



Income and Corporation Taxes Act 1970

1970 CHAPTER 10

PART XIV

MISCELLANEOUS SPECIAL PROVISIONS

CHAPTER I

PATENTS AND KNOW-HOW

Patents

378 Writing-down allowances for capital expenditure on purchase of patent rights

- (1) Where a person incurs capital expenditure on the purchase of patent rights, there shall, subject to and in accordance with the following provisions of this Chapter, be made to him writing-down allowances in respect of that expenditure during the writing-down period as hereinafter defined:

Provided that no writing-down allowance shall be made to a person in respect of any expenditure unless—

- (a) the allowance falls in accordance with section 385(1) of this Act to be made to him in taxing his trade; or
 - (b) any income receivable by him in respect of the rights-would be liable to tax.
- (2) The writing-down period shall be the seventeen years beginning with the chargeable period related to the expenditure:

Provided that—

- (a) where the rights are purchased for a specified period, the preceding provisions of this subsection shall have effect with the substitution for the reference to seventeen years of a reference to seventeen years or the number of years comprised within that period, whichever is the less ; and

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- (b) where the rights purchased begin one complete year or more after the commencement of the patent and paragraph (a) of this proviso does not apply, the said provisions shall have effect with the substitution for the reference to seventeen years of a reference to seventeen years less the number of complete years which, when the rights begin, have elapsed since the commencement of the patent, or, if seventeen complete years have elapsed as aforesaid, of a reference to one year; and
 - (c) any expenditure incurred for the purposes of a trade by a person about to carry it on shall be treated for the purposes of this subsection as if it had been incurred by that person on the first day on which he does carry it on, unless, before the said first day, he has sold all the rights on the purchase of which the expenditure was incurred.
- (3) Subsections (2) and (3) of section 75 of the Capital Allowances Act 1968 (effect of providing for writing-down allowances during a writing-down period of a specified length) shall apply to this section as they apply to the provisions specified in subsection (1) of the said section 75.

379 Effect of lapses of patent rights, sales, etc.

- (1) Where a person incurs capital expenditure on the purchase of patent rights and, before the end of the writing-down period under section 378 above, any of the following events occurs, that is to say—
- (a) the rights come to an end without being subsequently revived, or
 - (b) he sells all those rights or so much thereof as he still owns, or
 - (c) he sells part of those rights and the net proceeds of the sale (so far as they consist of capital sums) are not less than the amount of the capital expenditure remaining unallowed,

no writing-down allowance shall be made to that person for the chargeable period related to the event or for any subsequent chargeable period.

- (2) Where a person incurs capital expenditure on the purchase of patent rights and, before the end of the writing-down period under section 378 above, either of the following events occurs, that is to say—
- (a) the rights come to an end without being subsequently revived, or
 - (b) he sells all those rights, or so much thereof as he still owns, and the net proceeds of the sale (so far as they consist of capital sums) are less than the amount of the capital expenditure remaining unallowed,

there shall, subject to and in accordance with the following provisions of this Chapter, be made to him for the chargeable period related to the event an allowance (in this Chapter referred to as "a balancing allowance") equal, if the event is the rights coming to an end, to the amount of the capital expenditure remaining unallowed, and, if the event is a sale, to the amount of the capital expenditure remaining unallowed less the net proceeds of the sale.

- (3) Where a person who has incurred capital expenditure on the purchase of patent rights sells all or any part of those rights and the net proceeds of the sale (so far as they consist of capital sums) exceed the amount of the capital expenditure remaining unallowed, if any, there shall, subject to and in accordance with the following provisions of this Chapter, be made on him for the chargeable period related to the sale a charge (in this Chapter referred to as "a balancing charge") on an amount equal to the excess or,

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where the amount of the capital expenditure remaining unallowed is nil, to the said net proceeds.

- (4) Where a person who has incurred capital expenditure on the purchase of patent rights sells a part of those rights and subsection (3) of this section does not apply, the amount of any writing-down allowance made in respect of that expenditure for the chargeable period related to the sale or any subsequent chargeable period shall be the amount arrived at by—
- (a) subtracting the net proceeds of the sale (so far as they consist of capital sums) from the amount of the expenditure remaining unallowed at the time of the sale, and
 - (b) dividing the result by the number of complete years of the writing-down period which remained at the beginning of the chargeable period related to the sale,

and so on for any subsequent sales.

- (5) References in the preceding provisions of this section to the amount of any capital expenditure remaining unallowed shall, in relation to any event, be construed as references to the amount of that expenditure less any writing-down allowances made in respect thereof for chargeable periods before that related to the event, and less also the net proceeds of any previous sale by the person who incurred the expenditure of any part of the rights acquired by the expenditure, so far as those proceeds consist of capital sums.
- (6) Notwithstanding anything in the preceding provisions of this section, no balancing allowance shall be made in respect of any expenditure unless a writing-down allowance has been, or, but for the happening of the event giving rise to the balancing allowance, could have been, made in respect of that expenditure, and the total amount on which a balancing charge is made in respect of any expenditure shall not exceed the total writing-down allowances actually made in respect of that expenditure, less, if a balancing charge has previously been made in respect of that expenditure, the amount on which that charge was made.

380 Taxation as income of capital sums received for sale of patent rights

- (1) Where a person resident in the United Kingdom sells all or any part of any patent rights and the net proceeds of the sale consist wholly or partly of a capital sum, he shall, subject to the provisions of this Chapter, be charged to tax under Case VI of Schedule D, for the chargeable period in which the sum is received by him and successive chargeable periods, being charged in each period on the same fraction of the sum as the period is of six years (or such less fraction as has not already been charged):

Provided that if that person, by notice in writing served on the inspector not later than two years after the end of the chargeable period in which the said amount was received, elects that the whole of the said sum shall be charged to tax for the said chargeable period, it shall be charged to tax accordingly.

References in this subsection to tax for a chargeable period shall be construed, in relation to corporation tax, as referring to the tax for any financial year which is charged in respect of that period.

- (2) Where a person not resident in the United Kingdom sells all or any part of any patent rights and the net proceeds of the sale consist wholly or partly of a capital sum, and the patent is a United Kingdom patent, then, subject to the provisions of this Chapter—

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- (a) he shall be chargeable to tax in respect of that sum under Case VI of Schedule D; and
- (b) section 53 of this Act (deduction of income tax at source) shall apply to that sum as if it was an annual sum payable otherwise than out of profits or gains charged to income tax; and
- (c) all the other provisions of the Tax Acts shall, save as therein otherwise provided, have effect accordingly:

Provided that if, not later than two years after the end of the year of assessment in which the sum is paid, the person to whom it is paid, by notice in writing to the Board, elects that the said sum shall be treated for the purpose of income tax for that year and each of the five succeeding years as if one-sixth thereof, and no more, were included in his income chargeable to tax for all those years respectively, it shall be so treated, and all such repayments and assessments of tax for each of those years shall be made as are necessary to give effect to the election, so, however, that—

- (i) the election shall not affect the amount of tax which is to be deducted and assessed under the said section 53; and
 - (ii) where any sum is deducted under the said section 53, any adjustments necessary to give effect to the election shall be made by way of repayment of tax; and
 - (iii) the said adjustments shall be made year by year and as if one-sixth of the sum deducted had been deducted in respect of tax for each year, and no repayment of, or of any part of, that portion of the tax deducted which is to be treated as deducted in respect of tax for any year shall be made unless and until it is ascertained that the tax (other than surtax) ultimately falling to be paid for that year is less than the amount of tax (other than surtax) paid for that year.
- (3) In subsection (2) above the word " tax " shall mean income tax, unless the seller of the patent rights, being a company, would be within the charge to corporation tax in respect of any proceeds of the sale not consisting of a capital sum; and where the subsection applies to charge a company to corporation tax in respect of a sum paid to it, the proviso shall not apply, but the company may, by notice in writing given to the Board not later than two years after the end of the accounting period in which the sum is paid, elect that the sum shall be treated as arising rateably in the accounting periods ending not later than six years from the beginning of that in which the sum is paid (being accounting periods during which the company remains within the charge to corporation tax as aforesaid), and there shall be made all such repayments of tax and assessments to tax as are necessary to give effect to any such election.
- (4) Where the person selling all or any part of any patent rights acquired the rights sold, or the rights out of which they were granted, by purchase and the price paid by him consisted wholly or partly of a capital sum, the preceding provisions of this section shall apply as if any capital sum received by him when he sells the rights were reduced by the amount of that sum:

Provided that—

- (a) where between the said purchase and the said sale he has sold part of the rights acquired by him and the net proceeds of that sale consist wholly or partly of a capital sum, the amount of the reduction falling to be made under this subsection in respect of the subsequent sale shall be itself reduced by the amount of that sum;
- (b) nothing in this subsection shall affect the amount of income tax which is to be deducted and assessed under section 53 of this Act by virtue of subsection (2)

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of this section, and, where any sum is deducted under that section, any adjustment necessary to give effect to the provisions of this subsection shall be made by way of repayment of tax.

- (5) A claim for relief under this section shall be made to the Board.

381 Capital sums: death, winding-up or partnership change

- (1) Where a person on whom, by reason of the receipt of a capital sum, a charge falls or would otherwise fall to be made under section 380 above dies or, being a body corporate, commences to be wound up—
- (a) no sums shall be charged under the said section on that person for any chargeable period subsequent to that in which the death takes place or the winding up commences; and
 - (b) the amount falling to be charged for the chargeable period in which the death occurs or the winding up commences shall be increased by the total amounts which, but for the death or winding up, would have fallen to be charged for subsequent chargeable periods ;

Provided that, in the case of a death, the personal representatives may, by notice in writing served on the inspector not later than thirty days after notice has been served on them of the charge falling to be made by virtue of this subsection, require that the income tax (including surtax) payable out of the estate of the deceased by reason of the increase provided for by this subsection shall be reduced so as not to exceed the total amount of income tax (including surtax) which would have been payable by him or out of his estate by reason of the operation of section 380 above in relation to that sum, if, instead of the amount falling to be charged for the year in which the death occurs being increased by the whole amount of the sums charged for subsequent years, the several amounts falling to be charged for the years beginning with that in which the capital sum was received and ending with that in which the death occurred had each been increased by the said whole amount divided by the number of those years.

- (2) Where, under section 79 of the Capital Allowances Act 1968 as applied by section 387 below, a charge under section 380 above falls to be made on two or more persons jointly as being the persons for the time being carrying on a trade, and that trade is discontinued, subsection (1) above shall have effect in relation to the discontinuance as it has effect where a body corporate commences to be wound up:

Provided that—

- (a) the additional sum which, under subsection (1) above, falls to be charged for the chargeable period in which the discontinuance occurs shall be apportioned among the members of the partnership immediately before the discontinuance, according to their respective interests in the partnership profits before the discontinuance, and each partner (or, if he is dead, his personal representatives) shall be charged separately for his proportion; and
- (b) each partner, or, if he is dead, his personal representatives, shall have the same right to require a reduction of the total income tax (including surtax) payable by him or out of his estate by reason of the increase as would have been exercisable by the personal representatives under subsection (1) above in the case of a death, and the proviso to that subsection shall have effect accordingly, but as if references to the amount of income tax (including surtax) which would have been payable by the deceased or out of his estate in the event therein mentioned were a reference to the amount of income tax (including

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surtax) which would in that event have fallen to be paid or borne by the partner in question or out of his estate.

- (3) In this section, any references to the income tax (including surtax) paid or borne or payable or falling to be paid or borne by a person include, in cases where the income of a wife is deemed to be income of the husband, references to the income tax (including surtax) paid or borne, or payable or falling to be paid or borne, by his wife or her husband, as the case may be.

