever is the lower rate.

(2) In relation to that corporation tax for any accounting period the relevant rate of capital gains tax under the said section 20(3) shall be that for the year of assessment in which that accounting period ends.

(3) Without prejudice to any other provision of this Act relating to the construction of this Schedule, section 82(6) of the Finance Act 1965 (computation of capital gains tax on companies) shall apply as if its reference to Part IV of that Act included a reference to this paragraph.

Annuity business of assurance companies.

9 (1) Paragraph (b) of section 69(7) of the Finance Act 1965 (repayment of income tax on franked investment income referable to general annuity business of an assurance company and not brought in as income in treating annuities as charges on income) shall not have effect.

(2) In computing under section 24 of the Finance Act 1956 as applied to corporation tax by section 69(5) of the Finance Act 1965 the profits arising to an assurance company from general annuity business—

(a) income chargeable to corporation tax (that is to say charged otherwise than under the said section 24) and franked investment income and group income shall not be taken into account as part of those profits, and

(b) of the annuities paid by the company and referable to general annuity business, those which under the said section 69(3)(b) are treated as charges on income shall not be deductible and those which are not so treated shall (notwithstanding section 53(5) of the Finance Act 1965) be deductible,

and the reference in the said section 69(3)(b) to income charged to corporation tax shall not be taken as including a reference to income charged under the said section 24 of the Finance Act 1956.

(3) Any franked investment income which is taken into account under the said section 69(3)(b) to enable annuities referable to general annuity business to be treated as charges on income shall be left out of account under section 48 of the Finance Act 1965, except that for the purposes of this sub-paragraph there shall be deducted from the amount of the franked investment income of the company arising in any accounting period and taken into account under the said section 69(3)(b)—

(a) the amount of any profit arising in that accounting period to the assurance company from general annuity business and computed under the said section 24 of the Finance Act 1956, and

(b) the amount of any group income arising in that accounting period to the company and referable in accordance with the said section 24 to its general annuity business.

(4) Subject to sub-paragraph (5) below—

(a) the exclusion by section 47(1) of the Finance Act 1965 from the charge to corporation tax of franked investment income shall not prevent such income being taken into account as part of the profits in computing under section 24 of the Finance Act 1956 the profits arising to an assurance company from pension annuity business,

(b) notwithstanding anything in section 48 of the Finance Act 1965 a company resident in the United Kingdom and carrying on life assurance business shall be entitled to repayment of income tax in respect of franked investment

income of the company's annuity fund in so far as it is referable in accordance with the said section 24 to pension annuity business, and

(c) any franked investment income on which income tax is so repayable shall be left out of account under the said section 48.

(5) If for any accounting period there is, apart from this sub-paragraph, a profit arising to an assurance company from pension annuity business and computed under the said section 24, and the company so elects as respects all or any part of its franked investment income arising in that period, being an amount of franked investment income not exceeding the amount of the said profit, sub-paragraph (4) above shall not apply to the franked investment income to which the election relates.

If an accounting period falls partly in one income tax year of assessment, and partly in another such year, the power of making elections under this sub-paragraph may be exercised separately for the respective parts of the accounting period as if they were separate accounting periods, and an election under this sub-paragraph shall be made by notice in writing given to the inspector not later than two years after the end of the accounting period, or part of an accounting period, to which the election relates, or within such longer period as the Board may by notice in writing allow.

(6) In computing under the said section 24 of the Finance Act 1956 the profits arising to an assurance company from pension annuity business—

(a) group income shall not be taken into account as part of those profits,

(b) section 53(5) of the Finance Act 1965 shall not prevent annuities paid by the company being deductible.

(7) In section 69 of the Finance Act 1965, in subsection (5) the words from " and the exclusion" to the end, and in subsection (7) the words from " but notwithstanding " to the end (which are superseded by this paragraph) shall cease to have effect.

Apportionment for surtax of close company's income.

10 (1) In section 78(4) of the Finance Act 1965 (which relates the amount of a close company's income apportioned for surtax to the amount of the assessment in respect of the shortfall in its distributions) for the words " and the amount apportioned shall be the amount of that assessment " there shall be substituted the words " and the amount apportioned shall be the amount of the shortfall taken into account in making that assessment. "

(2) The set off of a surplus of franked investment income against a shortfall under section 77(5) of the Finance Act 1965 shall, so far as it reduces the shortfall, be effected by discharge of the tax assessed under subsection (1) of the said section 77 by reference to the shortfall and accordingly shall not be taken as reducing the amount of the shortfall for the purposes of the said section 78(4).