382 Relief for expenses

- (1) Where—

- (a) a person, otherwise than for the purposes of a trade carried on by him, pays any fees or incurs any expenses in connection with the grant or maintenance of a patent, or the obtaining of an extension of a term of a patent, or a rejected or abandoned application for a patent, and
- (b) those fees or expenses would, if they had been paid or incurred for the purposes of a trade, have been allowable as a deduction in estimating the profits or gains thereof,

there shall be made to him, for the chargeable period in which those expenses were paid or incurred, an allowance equal to the amount thereof.

- (2) Where a patent is granted in respect of any invention, an allowance equal to so much of the net amount of any expenses incurred by an individual who, whether alone or in conjunction with any other person, actually devised the invention as is properly ascribable to the devising thereof (not being expenses in respect of which, or of assets representing which, an allowance falls to be made under any other provision of the Income Tax Acts) shall be made to that individual for the year of assessment in which the expenses were incurred.

383 Patent income to be earned income in certain cases

Any income from patent rights arising to an individual where the patent was granted for an invention actually devised by him, whether alone or jointly with any other person, shall be treated for all purposes as earned income:

Provided that where any part of the rights in question or of any rights out of which they were granted has at any time belonged to any other person, so much only of the said income shall be treated as earned income as is not properly attributable to the rights which have belonged to that other person.

384 Spreading of patent royalties over several years

- (1) Where a royalty or other sum to which section 52 or 53 of this Act (deduction of income tax at standard rate) applies is paid in respect of the user of a patent, and that user extended over a period of six complete years or more, the person receiving the payment may on the making of a claim require that the income tax (including surtax) or corporation tax payable by him by reason of the receipt of that sum shall be reduced so as not to exceed the total amount of income tax (including surtax) or corporation tax which would have been payable by him if that royalty or sum had been paid in six equal instalments at yearly intervals, the last of which was paid on the date on which the payment was in fact made.

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- (2) Subsection (1) of this section shall apply in relation to a royalty or other sum where the period of the user is two complete years or more but less than six complete years as it applies to the royalties and sums mentioned in that subsection, but with the substitution for the reference to six equal instalments of a reference to so many equal instalments as there are complete years comprised in that period.
- (3) In this section, any reference to the income tax (including surtax) payable by a person includes, in cases where the income of a wife is deemed to be the income of the husband, references to the income tax (including surtax) payable by his wife or her husband, as the case may be.
- (4) Nothing in this section shall apply to any sum to which section 53 of this Act applies by virtue of section 380(2)(i) above.

385 Manner of making allowances and charges

- (1) An allowance or charge under section 378 or section 379 of this Act shall be made to or on a person in taxing his trade if—
 - (a) he is carrying on a trade the profits or gains of which are, or, if there were any, would be, chargeable to tax under Case I of Schedule D for the chargeable period for which the allowance or charge is made, and
 - (b) at any time in that chargeable period or its basis period the patent rights in question, or other rights out of which they were granted, were or were to be used for the purposes of that trade.
- (2) Where an allowance falls to be made to a person for any year of assessment under section 378, 379 or 382 of this Act as those provisions apply for the purposes of income tax, and the allowance is not to be made in taxing a trade—
 - (a) the amount of the allowance shall be deducted from or set off against his income from patents for that year of assessment, and
 - (b) if the amount to be allowed is greater than the amount of his income from patents for that year of assessment, the balance shall be deducted from or set off against his income from patents for the next year of assessment, and so on for subsequent years of assessment, and tax shall be discharged or repaid accordingly.

Relief shall be given under this subsection on the making of a claim.

- (3) Where an allowance falls to be made to a company for any accounting period under section 378, 379 or 382 of this Act as those provisions apply for the purposes of corporation tax, and is not to be made in taxing a trade—
 - (a) the allowance shall, as far as may be, be given effect by deducting the amount of the allowance from the company's income from patents of the accounting period,
 - (b) where the allowance cannot be given full effect under paragraph (a) above in that period by reason of a want or deficiency of income from patents, then (so long as the company remains within the charge to corporation tax) the amount unallowed shall be carried forward to the succeeding accounting period, and shall be treated for the purposes of paragraph (a) above, and of any further application of this paragraph, as the amount of a corresponding allowance for that period.

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- (4) Effect shall be given to any balancing charge under section 379 of this Act which is not to be made in taxing a trade—
- (a) if a charge to income tax, by making the charge under Case VI of Schedule D,
 - (b) if a charge to corporation tax, by treating the amount on which the charge is to be made as income from patents.

Know-how (income tax, corporation tax and capital gains tax)

386 Dealings in know-how

- (1) Subject to subsections (3) and (6) below, where after 19th March 1968 a person—
- (a) acquires know-how for use in a trade carried on by him, or
 - (b) acquires know-how, and thereafter sets up and commences a trade in which it is used,

writing-down allowances in respect of his expenditure on the acquisition, so far as not otherwise deducted for the purposes of corporation tax or income tax, shall be made in taxing the trade during a writing-down period of six years beginning with the chargeable period related to the expenditure ; and if during that period he ceases to carry on the trade, an allowance equal to the amount of that expenditure then unallowed shall be made in taxing the trade for the chargeable period related to the discontinuance.

For the purposes of this subsection, a person incurring expenditure on know-how before the setting up and commencement of the trade in which it is used shall be treated as incurring it on that setting up and commencement.

- (2) Subject to the said subsection (6), where after 19th March 1968 a person disposes of know-how which has been used in a trade carried on by him, and continues to carry on the trade after the disposal, the amount or value of any consideration received by him for the disposal shall, so far as it is not chargeable to tax as a revenue or income receipt, be treated for all purposes as a trading receipt.
- (3) Where after the said 19th March a person disposes of a trade or part of a trade and, together therewith, of know-how used therein, any consideration received by him for the know-how shall be dealt with in relation both to him and to the person acquiring the know-how, if that person provided the consideration, and for the purposes of corporation tax, income tax and capital gains tax, as a payment for goodwill:

Provided that this subsection shall not apply—

- (a) to either of the persons concerned if they so elect by notice in writing given jointly to the inspector within two years of the disposal, or
- (b) to the person acquiring the know-how if the trade in question was, before the acquisition, carried on wholly outside the United Kingdom ;

and where know-how is disposed of with a trade or part of a trade, but this subsection is excluded in relation to the person acquiring it, subsection (1) above shall apply as if that person had acquired it for use in a trade previously carried on by him.

- (4) Subject to subsection (6) below, any consideration received by a person for the disposal of know-how shall, if it is neither chargeable to tax under subsection (2) above, or otherwise as a revenue or income receipt, nor dealt with in relation to him as a payment for goodwill as mentioned in subsection (3) above, be treated as a profit or gain chargeable to tax under Case VI of Schedule D:

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Provided that, where the person concerned has incurred expenditure wholly and exclusively in the acquisition or disposal of the know-how, the amount which would apart from this proviso be treated as a profit or gain so chargeable shall be reduced by the amount of that expenditure; but a deduction shall not be twice made in respect of the same expenditure, whether under this proviso or otherwise.

- (5) Where subsection (4) above has effect in the case of an individual who devised the know-how in question, whether alone or jointly with any other person, the amount in respect of which he is chargeable to tax by virtue of that subsection shall be treated for all purposes as earned income.
- (6) The preceding provisions of this section, except subsection (3), shall not apply on any sale of know-how where the buyer is a body of persons over whom the seller has control, or the seller is a body of persons over whom the buyer has control, or both the seller and the buyer are bodies of persons and some other person has control over both of them; and the said subsection (3) shall apply on any such sale with the omission of the proviso.

In this subsection, references to a body of persons include references to a partnership.

- (7) In this section " know-how " means any industrial information and techniques likely to assist in the manufacture or processing of goods or materials, or in the working of a mine, oil-well or other source of mineral deposits (including the searching for, discovery, or testing of deposits or the winning of access there(a), or in the carrying out of any agricultural, forestry or fishing operations.
- (8) Where, in connection with any disposal of know-how, a person gives an undertaking (whether absolute or qualified, and whether legally valid or not) the tenor or effect of which is to restrict his or another's activities in any way, any consideration received in respect of the giving of the undertaking or its total or partial fulfilment shall be treated for the purposes of this section as consideration received for the disposal of the know-how.
- (9) Subsection (2) of section 75 of the Capital Allowances Act 1968 (effect of providing writing-down allowances during writing-down period of a specified length) shall apply to this section as it applies to the provisions specified in subsection (1) of that section.

Supplemental

387 Application of Capital Allowances Act 1968

- (1) The Tax Acts shall have effect as if this Chapter were contained in Part I of the Capital Allowances Act 1968, and any reference in the Tax Acts to any capital allowance to be given " by way of discharge or repayment of tax and to be available or available primarily against a specified class of income " shall include a reference to any capital allowance given in accordance with subsection (2) or subsection (3) of section 385 above.
- (2) In the said Part I as so applied to patent rights, the sum referred to in paragraph 4(1)(a) of Schedule 7 to the said Act (special provisions as to controlled sales) is the amount of any capital expenditure on the acquisition of the patent rights remaining unallowed, computed in accordance with the provisions of section 379 of this Act.

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- (3) The reference in section 82(1) of the Capital Allowances Act 1968 (certain payments not to be treated as capital expenditure) to any expenditure or sum in the case of which a deduction of income tax falls or may fall to be made under Part II of this Act does not include a sum in the case of which such a deduction falls or may fall to be so made by virtue of section 380(2) (b) above.
- (4) In Part I of the Capital Allowances Act 1968 as so applied to know-how—
- (a) references in that Part to property and its purchase or sale include references to know-how and its acquisition or disposal,
 - (b) section 78, with Schedule 7 to the Act (special provisions as to controlled sales), shall be omitted.

388 Interpretation of provisions about patents

- (1) In this Chapter—
- " income from patents " means—
- (a) any royalty or other sum paid in respect of the user of a patent; and
 - (b) any amount on which tax is payable for any chargeable period by virtue of section 379(3), section 380 or section 381 of this Act;
- " the commencement of the patent " means, in relation to a patent, the date as from which the patent rights become effective;
- " patent rights " means the right to do or authorise the doing of anything which would, but for that right, be an infringement of a patent;
- " United Kingdom patent " means a patent granted under the laws of the United Kingdom.
- (2) In this Chapter, any reference to the sale of part of patent rights includes a reference to the grant of a licence in respect of the patent in question, and any reference to the purchase of patent rights includes a reference to the acquisition of a licence in respect of a patent:
- Provided that if a licence granted by a person entitled to any patent rights is a licence to exercise those rights to the exclusion of the grantor and all other persons for the whole of the remainder of the term for which the rights subsist, the grantor shall be treated for the purposes of this Chapter as thereby selling the whole of the rights.
- (3) Where, under sections 46 to 49 of the Patents Act 1949 or any corresponding provisions of the law of any country outside the United Kingdom, an invention which is the subject of a patent is made, used, or exercised or vended by or for the service of the Crown or the government of the country concerned, the provisions of this Chapter shall have effect as if the making, user, exercise or vending of the invention had taken place in pursuance of a licence, and any sums paid in respect thereof shall be treated accordingly.
- (4) Expenditure incurred on or after 9th July 1952 (the commencement of the Finance Act 1952) in obtaining a right to acquire in the future patent rights as respects any invention in respect of which the patent has not yet been granted shall be deemed for all the purposes of this Chapter to be expenditure on the purchase of patent rights, and if the patent rights are subsequently acquired the expenditure shall be deemed for those purposes to have been expenditure on the purchase of those rights.

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- (5) Any sum received from a person which by virtue of subsection (4) above is deemed to be expenditure incurred by him on the purchase of patent rights shall be deemed to be proceeds of a sale of patent rights.

CHAPTER II

COPYRIGHT AND ARTISTS' RECEIPTS

Copyright

389 Relief for copyright payments

- (1) Where—
- (a) an author of a literary, dramatic, musical or artistic work assigns the copyright therein wholly or partially, or grants any interest in the copyright by licence ; and
 - (b) the consideration for the assignment or grant consists wholly or partially of a payment to which this section applies, being a payment the whole amount of which would, but for this section, be included in computing the amount of his profits or gains for a single year of assessment; and
 - (c) the author was engaged on the making of the work for a period of more than twelve months,
- he may on making a claim require that effect shall be given to the following provisions of this section in connection with that payment.
- (2) If the period for which he was engaged on the making of the work does not exceed twenty-four months, then, for all income tax purposes, one-half only of the amount of the payment shall be treated as having become receivable on the date on which it actually became receivable, and the remaining half shall be treated as having become receivable twelve months before that date.
- (3) If the period for which he was engaged on the making of the work exceeds twenty-four months, then, for all income tax purposes, one-third only of the amount of the payment shall be treated as having become receivable on the date on which it actually became receivable, and one-third shall be treated as having become receivable twelve months, and one-third twenty-four months, before that date.
- (4) This section applies—
- (a) to a lump sum payment, including an advance on account of royalties which is not returnable, and
 - (b) to any payment of or on account of royalties or sums payable periodically, except that it shall not by virtue of paragraph (b) above apply to payments in respect of the copyright in any work which only become receivable more than two years after its first publication.
- (5) A claim under this section with respect to any payment to which it applies by virtue only of subsection (4)(b) above shall have effect as a claim with respect to all such payments in respect of the copyright in the same work which are receivable by the claimant, whether before or after the claim ; and such a claim may be made at any time

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not later than 5th April next following the expiration of eight years after the work's first publication.

- (6) A claim cannot be made under this section in respect of a payment if a prior claim has been made under section 390 below as respects that payment.
- (7) In this section—
 " author " includes a joint author,
 and any reference to the first publication of a work is a reference to the first occasion on which the work or a reproduction of it is published, performed or exhibited.

390 Relief where copyright sold after ten years or more

- (1) Where not less than ten years after the first publication of the work the author of a literary, dramatic, musical or artistic work assigns the copyright therein wholly or partially, or grants any interest in the copyright by licence, and—
 (a) the consideration for the assignment or grant consists wholly or partially of a lump sum payment the whole amount of which would, but for this section, be included in computing the amount of his profits or gains for a single year of assessment, and
 (b) the copyright or interest is not assigned or granted for a period of less than two years,
 he may by making a claim require that effect shall be given to the following provisions of this section in connection with that payment.
- (2) Except where the copyright or interest is assigned or granted for a period of less than six years, the amount of the payment shall for income tax purposes be treated as becoming receivable in six equal instalments at yearly intervals, the first of which becomes receivable on the date on which the payment actually became receivable.
- (3) Where the copyright or interest is assigned or granted for a period of less than six years, the payment shall for income tax purposes be treated as becoming receivable in a number of equal instalments at yearly intervals the first of which becomes receivable on the date when the payment actually became receivable, the number being the number of whole years in that period.
- (4) Subject to subsection (5) below, if the author dies, any instalment which under this section would, but for the death, be treated as becoming receivable after the death shall for income tax purposes be treated as becoming receivable on the date when the last instalment before the death is to be treated as becoming receivable.
- (5) If the personal representatives so elect—
 (a) the total amount of income tax (including surtax) which would have been payable by the deceased or out of his estate in respect of the payment if the copyright or interest had been assigned or granted for a period beginning with the date when the first instalment is treated as becoming receivable and ending with the day before the death shall be computed, and
 (b) the income tax (including surtax) payable out of the estate by reason of the provisions of subsection (4) above shall be reduced so as not to exceed the amount at (a) above.

The references in this subsection to the income tax (including surtax) payable by a person include, in cases where the income of a wife is deemed to be income of the

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husband, references to the income tax (including surtax) payable by his wife or her husband, as the case may be.

- (6) If the payment would, apart from this section, have been taken into account in assessing the profits or gains of a profession or vocation, and the profession or vocation is permanently discontinued (otherwise than on death) after the date on which the payment actually became receivable, any instalment which under this section would, but for the discontinuance, be treated as receivable on a date after the discontinuance shall for income tax purposes be treated as becoming receivable when the last instalment before the discontinuance is to be treated as becoming receivable, unless the author elects to be treated (for all purposes) as if the copyright or interest had been assigned or granted for a period beginning with the date when the first instalment is treated as becoming receivable and ending with the day before the discontinuance.
- (7) Notice of any election under subsection (5) or subsection (6) above shall be served on the inspector within two years of the death, or as the case may be of the discontinuance.
- (8) Where, but for this section, the payment would be included in computing any profits or gains chargeable to tax under Case VI of Schedule D, and any amount would be deductible from that payment in computing those profits or gains (whether under the general provisions relating to Case VI or under section 145(1) of this Act (post-cessation receipts: allowable deductions)), the amount which, under this section, is to be treated as receivable in instalments shall be the amount of the payment after that deduction, and effect shall not be given to that deduction in any other way.
- (9) A claim cannot be made under this section in respect of a payment if a prior claim has been made under section 389 above as respects that payment.
- (10) Where it is necessary, in order to give effect to a claim or election under this section, or as a result of the claim or election, to make any adjustment by way of an assessment on any person, the assessment shall not be out of time if it is made within one year of the final determination of the claim, or as the case may be within one year from the giving of notice of the election.
- (11) In this section—
 - " author " includes a joint author,
 - " lump sum payment " includes an advance on account of royalties which is not returnable,and the reference to the first publication of a work is a reference to the first occasion on which the work or a reproduction of it is published, performed or exhibited.

391 Taxation of copyright royalties where owner's usual place of abode is abroad

- (1) Subject to the provisions of this section, where the usual place of abode of the owner of a copyright is not within the United Kingdom, section 53 of this Act shall apply to any payment of or on account of any royalties or sums paid periodically for or in respect of that copyright as it applies to annual payments not payable out of profits or gains brought into charge to income tax.

In this subsection—

" copyright " does not include a copyright in any dramatic work being a cinematograph production, or in any artistic work being a photograph intended to be used for the purposes of the exhibition of pictures or other optical effects by means of a cinematograph or other similar apparatus; and

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" owner of a copyright " includes a person who, notwithstanding that he has assigned a copyright to some other person, is entitled to receive periodical payments in respect of that copyright; and

the reference to royalties or sums paid periodically for or in respect of a copyright does not include royalties or sums paid in respect of copies of works which are shown on a claim to have been exported from the United Kingdom for distribution outside the United Kingdom.

- (2) Where any payment to which subsection (1) of this section applies is made through an agent resident in the United Kingdom and that agent is entitled as against the owner of the copyright to deduct any sum by way of commission in respect of services rendered, the amount of the payment shall, for the purposes of section 53 of this Act, be taken to be the amount thereof as diminished by the sum which the agent is so entitled to deduct:

Provided that, where the person by or through whom any such payment is made does not know that any such commission is payable or does not know the amount thereof, any income tax deducted by or assessed and charged on him shall be computed in the first instance on, and the account to be delivered of the payment shall be an account of, the total amount of the payment without regard being had to any diminution thereof, and in that case, on proof of the facts on a claim, there shall be made to the agent on behalf of the owner of the copyright such repayment of income tax as is proper in respect of the sum deducted by way of commission.

- (3) The time of the making of a payment to which subsection (1) of this section applies shall, for all tax purposes, be taken to be the time when it is made by the person by whom it is first made and not the time when it is made by or through any other person.
- (4) Any agreement for the making of any payment to which subsection (1) of this section applies in full and without deduction of income tax shall be void.

Artists' receipts

392 Relief for painters, sculptors and other artists

- (1) Where the artist obtains any sum for the sale of a painting, sculpture or other work of art, or by way of commission or fee for the creation of the work of art, and—
- (a) he was engaged on the making of the work of art for a period of more than twelve months, or
 - (b) he was engaged for a period of more than twelve months in making a number of works of art for an exhibition, and the work is one of them,
- he may by making a claim require that effect shall be given to the following provisions of this section as respects that sum.
- (2) If the period for which he was engaged on the making of the work does not exceed twenty-four months, then, for all income tax purposes, one-half only of the amount of the payment shall be treated as having become receivable on the date on which it actually became receivable, and the remaining half shall be treated as having become receivable twelve months before that date.
- (3) If the period for which he was engaged on the making of the work exceeds twenty-four months, then, for all income tax purposes, one-third only of the amount of the payment shall be treated as having become receivable on the date on which it actually

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became receivable, and one-third shall be treated as having become receivable twelve months, and one-third twenty-four months, before that date.

CHAPTER III

LIFE POLICIES, LIFE ANNUITIES AND CAPITAL REDEMPTION POLICIES

393 Introductory

- (1) This Chapter shall have effect for the purpose of imposing, in the manner and to the extent therein provided, charges to surtax and to tax under section 289 of this Act (shortfall in distributions of close company) in respect of gains to be treated in accordance with this Chapter as arising in connection with policies of life insurance, contracts for life annuities, and capital redemption policies.
- (2) Nothing in this Chapter shall apply—
 - (a) to any policy of life insurance having as its sole object the provision on an individual's death or disability of a sum substantially the same as any amount then outstanding under a mortgage of his residence, or of any premises occupied by him for the purposes of a business, being a mortgage the principal amount secured by which is repayable by instalments payable annually or at shorter regular intervals, or
 - (b) to any policy of life insurance issued in connection with a sponsored superannuation scheme as defined in section 226(11) of this Act if one-half at least of the cost of the scheme is borne by the person or persons under whom the relevant offices or employments are held.

In the application of this subsection to Scotland, for the reference to a mortgage there shall be substituted a reference to a heritable security within the meaning of the Conveyancing (Scotland) Act 1924 (but including a security constituted by *ex facie* absolute disposition or assignment).

- (3) In this Chapter—
 - " life annuity " means any annuity to which section 230 of this Act (purchased life annuities) applies,
 - " capital redemption policy " means any insurance effected in the course of a capital redemption business as defined in section 324(3) of this Act,
 - " assignment ", in relation to Scotland, means an assignment.
- (4) This Chapter shall have effect only as respects policies of life insurance issued in respect of insurances made after 19th March 1968, contracts for life annuities entered into after that date, and capital redemption policies effected after that date.
- (5) A policy of life insurance issued in respect of an insurance made on or before 19th March 1968 shall be treated for the purposes of subsection (4) above and the following provisions of this Chapter as issued in respect of one made after that date if it is varied after that date so as to increase the benefits secured or to extend the term of the insurance:

Provided that a variation effected before the end of the year 1968 shall be disregarded for the purposes of this subsection if its only effect was to bring into conformity with paragraph 2 of Schedule 1 to this Act (qualifying conditions for endowment policies)

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a policy previously conforming therewith except as respects the amount guaranteed on death, and no increase was made in the premiums payable under the policy.