11 (1) For the purposes of section 78(5) of the Finance Act 1965 (apportionments and sub-apportionments for surtax according to interests of participators) a loan creditor shall be deemed to have an interest in any company which is an investment company to the extent that the income to be apportioned or assets representing it has or have been expended or applied, or is or are available to be expended or applied, in redemption or repayment or discharge of the loan capital or debt (including any premium thereon) in respect of which he is a loan creditor.

(2) In this paragraph " investment company " means a company whose income consists wholly or mainly of investment income, construing " investment income " in accordance with paragraph 8(1) of Schedule 18 to the Finance Act 1965.

Termination of capital gains tax on companies.

12 (1) Section 82(1) of the Finance Act 1965 (which relates to companies which have not come within the charge to corporation tax in respect of any source of income or part of a source) shall not apply to any chargeable gain or allowable loss accruing after the end of the year 1965-66 and for the purposes of that subsection a company is within the charge to corporation tax mentioned in that subsection at any time after the end of that year.

(2) If a chargeable gain or allowable loss accrues to a company after the end of the year 1965-66 and at a time not otherwise within an accounting period of the company, an accounting period of the company shall then begin for the purposes of corporation tax, and the gain or loss shall accrue in that accounting period.

Meaning of " distribution ".

13 (1) Schedule 11 to the Finance Act 1965 (which defines the distributions which are to be company distributions for the purposes of Part IV of that Act) shall be amended as follows.

(2) In paragraph 1(1)(c) before the word " security" (in both places) there shall be inserted the word " any " (so that paragraph (c) applies to securities whether redeemable or not).

(3) Paragraph 1(1)(d)(i) (distributions to include interest, etc. on securities within that paragraph (c)) shall not apply in relation to securities issued before 6th April 1965.

(4) In paragraph 1(1)(d)(iv) (distributions to include interest, etc. on securities issued to a non-resident company which is a subsidiary or in the same group of companies) for the words " issued by the company to a company not resident " there shall be substituted the words " issued by the company and held by a company not resident ".

(5) At the end of the said paragraph 1(1)(d) there shall be added the following paragraph—

"(v) securities which are connected with shares in the company, where ' connected with ' means that in consequence of the nature of the rights attaching to the securities or shares, and in particular of any terms or conditions attaching to the right to transfer the shares or securities, it is necessary or advantageous for a person who has, or disposes of or acquires, any of the securities also to have, or to dispose of or to acquire, a proportionate holding of the shares".

Bonus issues following repayment of share capital to be treated as distributions : exclusion of repayment of preference shares.

14 (1) Paragraph 1(3) of the .said Schedule 11 (repayment of share capital followed by bonus issue) shall not apply where the repaid share capital consists of fully paid preference shares—

(a) if those shares existed as issued and fully paid preference shares on 6th April 1965 and throughout the period from that date until the repayment those shares continued to be fully paid preference shares, or

(b) if those shares were issued after 6th April 1965 as fully paid preference shares wholly for new consideration not derived from ordinary shares and throughout the period from their issue until the repayment those shares continued to be fully paid preference shares.

(2) In this paragraph—

" ordinary shares " means shares other than preference shares ;

" preference shares " means shares—

(a) which do not carry any right to dividends other than dividends at a rate per cent. of the nominal value of the shares which is fixed, or fluctuates only with the standard rate of income tax, and

(b) which carry rights in respect of dividends and capital which are comparable with those general for fixed-dividend shares quoted on stock exchanges in the United Kingdom,

" new consideration not derived from ordinary shares " means new consideration (that is, as defined in Part I of the said Schedule 11) other than consideration consisting of the surrender, transfer or cancellation of ordinary shares of the company or any other company or consisting of the variation of rights in ordinary shares of the company or any other, company, and other than consideration derived from a repayment of share capital paid in respect of ordinary shares of the company or of any other company.

(3) This paragraph shall be construed as if contained in the said Schedule 11.

Chargeable gains of groups of companies.

15 (1) In Part I of Schedule 13 to the Finance Act 1965 references to a company shall include references to any company resident in the United Kingdom which is constituted under any Act, Royal Charter or Letters Patent or is formed under the law of a country or territory outside the United Kingdom.

(2) This paragraph, so far as it affects capital gains tax under section 82 of the Finance Act 1965, has effect from the beginning of the year 1965-66.

Transitory provisions as to right to set capital allowances against general income.