394 Life policies: chargeable event

- (1) Subject to the provisions of this section, in this Chapter "chargeable event" means, in relation to a policy of life insurance—
- (a) unless it is a policy which falls within subsection (2) below, any of the following—
 - (i) any death giving rise to benefits under the policy,
 - (ii) the maturity of the policy,
 - (iii) the surrender in whole or in part of the rights conferred by the policy, and
 - (iv) the assignment for money or money's worth of those rights or of any share therein; and
 - (b) if it is a policy falling within subsection (2) below, any of the above events, but—
 - (i) in the case of death or maturity, only if the policy is converted into a paid-up policy before the expiry of ten years from the making of the insurance, or, if sooner, of three-quarters of the term for which the policy is to run if not ended by death or disability,
 - (ii) in the case of a surrender or assignment, only if it is effected within that time, or the policy has been converted into a paid-up policy within that time.
- (2) A policy falls within this subsection if (whether or not the premiums thereunder are eligible for relief under section 19 of this Act) it is a qualifying policy within the meaning of Part I of Schedule 1 to this Act.
- (3) The maturity of a policy is not a chargeable event in relation thereto if a new policy is issued in consequence of the exercise of an option conferred by the maturing policy unless the person making the insurance in respect of which the new policy is issued was an infant when the former policy was issued, and the former policy was one securing a capital sum payable either on a specified date falling not later than one month after his attaining twenty-five or on the anniversary of the policy immediately following his attainment of that age.
- (4) No event is a chargeable event in relation to a policy if the rights conferred by the policy have at any time before the event been assigned for money or money's worth.
- (5) No account shall be taken for the purposes of this section of any assignment effected by way of security for a debt, or on the discharge of a debt secured by the rights or share concerned, or of any assignment between spouses living together; and references in subsection (1) above to the surrender of the rights conferred by a policy do not include references to the surrender of any right to a bonus.
- (6) Where subsection (1)(b) above applies to a policy which has been varied so as to increase the premiums payable thereunder, it shall so apply as if the references in subsection (1)(b)(i) to the making of the insurance and the term of the policy were references respectively to the taking effect of the variation and the term of the policy as from the variation.

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395 Life policies: computation of gain

- (1) On the happening of a chargeable event in relation to any policy of life insurance, there shall be treated as a gain arising in connection with the policy—
 - (a) if the event is a death, the excess (if any) of the surrender value of the policy immediately before the death, plus the amount or value of any relevant capital payments, over the total amount previously paid under the policy by way of premiums ;
 - (b) if the event is the maturity of the policy, or the surrender in whole or in part of the rights thereby conferred, the excess (if any) of the amount or value of the sum payable or other benefits arising by reason of the event, plus the amount or value of any relevant capital payments, over the total amount previously paid under the policy by way of premiums, or, in the case of a partial surrender, over the same proportion of that amount as is borne by the amount or value of the said sum or other benefits to the amount or value of the sum or other benefits which would have been payable, or would have arisen, if the rights had been wholly surrendered;
 - (c) if the event is an assignment—
 - (i) if it is an assignment of all the rights conferred by the policy, the excess (if any) of the amount or value of the consideration, plus the amount or value of any relevant capital payments, over the total amount previously paid under the policy by way of premiums, and
 - (ii) if it is an assignment of a share only in those rights, the excess (if any) of the amount or value of the consideration, plus the amount or value of any relevant capital payments so far as attributable to the share assigned and received by the assignor or by any person at his direction, over the same proportion of the total amount previously paid under the policy by way of premiums as is borne by the amount or value of the consideration to the market value of the rights.
- (2) Where, in a case falling within subsection (1)(b) above, a right to periodical payments arises by reason of the event, there shall be treated as payable by reason thereof an amount equal to the capital value of those payments at the time the right arises.
- (3) Where, in a case falling within subsection (1)(c) above, the assignment is between persons who are connected with each other within the meaning of section 533 of this Act, the assignment shall be deemed to have been made for a consideration equal to the market value of the rights or share assigned.
- (4) In this section, " relevant capital payments " means, in relation to any policy, any sum or other benefit of a capital nature, other than one attributable to a person's disability, paid or conferred under the policy before the happening of the chargeable event, and any sum paid, or other benefit conferred, by reason of any surrender before that time of a right to a bonus under the policy; and references in this subsection and (in relation to premiums) in subsection (1) above to " the policy " include references to any related policy, that is to say, to any policy in relation to which the policy is a new policy within the meaning of paragraph 9 of Schedule 1 to this Act, any policy in relation to which that policy is such a policy, and so on.

396 Life annuity contracts: chargeable event

- (1) Subject to subsections (2) and (3) below, in this Chapter " chargeable event " means, in relation to any contract for a life annuity, the surrender in whole or in part of the

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rights conferred by the contract, or the assignment for money or money's worth of those rights or of any share therein.

Where the terms of a contract provide for the payment of a capital sum as an alternative, in whole or in part, to payments by way of annuity, the taking of the capital sum shall be treated for the purposes of this section and section 397 below as a surrender in whole or in part of the rights conferred by the contract.

- (2) An event referred to in subsection (1) above is not a chargeable event in relation to any contract if the rights conferred by the contract have at any time before the event been assigned for money or money's worth.
- (3) Subsection (5) of section 394 above shall, with any necessary modification, apply for the purposes of this section as it applies for the purposes of the said section 394.

397 Life annuity contracts: computation of gain

- (1) On the happening of a chargeable event in relation to any contract for a life annuity, there shall be treated as a gain arising in connection with the contract—
 - (a) if the event is the surrender in whole or in part of the rights conferred by the contract, the excess (if any) of the amount payable by reason of the event over—
 - (i) the total amount previously paid under the contract, whether by way of premiums or as lump sum consideration, reduced, if before the happening of the event one or more payments have been made on account of the annuity, by the capital element in the said payment or payments, as determined in accordance with section 230 of this Act, or
 - (ii) in the case of a partial surrender, the same proportion of that amount (as so reduced where appropriate) as is borne by the amount payable by reason of the event to the amount which would have been so payable if the rights had been wholly surrendered ;
 - (b) if the event is the assignment for money or money's worth of the rights conferred by the contract, or of any share therein, the excess (if any) of the amount or value of the consideration over—
 - (i) the amount specified in subsection (1)(a)(i) above, or
 - (ii) if the assignment is of a share only, the same proportion of that amount (reduced as therein mentioned where appropriate) as is borne by the amount or value of the consideration to the market value of the rights.
- (2) Subsection (3) of section 395 above shall apply for the purposes of subsection (1) above as it applies for the purposes of subsection (1)(c) of that section.

398 Capital redemption policies

- (1) Subject to subsection (2) below, in this Chapter "chargeable event" means, in relation to a capital redemption policy, any of the following—
 - (i) the maturity of the policy,
 - (ii) the surrender in whole or in part of the rights conferred by the policy, and
 - (iii) the assignment for money or money's worth of those rights or of any share therein.

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- (2) Subsection (5) of section 394 above shall apply for the purposes of this section as it applies for purposes of the said section 394.
- (3) The provisions of section 395 above, except subsection (3) thereof, shall, so far as appropriate and subject to subsection (4) below, apply to capital redemption policies as they apply to policies of life insurance.
- (4) Where a chargeable event happens in relation to a capital redemption policy which has previously been assigned for money or money's worth, the said section 395 shall have effect in relation thereto as if, for the references to the total amount previously paid under the policy by way of premiums, there were substituted references to the amount or value of the consideration given for the last such assignment, plus the total amount of the premiums paid under the policy since that assignment.

399 Method of charging gain to tax

- (1) Where, under the preceding provisions of this Chapter, a gain is to be treated as arising in connection with any policy or contract—
 - (a) if, immediately before the happening of the chargeable event in question, the rights conferred by the policy or contract were vested in an individual as beneficial owner, or were held on trusts created by an individual (including trusts arising under section 11 of the Married Women's Property Act 1882, section 2 of the Married Women's Policies of Assurance (Scotland) Act 1880, or section 4 of the Law Reform (Husband and Wife) Act (Northern Ireland) 1964) or as security for a debt owed by an individual, the amount of the gain shall be deemed for the purposes of surtax (but not for any other income tax purpose except the furnishing of information) to form part of that individual's total income for the year in which the event happened;
 - (b) if, immediately before the happening of that event, the said rights were in the beneficial ownership of a close company, or were held on trusts created, or as security for a debt owed, by a close company, then—
 - (i) for the purposes of section 289 of this Act (shortfall in distributions) the company's distributable income (but not its estate or trading income) for the accounting period in which the event happened shall be treated as increased by the amount of the gain, and
 - (ii) the amount of the gain shall also be deemed to form part of the company's income for that period for the purposes of section 296 of this Act (surtax apportionments);
 - (c) if, immediately before the happening of that event, the said rights were vested in personal representatives within the meaning of Part XV of this Act, the amount of the gain shall, as regards surtax, be deemed for the purposes of the said Part XV to be part of the aggregate income of the estate of the deceased:

Provided that nothing in this subsection shall apply to any amount which is chargeable to tax apart from this subsection.

- (2) Where, immediately before the happening of a chargeable event, the rights conferred by any policy or contract were vested beneficially in two or more persons, or were held on trusts created, or as security for a debt owed, by two or more persons, paragraphs (a) and (b) of subsection (1) above shall have effect in relation to each of those persons as if he had been the sole owner, settlor or debtor, but with references to the amount of

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the gain construed as references to the part of it proportionate to his share in the rights at the time of the event or, as the case may require, when the trusts were created.

- (3) References in subsections (1) and (2) above to the rights conferred by a policy or contract are, in the case of an assignment of a share only in any rights, references to that share.

400 Relief where gain charged directly to surtax

- (1) The following provisions of this section shall have effect for the purpose of giving relief, on a claim in that behalf being made by him to the Board, in respect of any increase in an individual's liability to tax which is attributable to one or more amounts being included in his total income for a year of assessment by virtue of section 399(1) (a) above.

- (2) Where one amount only is so included, there shall be computed—
- (a) the surtax which would be chargeable in respect of the amount if relief under this section were not available and it constituted the highest part of the claimant's total income for the year, and
 - (b) the surtax (if any) which would be chargeable in respect of the amount if calculated, in accordance with subsection (3) below, by reference to its appropriate fraction,

and the relief shall consist of a reduction or repayment of tax equal to the difference between the two amounts of surtax so computed, or, if surtax would not be chargeable on a calculation by reference to the appropriate fraction, of a reduction or repayment of the tax equal to the surtax computed under paragraph (a) above.

- (3) In subsection (2) above " appropriate fraction " means, in relation to any amount, such a sum as bears thereto the same proportion as that borne by one to the number of complete years for which the policy or contract has run before the happening of the chargeable event; and the computation required by paragraph (b) of that subsection shall be made by applying to the amount in question the rate or rates of surtax (if more than one, in corresponding proportions) which would apply if it were reduced to that fraction, treating it, as so reduced, as still constituting the highest part of the claimant's total income for the year, and treating so much of it (if any) as would then not be chargeable to surtax as if it were chargeable thereto at a nil rate.

For the purposes of this subsection, the number of years for which a policy of life insurance has run before the happening of a chargeable event shall be calculated, where appropriate, from the issue of the earliest related policy, meaning, any policy in relation to which the policy is a new policy within the meaning of paragraph 9 of Schedule 1 to this Act, any policy in relation to which that policy is such a policy, and so on.

- (4) Where by virtue of the said section 399(1)(a) two or more amounts are included in an individual's total income for any year of assessment, subsections (2) and (3) above shall apply as if they together constituted a single amount, but with the appropriate fraction of the whole determined by adding together the appropriate fractions of the individual amounts.
- (5) A provision of this section requiring surtax to be calculated as if an amount constituted the highest part of a claimant's total income shall apply notwithstanding any provision of the Income Tax Acts directing any other amount to be treated as the highest part thereof, but, for the purposes of this section, a claimant's total income shall be deemed not to include any amount in respect of which he is chargeable to tax under sections

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80, 81 or 82 of this Act (premiums, etc. treated as rent) or section 187 of this Act (payments on retirement or removal from office or employment).

401 Right of individual to recover tax from trustees

- (1) Where an amount is included in an individual's income by virtue of section 399(1)(a) above, and the rights or share in question were held immediately before the happening of the chargeable event on trust, the individual shall be entitled to recover from the trustees, to the extent of any sums, or to the value of any benefits, received by them by reason of the event, an amount equal to that (if any) by which the tax with which he is chargeable for the year of assessment in question, reduced by the amount of any relief available under section 400 above in respect of the amount so included, exceeds the tax with which he would have been chargeable for the year if the said amount had not been so included.
- (2) Where, for the purposes of relief under the said section 400, two or more amounts are to be treated as one, the reduction required by subsection (1) above on account of the relief available in respect of any of them shall consist of a proportionate part of the relief available in respect of their aggregate.
- (3) An individual may require the Board to certify any amount recoverable by him by virtue of this section, and the certificate shall be conclusive evidence of the amount.

402 Information: duty of insurers

- (1) Subject to subsection (2) below, where a chargeable event within the meaning of this Chapter has happened in relation to any policy or contract, the body by or with whom the policy or contract was issued, entered into or effected shall, within three months of the event or, if it is a death or an assignment, within three months of their receiving written notification thereof, deliver to the inspector a certificate specifying—
 - (a) the name and address of the policy holder,
 - (b) the nature of the event, and the date on which it happened,
 - (c) as may be required for computing the gain to be treated as arising by virtue of this Chapter—
 - (i) the surrender value of the policy, or the sum payable, or other benefits to be conferred, by the body in question by reason of the event,
 - (ii) the amount or value of any relevant capital payments,
 - (iii) the amounts previously paid under the policy or contract by way of premiums, or otherwise by way of consideration for an annuity, and
 - (iv) the capital element in any payment previously made on account of an annuity, and
 - (d) the number of years relevant for computing the appropriate fraction of the gain for the purposes of section 400(3) above.
- (2) Subsection (1) above shall not apply where—
 - (a) the body in question are satisfied that no gain is to be treated as arising by reason of the event, or
 - (b) the amount of the surrender value or sum, or the value of the other benefits, referred to in paragraph (c)(i) of that subsection, together with the amount or value of any payments within paragraph (c)(ii) thereof, does not exceed £500,

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but the inspector may by notice in writing require a like certificate in any such case, and it shall be the duty of the body to deliver the certificate within thirty days of receipt of the notice.

CHAPTER IV

INSURANCE: BORROWING TO PAY PREMIUMS AND BORROWING AGAINST LIFE POLICIES

403 Interest on loans used for payment of premiums, etc.: disallowance as deduction for surtax

- (1) Subject to the exceptions contained in section 404 below, in computing for the purposes of surtax the total income for any year of assessment of an individual who has entered into a contract of assurance, no deduction shall be allowed in respect of any interest on any borrowed money which has been applied directly or indirectly to or towards the payment of any premium under that contract, or of any sum paid in lieu of any such premium.
- (2) Where the benefit of a contract of assurance entered into by any person has become vested in another person, being an individual, subsection (1) above shall apply in relation to that individual—
 - (a) as if the contract had been a contract entered into by him, and
 - (b) in a case where the benefit of the contract became vested in him by virtue of an assignment and any payment was made by him in consideration of the assignment, as if that payment were the payment of a premium under the contract, and
 - (c) in a case where, either as being the person in whom the said benefit is vested, or by reason of any agreement under or in pursuance of which the said benefit became vested in him, he pays any interest on any borrowed money, as if that money had been applied to the payment of a premium under 'the contract.
- (3) The provisions of section 22 of the Taxes Management Act 1970 with regard to the delivery of particulars as to deductions claimed to be allowed shall be extended so as to enable the Board to require such particulars with respect to deductions and otherwise as they may consider necessary for the purpose of carrying this section and section 404 below into effect.
- (4) In this section and the said section 404—
 - (a) " contract of assurance " means a contract of assurance or a contract similar in character to a contract of assurance, being in either case a contract under which a capital sum is expressed to be payable in the future in return for one or more antecedent payments, and " premium " means any such antecedent payment,
 - (b) " interest " includes any sum payable in respect of any borrowed money,
 - (c) any reference to borrowed money applied to or towards any payment shall be deemed to include a reference to borrowed money applied directly or indirectly to or towards the replacement of any money so applied, and
 - (d) any reference to a capital sum payable on death under a contract of assurance shall be construed as a reference to the actual capital sum assured on death, exclusive of any addition which has arisen or may arise from any bonus, share of profits, return of premiums or otherwise, and, in the case of a contract under

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which different capital sums are payable on death in different events, as a reference to the least of those sums.

404 Exceptions from disallowance for surtax

- (1) Subject to the provisions of this section, section 403 above shall not, where the interest is payable at a rate not exceeding 10 per cent. per annum, apply to—
- (a) interest on money borrowed mainly on the security of property other than a contract of assurance, if the premium in question either—
 - (i) is payable under a contract of assurance entered into in order to provide against the failure of a contingent interest in any property, and to serve as additional security for the loan and for no other purpose, or
 - (ii) is the first of a series of premiums payable under a contract of assurance entered into solely in order to provide for the repayment of the money borrowed and does not exceed 10 per cent. of the sum assured under that contract, or
 - (b) interest on borrowed money applied to or towards the payment of premiums under a contract of assurance which assures throughout the term of the contract a capital sum payable on death, if—
 - (i) neither the amount of the first premium under the contract, nor the amount subsequently payable by way of premiums thereunder in respect of any period of twelve months, exceeds one-eighth of the capital sum payable on death, and
 - (ii) it is shown to the satisfaction of the Board that it is exceptional for the individual in question to apply borrowed money to or towards the payment of premiums to which this paragraph applies, and that no such money has been so applied by him in any of the three years of assessment immediately preceding that in which he so applies the money on which the interest in question is payable, or
 - (c) interest on borrowed money applied to or towards the payment of premiums which—
 - (i) are not premiums such as those specified in paragraph (a), (d) or (e) of this subsection, and
 - (ii) are either premiums payable under a policy of life insurance which is a qualifying policy within the meaning of Part I of Schedule 1 to this Act or premiums each of which is one of a series of equal premiums payable at equal intervals of not more than one year,
 except so far as such interest exceeds in the year of assessment £100 in all, or
 - (d) interest on borrowed money applied to or towards the payment of any premium under a contract of assurance entered into before 15th April 1930 which assures a fixed capital sum payable either—
 - (i) on death only, or
 - (ii) on the expiry of a period of not less than ten years from the date of the commencement of the contract or on earlier death, or
 - (e) interest on money borrowed before 6th. April 1929, unless—
 - (i) the money was borrowed from an insurance company, and
 - (ii) the repayment thereof was secured on a contract of assurance, and
 - (iii) the premium in question was a premium under that contract.
- (2) In relation to—

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- (a) interest on borrowed money applied to or towards the payment of premiums under any policy of life insurance falling within paragraph (a) or (b) of section 393(2) of this Act (mortgage repayments and sponsored superannuation schemes), and

- (b) interest on money borrowed on or before 19th March 1968,

subsection (1) above shall have effect with the omission of paragraph (b)(ii) and paragraph (c), but subsection (3) below shall apply.

- (3) Section 403 above shall not apply to interest—

- (a) which is payable at a rate not exceeding 10 per cent. per annum, and
- (b) which is within subsection (2) (a) or (b) above, and
- (c) which is interest on borrowed money applied to or towards the payment of premiums which—
 - (i) are not premiums such as those specified in paragraph (a), (b), (d) or (e) of subsection (1) above, and
 - (ii) are premiums each of which is one of a series of equal premiums payable at equal intervals of not more than one year,

except so far as such interest exceeds in the year of assessment £100 in all.

405 Borrowings against life policies to be treated as income in certain cases

- (1) Where—

- (a) under any contract or arrangements made on or after 7th April 1949, provision is made for the making to any person, at intervals until the happening of an event or contingency dependent on human life, of payments by way of loan ; and
- (b) under the contract or arrangements, the loans are secured upon a policy of life assurance which assures moneys payable on the happening of such an event or contingency and need not be repaid until the policy moneys become payable ; and
- (c) the amount of the moneys payable on the happening of the event or contingency is made by the policy to increase by reference to the length of a period ending on the happening thereof,

the payments by way of loan shall be treated for tax purposes as annual payments falling within Case III of Schedule D, or, if they are made to a person residing in the United Kingdom and the contract or arrangements were made outside the United Kingdom, as income from a possession out of the United Kingdom and, for income tax, as falling within section 122(1) of this Act.

- (2) The amount of the moneys payable under a policy of life assurance shall not be deemed for the purposes of this section to be made to increase by reference to the length of a period ending on the happening of an event or contingency dependent on human life by reason only that those moneys are to increase from time to time if profits are made by the persons liable under the policy.

- (3) This section shall not apply to any payments by way of loan if the Board are satisfied as respects those payments that it is not one of the objects of the contract or arrangements under which the payments are made that the recipient thereof, should enjoy the advantages which would, apart from any question of liability to tax, be enjoyed by a person in receipt of payments of the same amounts paid at the same times by way of annuity.

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CHAPTER V

SCHEMES FOR RATIONALIZING INDUSTRY

406 Deduction from profits of contributions paid under certified schemes

- (1) Notwithstanding anything contained in section 130 of this Act (general rules as to deductions not allowable), but subject to the following provisions of this Chapter, where a person pays, wholly and exclusively for the purposes of a trade in respect of which he is chargeable under Case I of Schedule D, a contribution in furtherance of a scheme which is for the time being certified by the Board of Trade under this section, the contribution shall, in so far as it is paid in furtherance of the primary object of the scheme, be allowed to be deducted as an expense in computing the profits or gains of the said trade.
- (2) The Board of Trade shall certify a scheme under this section if they are satisfied—
 - (a) that the primary object of the scheme is the elimination of redundant works or machinery or plant from use in an industry in the United Kingdom; and
 - (b) that the scheme is in the national interest and in the interest of the said industry as a whole; and
 - (c) that such number of persons engaged in the said industry as are substantially representative of the industry are liable to pay contributions in furtherance of the primary object of the scheme by agreement between them and the body of persons carrying out the scheme.

References in this subsection to an industry in the United Kingdom shall include references to the business carried on by owners of ships or of a particular class of ships, wherever that business is carried on, and, in relation to that business, references in this subsection to works or machinery or plant shall include references to ships.

- (3) The Board of Trade shall cancel any certificate granted under this section if they cease to be satisfied as to any of the matters referred to in subsection (2) of this section.
- (4) The Board of Trade may at any time require the body of persons carrying out a scheme certified under this section to produce any books or documents of whatever nature relating to the scheme and, if the requirement is not complied with, the Board of Trade may cancel the certificate.
- (5) In this section and section 407 below, "contribution", in relation to a scheme, does not include a sum paid by a person by way of loan or subscription of share capital, or in consideration of the transfer of assets to him, or by way of a penalty for contravening or failing to comply with the scheme.

407 Repayment of contributions

- (1) In the event of the repayment, whether directly or by way of distribution of assets on a winding up or otherwise, of a contribution or any part thereof which has been allowed to be deducted under section 406 above, the deduction of the contribution, or of so much thereof as has been repaid, shall be deemed to be an unauthorised deduction in respect of which an assessment shall be made, and, notwithstanding the provisions of the Tax Acts requiring assessments to be made within six years after the end of the chargeable period to which they relate, any such assessment and, in the case of an income tax assessment any consequential assessment to surtax, may be made at any

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time within three years after the end of the chargeable period in which the repayment was made.