16 (1) Section 20 of the Finance Act 1954 (under which, as amended by section 18 of the Finance Act 1962, capital allowances for a year of assessment may be included in a claim for a loss sustained in the year of assessment which is the basis year) shall, notwithstanding the words "but not after the year 1964-65" in paragraph 20(1) of Schedule 15 to the Finance Act 1965, apply in relation to claims by a company for losses sustained in the year 1965-66, and sub-paragraph (2) of the said paragraph 20 (under which relief for a loss in the year 1965-66 may, so far as it cannot be given against income tax, be given against corporation tax) shall apply accordingly.

(2) For the purpose of the said section 20 as applied by sub-paragraph (1) above the company shall be treated, in a case where the year 1965-66 is not the basis year for the year itself, on the footing that—

(a) section 46(2) of the Finance Act 1965 (which excludes companies from the charge to income tax after the year 1965-66) did not apply in relation to the trade in question, and

(b) the period on the profits or gains of which income tax for the year 1966-67 would fall to be finally computed were the twelve months starting at the time at which the company came within the charge to corporation tax in respect of the trade,

and relief under the said section 20 may be given accordingly by reference to what, on that footing, would have been the company's capital allowances for the year 1966-67 for income tax purposes.

(3) Relief in respect of the same matter shall not be given both in a manner authorised under this paragraph and in some other manner.

Dividend stripping: transition from Income Tax Acts to Corporation Tax Acts.

17 (1) This paragraph has effect as respects the application by paragraph 7(2)(b) of Schedule 17 to the Finance Act 1965 (computation of profits or losses for periods before 1966-67 in relation to distributions made in or after that year) of paragraph 5 of Schedule 3 to the Finance (No. 2) Act 1955.

(2) In applying the said paragraph 5 no regard shall be had to any investment allowances, initial allowances or balancing charges, to any scientific research allowance in respect of expenditure incurred after 5th November 1962, or to so much of any writing down allowance made at a rate determined under section 38 or 39 of the Finance Act 1963 (free depreciation in development districts) or under section 14 of the Finance Act 1965 (annual allowances for new ships) as exceeds an allowance at a yearly rate of fifteen per cent. of the relevant amount of expenditure.

Close companies: meaning of " associate ".

18 (1) Paragraph 5(c) of Schedule 18 to the Finance Act 1965 (associate of participator to include, where the participator is interested in shares or obligations of the company subject to any trust, any other person interested) shall not apply so as to make an individual an associate as being entitled or eligible to benefit under the trust—

(a) if the trust relates exclusively to a fund or scheme approved under section 379 or section 388 of the Income Tax Act 1952 (superannuation funds and retirement schemes) or to a scheme the whole of which is an " excepted provident fund or staff assurance scheme or other similar scheme " as defined in section 390 of that Act, or

(b) if the trust is exclusively for the benefit of the employees, or the employees and directors, of the company or their dependants (and not wholly or mainly for the benefit of directors or their relatives), and the individual in question is not in receipt of remuneration from the company of more than £4,000 per annum and is not (and could not as a result of the operation of the trust become) either on his own or with his relatives the beneficial owner of more than 5 per cent. of the ordinary share capital of the company.

(2) In applying sub-paragraph (1)(b) above any charitable trusts which may arise on the failure or determination of other trusts shall be disregarded.

(3) In this paragraph—

" director " has the same meaning as in Schedule 18 to the Finance Act 1965,

" ordinary share capital " has the same meaning as in paragraph 6(2) of the said Schedule 18,

" relative " means husband or wife, parent or remoter forebear, child or remoter issue, or brother or sister, and

" remuneration " shall be construed in accordance with section 71 of the Finance Act 1948 (remuneration for profits tax purposes), references to the individual and to this paragraph being substituted for references to a director, and to paragraph 11 of Schedule 4 to the Finance Act 1937, but applying that definition to any office held by the individual as director of the company, as well as to any employment.

Transitional relief for company with overseas trading income which is a member of a group.

19 In paragraph 3(3) of Schedule 20 to the Finance Act 1965 (which allows to a member of a group of companies as part of the current overspill under section 84(2) of that Act the appropriate part of another member's excess of current overspill over its relief) for the words " the amount of the relief (before abatement) falling to be given to the other member " there shall be substituted the words " the amount of the relief under the principal section (calculated apart only from any reduction under the proviso to subsection (1) of that section) falling to be given to the other member ".

Commencement.

20 This Schedule so far as it affects corporation tax shall have effect for all relevant financial years from the beginning of the year 1964 onwards.