- (2) For the purposes of this section, a sum received by any person by way of repayment of contributions shall be deemed to be by way of repayment of the last contribution paid by him, and, if the sum exceeds the amount of that contribution, by way of repayment of the penultimate contribution so paid, and so on.

408 Payments under certified schemes which are not repayments of contributions

- (1) Subject to the provisions of this section, where under any scheme which is for the time being certified or has at any time been certified by the Board of Trade under section 406 above, any payment (not being a payment made by way of repayment of contributions) is made to a person carrying on a trade to which the scheme relates, that payment shall be treated for the purposes of the Tax Acts as a trading receipt of the trade, and shall accordingly be taken into account in computing the profits or gains of the trade for those purposes.
- (2) Where on a claim it is shown in accordance with the provisions of Part II of Schedule 11 to this Act that the payments which have been made under such a scheme in respect of a trade (not being payments made by way of repayment of contributions) have been made wholly or partly in respect of damage in respect of which no relief may be given under the Tax Acts, then, subject to and in accordance with the provisions of that Schedule, relief shall be given in respect of those payments by reducing the amounts which are to be treated as trading receipts of the trade under subsection (1) of this section, but, where such relief is given, the said section 406 shall, in relation to contributions subsequently paid under the scheme in respect of the trade, have effect subject to the modifications specified in Part III of that Schedule.
- (3) The provisions of this section and of the said Schedule shall apply in relation to any payment made to a person who has ceased to carry on a trade to which any such scheme as aforesaid relates as they apply in relation to payments made to a person carrying on such a trade, subject to the modification that so much of that payment as falls to be treated as a trading receipt by virtue of the said provisions shall be deemed for the purposes of those provisions to have been made to him on the last day on which he was engaged in carrying on the trade.
- (4) In determining, for the purposes of this section and of the said Schedule—
- (a) whether any trade has ceased to be carried on ; or
 - (b) whether any contribution is paid in respect of a trade in respect of which a payment has been made ; or
 - (c) whether any payment is made in respect of a trade in respect of which a contribution has been paid,

no regard shall be had to any event which, by virtue of any of the provisions of section 154 (income tax consequences of change in ownership of trade) or section 251(1) (corporation tax rules for commencement or discontinuance of trade) of this Act, is to be treated as effecting a discontinuance of a trade.

409 Cancellation of certificates of Board of Trade

- (1) Where any certificate granted with respect to a scheme under section 406 of this Act is cancelled by the Board of Trade, and any deductible contributions paid in furtherance of the scheme have not been repaid at the expiration of one year from the

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cancellation, the body of persons carrying out the scheme shall, for the chargeable period in which the said year expires, be charged to tax under Case VI of Schedule D upon the aggregate amount of the deductible contributions which have not been repaid at that time:

Provided that the charge shall not be made if the total amount of any contributions, other than deductible contributions, which have been paid under the scheme and have not been repaid before that time is greater than the available resources of the scheme, and shall not in any case be made upon an amount greater than the excess, if any, of those resources over that total amount.

In this subsection, "the available resources", in relation to any scheme, means a sum representing the total funds held for the purposes of the scheme at the expiration of one year from the cancellation of the certificate plus a sum representing any funds held for the purposes of the scheme which, during that year, have been applied otherwise than in accordance with the provisions of the scheme as in force when the certificate was granted.

- (2) Where the body of persons carrying out a scheme are charged to tax by virtue of subsection (1) of this section, and, after the expiration of the said year, any deductible contribution paid in furtherance of the scheme is repaid, the amount upon which the charge is made shall on the making of a claim be reduced by the amount repaid, and all such repayments of tax shall be made as are necessary to give effect to the provisions of this subsection.
- (3) In this section, "contribution" includes a part of a contribution, and "deductible contribution" means a contribution allowed to be deducted under section 406 above, any reduction thereof under Part III of Schedule 11 to this Act being left out of account.
- (4) For the purposes of this section, a sum received by any person by way of repayment of contributions shall be deemed to be by way of repayment of the last contribution paid by him, and, if the sum exceeds the amount of that contribution, by way of repayment of the penultimate contribution so paid, and so on.

410 Application to statutory redundancy schemes

- (1) Sections 407, 408 and 409 above, and Schedule 11 to this Act, shall, subject to the adaptations specified in sub-section (2) of this section, apply in relation to a statutory redundancy scheme as they apply in relation to a scheme certified under section 406 above.
- (2) The said adaptations are as follows, that is to say—
 - (a) for any reference to a contribution allowed to be deducted under the said section 406 there shall be substituted a reference to a contribution allowed to be deducted under any provision of the Tax Acts other than the said section 406; and
 - (b) any provision that the said section 406 shall, in relation to contributions, have effect subject to modifications, shall be construed as a provision that so much of any provision of the Tax Acts other than the said section 406 as authorises the deduction of contributions shall, in relation to the contributions in question, have effect subject to the modifications in question; and
 - (c) for any reference to the cancellation of a certificate with respect to a scheme there shall be substituted a reference to the scheme ceasing to have effect; and

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- (d) for any reference to the provisions of the scheme as in force when the certificate was granted there shall be substituted a reference to the provisions of the scheme as in force when contributions were first paid thereunder.
- (3) In this section, "statutory redundancy scheme " means a scheme for the elimination or reduction of redundant works, machinery or plant, or for other similar purposes, to which effect is given by or under any Act, whether passed before or after this Act.

CHAPTER VI

OTHER PROVISIONS

411 Business entertaining expenses

- (1) Subject to the provisions of this section—
- (a) no deduction shall be made in computing profits or gains chargeable to tax under Schedule A or Schedule D for any expenses incurred in providing business entertainment, and such expenses shall not be included in computing any expenses of management in respect of which relief may be given under the Tax Acts;
 - (b) no deduction for expenses so incurred shall be made from emoluments chargeable to tax under Schedule E ; and
 - (c) for the purposes of Chapter II of Part I of the Capital Allowances Act 1968 (capital allowances for machinery and plant) the use of any asset for providing business entertainment shall be treated as use otherwise than for the purposes of a trade.
- (2) Subsection (1) of this section shall not apply to expenses incurred in, or the use of an asset for, the provision by a person carrying on a trade in the United Kingdom (in this section referred to as a " United Kingdom trader "), or by a member of his staff, of entertainment for an overseas customer of that person, being entertainment of a kind and on a scale which is reasonable having regard to all the circumstances.
- (3) The expenses to which paragraph (a) of subsection (1) of this section applies include, in the case of any person, any sums paid by him to, or on behalf of, or placed by him at the disposal of, a member of his staff exclusively for the purpose of defraying expenses incurred or to be incurred by him in providing business entertainment, but where—
- (a) any such sum falls to be included in his emoluments chargeable to tax under Schedule E; and
 - (b) the deduction or inclusion of that sum as mentioned in that paragraph falls to be disallowed in whole or in part by virtue of this section ;
- paragraph (b) of that subsection shall not preclude the deduction of any expenses defrayed out of that sum.
- (4) Where by virtue of subsection (2) of this section a person claims to deduct or include any expenses as mentioned in paragraph (a) or (b) of subsection (1) of this section or claims any allowance under the provisions mentioned in paragraph (c) of that subsection he shall, if the inspector so requires, furnish particulars of the entertainment in question and of the person for whom it was provided.
- (5) For the purposes of this section " business entertainment " means entertainment (including hospitality of any kind) provided by a person, or by a member of his staff,

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in connection with a trade carried on by that person, but does not include anything provided by him for bona fide members of his staff unless its provision for them is incidental to its provision also for others.

- (6) For the purposes of this section "overseas customer" means, in relation to any United Kingdom trader—
- (a) any person who is not ordinarily resident nor carrying on a trade in the United Kingdom and avails himself, or may be expected to avail himself, in the course of a trade carried on by him outside the United Kingdom, of any goods, services or facilities which it is the trade of the United Kingdom trader to provide; and
 - (b) any person who is not ordinarily resident in the United Kingdom and is acting, in relation to such goods, services or facilities, on behalf of an overseas customer within paragraph (a) of this subsection or on behalf of any government or public authority of a country outside the United Kingdom.
- (7) In this section any reference to expenses incurred in, or to the use of an asset for, providing entertainment includes a reference to expenses incurred in, or to the use of an asset for, providing anything incidental thereto; references to a trade include references to any business, profession or vocation; and references to the members of a person's staff are references to persons employed by that person, directors of a company or persons engaged in the management thereof being for this purpose deemed to be persons employed by it.
- (8) This section shall apply in relation to the provision of a gift as it applies in relation to the provision of entertainment, except that it shall not by virtue of this subsection apply in relation to the provision for any person of a gift consisting of an article incorporating a conspicuous advertisement for the donor, being an article—
- (a) which is not food, drink, tobacco or a token or voucher exchangeable for goods ; and
 - (b) the cost of which to the donor, taken together with the cost to him of any other such articles given by him to that person in the same year, does not exceed £1.
- (9) Nothing in this section shall be taken as precluding the deduction of expenses incurred in, or any claim for capital allowances in respect of the use of an asset for, the provision by any person of anything which it is his trade to provide, and which is provided by him in the ordinary course of that trade for payment or, with the object of advertising to the public generally, gratuitously.

412 Statutory redundancy payments

- (1) Any redundancy payment, and the corresponding amount of any other employer's payment, shall be exempt from income tax under Schedule E.
- (2) Where a redundancy payment or other employer's payment is made in respect of employment wholly in a trade, profession or vocation carried on by the employer, and within the charge to tax, the amount of the redundancy payment or the corresponding amount of the other employer's payment shall (if not otherwise so allowable) be allowable as a deduction in computing for the purposes of Schedule D the profits or gains or losses of the trade, profession or vocation, but if it is so allowed by virtue of this section the amount of the rebate recoverable shall (if it is not otherwise to be so treated) be treated as a receipt to be brought into account in computing those profits or gains; and if the employer's payment was made after the discontinuance of the trade, profession or vocation the net amount so deductible shall be treated as if it were a

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payment made on the last day on which the trade, profession or vocation was carried on.

- (3) Where a redundancy payment or other employer's payment is made in respect of employment wholly in a business carried on by the employer, and expenses of management of the business are eligible for relief under section 304 or section 305 of this Act the amount by which the redundancy payment, or the corresponding amount of the other employer's payment, exceeds the recoverable rebate shall (if not otherwise so allowable) be allowable as expenses of management eligible for relief under that section; and if the employer's payment was made after the discontinuance of the business the net amount so allowable shall be treated as if it were expenses of management incurred on the last day on which the business was carried on.
- (4) Where a redundancy payment or other employer's payment is made in respect of employment wholly in maintaining or managing property the expenses of maintaining or managing which were eligible for relief under the provisions of section 72(1) or section 74 of this Act (allowable deductions for tax under Schedule A), the amount by which the redundancy payment or the corresponding amount of the other employer's payment exceeds the recoverable rebate shall (if not otherwise allowable under those provisions) be treated for the purposes of the said provisions as a payment made by the employer in respect of the maintenance or management of the property, or of such part of it as he may elect; and if the employer's payment was made after the latest time when it could be taken into account for the purposes of relief under the said provisions as a payment in respect of the maintenance or management of the property or any part of it, it shall be treated as having been made at that time.
- (5) Relief shall not be given under subsections (2), (3) and (4) above, or otherwise, more than once in respect of any employer's payment, and if the employee was being employed by the employer in such a way that different parts of the employee's remuneration fell for tax purposes to be treated in different ways, the amount by which the redundancy payment, or the corresponding amount of the other employer's payment, exceeds the recoverable rebate shall be apportioned to the different capacities in which the employee was employed, and subsections (2), (3) and (4) above shall apply separately to the employment in those capacities, and by reference to the apportioned part of the said amount, instead of by reference to the full amount of the employer's payment, and the full amount of the rebate.
- (6) Where the Minister pays a sum under section 32 of the Redundancy Payments Act 1965 or section 42 of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 in respect of an employer's payment this section shall apply as if that sum had been paid on account of that redundancy or other employer's payment and, so far as the employer has reimbursed the Minister, as if it had been so paid by the employer.
- (7) In this section " redundancy payment", " employer's payment" and " rebate " have the same meaning as in Part II of the Redundancy Payments Act 1965 or Part III of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965, and—
 - (a) references to the corresponding amount of an employer's payment (other than a redundancy payment) are references to the amount of that employer's payment so far as not in excess of the amount of the relevant redundancy payment (and so that where in consequence of section 30(2) of the Redundancy Payments Act 1965 or section 40(2) of the said Act of Northern

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- Ireland, there is no relevant redundancy payment, the corresponding amount of the employer's payment is nil),
- (b) "relevant redundancy payment" shall be construed in accordance with paragraph 8 of Schedule 5 to the Redundancy Payments Act 1965 or paragraph 8 of Schedule 6 to the said Act of Northern Ireland,
 - (c) in subsection (6) above "the Minister", in relation to the Redundancy Payments Act 1965, means the Secretary of State and, in relation to the said Act of Northern Ireland, means the Ministry of Health and Social Services, and a source of income is "within the charge to tax" if tax is chargeable on the income arising from it, or would be so chargeable if there were any such income.
- (8) In subsection (1) above the reference to tax under Schedule E does not include a reference to tax under section 187 of this Act (payments on retirement or removal from office or employment) and accordingly payments exempted by subsection (1) above may be taken into account under that section.

413 Funds in court

- (1) If any common investment fund established under section 1 of the Administration of Justice Act 1965 is for the time being designated for the purposes of this subsection by an agreement between the Board and the Public Trustee—
- (a) the Public Trustee shall be entitled to exemption from income tax in respect of so much of the income derived from that fund or any investment thereof as is paid by him by way of dividend on the shares into which the fund is divided ; and
 - (b) dividends on those shares shall be paid without deduction of income tax and shall be chargeable under Case III of Schedule D.
- (2) A claim for exemption under subsection (1)(a) above shall be made to the Board.
- (3) Where at any time, by virtue of subsection (1) of this section, the income of a person from any source becomes chargeable to income tax as therein provided, not having previously been chargeable by direct assessment on that person, section 120(3) of this Act shall apply as if the source of that income were a new source of income acquired by that person at that time.
- (4) The Accountant General shall as respects each year of assessment furnish to the Board, at such time and in such manner as they may direct, particulars of any sums paid without deduction of tax by virtue of subsection (1) of this section and of the persons to whom such sums were paid, except that particulars shall not be required of any case where the total of such sums paid to any person in that year did not exceed £15.
- (5) An agreement designating a fund for the purposes of subsection (1) of this section may provide for incidental and consequential matters, including arrangements for giving effect to subsection (1)(a) of this section by provisional repayments of tax deducted at source, and may be determined by the Board or the Public Trustee by one year's notice in writing expiring with the end of any year of assessment.
- (6) The reference in this section to the Accountant General is a reference to the Accountant General of the Supreme Court of Judicature in England and, in relation to any such moneys as are mentioned in section 30 of the Administration of Justice Act 1965 (which relates to Northern Ireland), or money in a county court in Northern Ireland, and in relation to investments representing such moneys, includes a reference to the

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Accountant General of the Supreme Court of Judicature of Northern Ireland or any other person by whom such funds are held.

414 Relief from income tax on certain savings bank interest

- (1) Where the total income of an individual for the year of assessment includes, or would but for this section include, any sums paid or credited in respect of interest on—
- (a) deposits with the National Savings Bank, other than investment deposits,
 - (b) ordinary deposits with a trustee savings bank, or
 - (c) deposits with a seamen's savings bank,

those sums shall be disregarded for all the purposes of the Income Tax Acts, other than surtax or the furnishing of information, if or in so far as they do not exceed £15 ; and for this purpose the question whether or how far those sums exceed £15 shall, where by virtue of section 37 of this Act, a woman's income is deemed to be her husband's, be determined separately as regards the part of his income which is his by virtue of that section and the part which is his apart from that section.

- (2) Where by virtue of subsection (1) above the total income of an individual for any year of assessment is treated as reduced by any amount for the purposes of income tax chargeable at the standard rate, it shall for the purposes of surtax be treated as having in the first place been reduced by a like amount but having thereafter been increased by such amount as would after deduction of income tax at the standard rate for that year be equal to the amount of the reduction.
- (3) Where, on the application in that behalf of any savings bank maintained under a local Act, the Treasury are satisfied, having regard to the rules to be adopted by the bank, the conditions subject to which deposits are to be accepted by it or any department to be formed by it, and such other matters as the Treasury may require to be proposed in the application, that the deposits will, if the application is granted, sufficiently correspond with savings account deposits in a trustee savings bank to justify a certificate under this section, the Treasury may certify the bank or department for the purposes of this section, and, while the certificate is in force—
- (a) the interest payable on the deposits shall not exceed the rate of 2 ½ per cent. per annum, but the interest shall be treated for the purposes of this section as if it were such interest as is mentioned in subsection (1) above, and
 - (b) the deposits shall be invested with the National Debt Commissioners, and
 - (c) the provisions of the Trustee Savings Banks Act 1969 specified below shall apply in relation to the bank or department as they apply in relation to trustee savings banks, but subject to such modifications as the Treasury may by order provide, including, if the order so provides, a reduction of the rate which the Treasury may by order under section 34(2) of the said Act of 1969 fix as the rate of interest on receipts for the bank's or department's payments into the Fund for the Banks for Savings.

The provisions of the Trustee Savings Banks Act mentioned in paragraph (c) above are sections 32, 33(1) and (2), 34 (except subsections (3) and (5)), 35 to 37 and 39 to 42.

- (4) The Treasury may by order under subsection (3) above make for any bank or department for the time being certified under that subsection provision as to the manner in which sums standing to the credit of the bank or department in the books of the National Debt Commissioners may be withdrawn, the manner in which payments may be made on any such withdrawal and the manner in which a valid discharge is to be given to the Commissioners for any such payment.

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- (5) An order under subsection (3) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament, and may be varied or revoked by a subsequent order.
- (6) If the Treasury at any time cease to be satisfied that a certificate under subsection (3) above is justified they may revoke the certificate and give such directions as they think fit for the withdrawal by the bank or department of any money standing to its credit in the books of the National Debt Commissioners.
- (7) In this section—
- " investment deposit ", in relation to the National Savings Bank, has the meaning given by section 1(2) of the Post Office Savings Bank Act 1966,
 - " trustee savings bank ", " ordinary deposit " and " savings account deposit " have the same meanings as in the Trustee Savings Banks Act 1969,
 - " seamen's savings bank " means a bank maintained under section 148 of the Merchant Shipping Act 1894.

415 Contractual savings schemes: income tax and capital gains tax

- (1) Any terminal bonus, or interest or other sum, payable under a certified contractual savings scheme—
- (a) in respect of money raised under section 12 of the National Loans Act 1968, or
 - (b) in respect of shares in a building society,
- shall be disregarded for all purposes of the Income Tax Acts and of the enactments relating to capital gains tax.
- (2) In this section " certified contractual savings scheme " means, except in relation to a building society, a scheme—
- (a) governed by regulations made under section 12 of the National Debt Act 1958 or section 52 of the Finance Act 1969, and
 - (b) providing for periodical contributions by individuals for a specified period, and the repayment in accordance with the regulations of contributions together with any additional sum by way of bonus or interest, and
 - (c) certified by the Treasury as qualifying for exemption under this section.
- (3) In this section " certified contractual savings scheme " means, in relation to a building society, a scheme—
- (a) providing for periodical contributions by individuals for a specified period, being contributions by way of investment in shares in the building society, and
 - (b) certified by the Treasury as corresponding to a scheme certified under subsection (2) above, and as qualifying for exemption under this section.
- (4) Nothing in this section shall be taken as affecting section 343 (2) (a) of this Act (allowance of dividends on building society's shares in computing the society's profits for corporation tax), and that paragraph shall apply to any terminal bonus paid by the society under a certified contractual savings scheme as if it were a dividend on a share in the society.
- (5) In this section " building society " means a building society within the meaning of the Building Societies Act 1962 or the Building Societies Act (Northern Ireland) 1967.

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416 Local authority borrowing in foreign currency

- (1) If the Treasury direct that this section shall apply to any securities issued by a local authority and expressed in the currency of a country which at the time of the issue is outside the scheduled territories, interest on those securities—
 - (a) shall be paid without deduction of income tax, and
 - (b) so long as the beneficial owner is not resident in the United Kingdom, shall be exempt from income tax (but not from corporation tax).
- (2) Where for repayment of the principal amount due under the securities there is an option between one or more currencies within subsection (1) above and one or more other currencies, that subsection shall be applicable to the securities if the option is exercisable only by the holder of the securities, and shall not be applicable to the securities in any other case.
- (3) Where any income of any person is by virtue of any provision of the Income Tax Acts to be deemed to be income of any other person, that income shall not be exempt from tax by virtue of this section by reason of the first-mentioned person not being resident in the United Kingdom.
- (4) In this section "the scheduled territories" means the territories specified in Schedule 1 to the Exchange Control Act 1947 as for the time being in force.

417 Funding bonds issued in respect of interest on certain debts

- (1) Where any funding bonds are issued to a creditor in respect of any liability to pay interest on any debt to which this section applies—
 - (a) the issue of the bonds shall be treated for all the purposes of the Tax Acts as if it were the payment of an amount of that interest equal to the value of the bonds at the time of their issue, and
 - (b) the redemption of the bonds shall not be treated for those purposes as the payment of any amount of that interest.
- (2) Where an issue of bonds is treated by virtue of subsection (1) above as if it were the payment of an amount of interest, and any person by or through whom the bonds are issued would be required by virtue of any provision of the Tax Acts to deduct income tax from that amount of interest if it had been actually paid by or through him, the following provisions shall have effect—
 - (a) subject to paragraph (b) below, any such person—
 - (i) shall retain bonds the value of which at the time of their issue is equal to income tax on the said amount of interest at the standard rate for the year of assessment in which the bonds are issued, and
 - (ii) shall be acquitted in respect of any such retention in the same way as if he had deducted such tax from the interest, and
 - (iii) shall be chargeable with the said tax accordingly, but may tender the bonds so retained in satisfaction thereof;
 - (b) where the Board are satisfied that it is impracticable to retain bonds on account of income tax under paragraph (a) above—
 - (i) they may relieve any such person from the obligation to retain bonds and account for income tax under that paragraph, on his furnishing to them a statement of the names and addresses of the persons to whom the bonds have been issued and the amount of the bonds issued to each such person, and

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- (ii) tax in respect of the amount of interest treated by virtue of this section as having been paid by the issue of the bonds shall be charged under Case VI of Schedule D for the chargeable period in which the bonds are issued on the persons receiving or entitled to the bonds.
- (3) This section applies to any debt incurred, whether in respect of any money borrowed or otherwise, by any government, public authority or public institution whatsoever, or by any body corporate whatsoever.
- (4) For the purposes of this section " funding bonds " includes any bonds, stocks, shares, securities or certificates of indebtedness.

Unremittable overseas income

418 Relief for unremittable income

- (1) Where a person is chargeable to tax by reference to the amount of any income arising in a territory outside the United Kingdom (hereafter in this section referred to as " overseas income"), then for the purposes of tax this section shall apply to the overseas income in so far as—
 - (a) he is prevented from transferring the amount of the overseas income to the United Kingdom, either by the laws of that territory or any executive action of its Government or by the impossibility of obtaining foreign currency in that territory ; and
 - (b) he has not realised the overseas income outside that territory for a consideration in sterling or a consideration in some other currency which he is not prevented from transferring to the United Kingdom.

Overseas income to which this section applies is hereafter in this section referred to as unremittable.

- (2) Where a person chargeable as aforesaid gives written notice of his desire to be assessed in accordance with this subsection, then, in the first instance, account shall not be taken of the overseas income to the extent to which he shows to the satisfaction of the Board that the following conditions are satisfied with respect to it, that is to say—
 - (a) that it is unremittable ; and
 - (b) that subsection (1)(a) above would continue to apply notwithstanding any reasonable endeavours on his part,and tax shall be assessed and charged on all persons concerned and for all periods accordingly; but, on the Board ceasing, as respects any part of the income, to be satisfied that the said conditions are satisfied, such assessments, reductions of assessments and repayments of tax shall be made as may be necessary to take account of it, and of any tax payable in respect of it under the law of the territory where it arises, according to their value at the date when, in the opinion of the Board, the said conditions cease to be satisfied with respect to it, and may be so made at any time not later than six years after that date.
- (3) Any notice under subsection (2) above shall be delivered to the inspector before an assessment made by reference to that income otherwise than in accordance with that subsection has become final and conclusive; and there shall be made all such assessments, reductions of assessments or repayments of tax as may be required by reason of any such notice.

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- (4) In the case of the death of a person who, if he had not died, would, under subsection (2) above, have become chargeable to any income tax, the tax which would have been so chargeable shall be assessed and charged upon his executors or administrators, and shall be a debt due from and payable out of his estate.
- (5) Subject to subsection (2) above, the amount of any unremittable overseas income shall be determined by reference to the generally recognised market value in the United Kingdom (if any) or, in the absence of any such value, according to the official rate of exchange of the territory where the income arises.
- (6) Any appeal against an assessment which involves a question as to the operation of this section shall be made to the Special Commissioners, and not to the General Commissioners.
- (7) In this section " overseas income " shall include any gains chargeable under Case VII of Schedule D which arise in a territory outside the United Kingdom, but so long as gains so arising in any year of assessment are treated as unremittable, losses arising in that year in the same territory shall be allowable under Case VII only in so far as they exceed those gains or the part thereof for the time being treated as unremittable.

419 Relief from tax on delayed remittances

- (1) A person charged or chargeable for any year of assessment in respect of income from any source with tax which (apart from this section) falls to be computed under Case IV or V of Schedule D, or under Case III of Schedule E, on the amount of income received in the United Kingdom in the basis year for that year of assessment, may by making a claim require that the following provisions of this section shall apply, on showing that the following conditions are satisfied, that is to say—
 - (a) that of the income so received all or part arose before the basis year but he was unable to transfer it to the United Kingdom before that year; and
 - (b) subject to subsection (2) below, that that inability was due to the laws of the territory where the income arose, or to executive action of its government, or to the impossibility of obtaining foreign currency in that territory; and
 - (c) that the inability was not due to any want of reasonable endeavours on his part.
- (2) For the purposes of this section, where in any year of assessment a person is granted a pension or increase of pension retrospectively, the amount paid in respect of any previous year of assessment by virtue of the grant shall be treated as income arising in that previous year, whenever it is paid, and he shall be treated as having possessed the source of income from the time as from which the grant has effect; and subsection (1) (b) above shall not apply in relation to any amount so paid, except as respects the period after it becomes payable.
- (3) Where a person claims that the provisions of this section shall apply for any year of assessment as respects the income from any source, then for purposes of income tax—
 - (a) there shall be deducted from the income received in the United Kingdom in the basis year for that year the amount as respects which the conditions in paragraphs (a), (b) and (c) of subsection (1) above are satisfied, so far as applicable; but
 - (b) the part (if any) of that amount arising in each previous year of assessment shall be treated as if it were income received in the United Kingdom in the basis year for that previous year.

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- (4) Nothing in this section shall alter the year which is to be taken as the basis year for computing tax chargeable for any year of assessment under Case IV or V of Schedule D, and where under subsection (3) (b) above income is treated as received in the United Kingdom in a year which is the basis year for two years of assessment, it shall not by reason thereof be taken into account except in the year in which it arose.
- (5) Where a person makes a claim under this section for any year of assessment as respects income from any source chargeable under the said Case IV or V, and that year is the basis year for computing the tax with which he is chargeable on the income from that source both for that and for the succeeding year of assessment, tax shall not be chargeable for either of those years of assessment on the amount referred to in paragraph (a) of subsection (3) of this section (without however being charged a second time by virtue of paragraph (b) of that subsection).
- (6) No claim under this section shall be made in respect of any income more than six years after the end of the year of assessment in which the income is received in the United Kingdom.
- (7) There shall be made all such adjustments, whether by way of repayment of tax, assessment or otherwise, as may be necessary to give effect to this section, and notwithstanding anything in the Income Tax Acts, any adjustment to give effect to a claim under this section may be made at any time.
- (8) A person's executors or administrators may make any claim under this section which he might have made, if he had not died, and after a person's death—
 - (a) any tax paid by him and repayable by virtue of a claim under this section (whoever made the claim) shall be repaid to his executors or administrators ; and
 - (b) any additional tax chargeable by virtue of such a claim shall be assessed and charged upon his executors or administrators and shall be a debt due from and payable out of his estate.
- (9) In this section " basis year " means, in relation to tax chargeable for any year of assessment under Case IV or V of Schedule D in respect of income from any source, the year by reference to which the amount of the income chargeable finally falls to be computed, and in relation to tax chargeable for any year of assessment under Case III of Schedule E, means that year of assessment; and any reference in this section to a source of income includes a part of a source.

War risks and war injuries

420 Disallowance of deductions for war risk premiums

- (1) In computing the amount of the profits or gains of any person for any tax purpose, no sum shall be deducted in respect of any payment made by him to which this section applies.
- (2) No payment to which this section applies shall be included in computing the expenses of management in respect of which relief may be given under section 304 or section 305 of this Act.
- (3) This section applies to any payment made by any person under any contract or arrangement under which that person is, in the event of war damage, entitled or

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eligible, either absolutely or conditionally, to or for any form of indemnification, whether total or partial, and whether by way of a money payment or not, in respect of that war damage:

Provided that—

- (a) where the payment is made in respect of the right or eligibility aforesaid and also in respect of other matters, the deduction or inclusion of so much of the payment as is properly attributable to the other matters shall not be disallowed by virtue only of subsection (1) or subsection (2) of this section ; and
 - (b) this section shall not apply to any payment made under—
 - (i) any policy of insurance issued under Part II of the War Risks Insurance Act 1939, or any similar enactment in force in any country outside the United Kingdom; or
 - (ii) any contract of marine insurance, or any contract of insurance of an aircraft, or any contract of insurance of goods in transit.
- (4) In this section, " war damage " means loss or damage arising from action taken by an enemy of Her Majesty, or action taken in combating such an enemy or in repelling an imagined attack by such an enemy, or action taken in anticipation of or in consequence of an attack by such an enemy.

421 Disallowance of certain payments in respect of war injuries to employees

- (1) In computing the amount of the profits or gains, or total income, of any person for any tax purpose, no sum shall be deducted in respect of any payment made by him to which this section applies.
- (2) No payment to which this section applies shall be included in computing—
 - (a) the expenses of management in respect of which relief may be given under section 304 or section 305 of this Act; or
 - (b) the expenses of management or supervision in respect of which relief may be given under section 158 of this Act (expenses of owner of mineral rights).
- (3) This section applies—
 - (a) to any payments by way of benefit made by any person to, or to the personal representatives or dependants of, any employees of his on account of their incapacity, retirement or death owing to war injuries, whether sustained in the United Kingdom or elsewhere; and
 - (b) to any payments made by any person by way of premium or contribution under any policy, agreement, scheme or arrangement providing for the payment of benefits to, or to the personal representatives or dependants of, any employees of his on account of their incapacity, retirement or death as aforesaid:

Provided that—

- (i) this section shall not apply to any payment (whether by way of benefit or by way of premium or contribution) which is payable under any policy, agreement, scheme or arrangement made before 3rd September 1939, except to the extent that the amount of the payment is increased by any variation of the terms of that policy, agreement, scheme or arrangement made on or after that date;
- (ii) this section shall not apply to any payment by way of benefit if, in the opinion of the Board, that payment was made under an established practice which

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was such that the same or a greater payment would have been made if the incapacity, retirement or death had not been due to war injuries.

- (4) Where a person makes a payment by way of benefit to which this section applies and, in the opinion of the Board, there is an established practice under which a smaller payment would have been made if the incapacity, retirement or death had not been due to war injuries, the deduction or inclusion of an amount equal to that smaller payment shall not be disallowed by virtue only of subsection (1) or subsection (2) of this section.
- (5) Where a person makes a payment to which this section applies by way of premium or contribution, and the policy, agreement, scheme or arrangement provides for the payment of any benefit in the event of incapacity, retirement or death not due to war injuries, the deduction or inclusion of so much of the payment of premium or contribution as, in the opinion of the Board, is properly attributable to benefit payable in the event of incapacity, retirement or death not due to war injuries shall not be disallowed by virtue only of subsection (1) or subsection (2) of this section.
- (6) In this section " war injuries " means physical injuries—
 - (a) caused by—
 - (i) the discharge of any missile (including liquids and gas);
 - (ii) the use of any weapon, explosive or other noxious thing; or
 - (iii) the doing of any other injurious act,
either by the enemy or in combating the enemy or in repelling an imagined attack by the enemy; or
 - (b) caused by the impact on any person or property of any enemy aircraft, or any aircraft belonging to, or held by any person on behalf of, or for the benefit of, Her Majesty or any allied power, or any part of, or anything dropped from, any such aircraft.

Pre-war provisions for tax free annuities, salaries, pensions, etc.

422 Modification of pre-war provisions for tax free annuities, etc.

- (1) Subject to the provisions of this section, any provision, however worded, for the payment, whether periodically or otherwise, of a stated amount free of income tax, or free of income tax other than surtax, being a provision which—
 - (a) is contained in any deed or other instrument, in any will or codicil, in any order of any court, in any local or personal Act, or in any contract, whether oral or in writing, and
 - (b) was made before 3rd September 1939, and
 - (c) has not been varied on or after that date,shall, as respects payments falling to be made during any year of assessment the standard rate of income tax for which exceeds 27.5 per cent., have effect as if for the stated amount there were substituted an amount equal to the appropriate fraction thereof.
- (2) Where any such provision as is mentioned in subsection (1) of this section is a provision for a payment free of income tax (and not merely a provision for a payment free of income tax other than surtax) the sum, if any, to be paid under that provision to make good the requirement that the payment shall be free of surtax shall, in the case of surtax for the year preceding any such year of assessment as is mentioned in the said subsection (1), be reduced to the appropriate fraction of the sum which would have

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been sufficient for that purpose if the rates of surtax in force for the year 1937-38 had applied to the year for which the surtax is payable.

- (3) If, in the case of a payment to which subsection (1) of this section applies, the relations of the payee and the payor are such that the payee is accountable to the payor for so much of any relief from income tax which he receives as is ascribable to the payment—
- (a) the liability of the payee to account to the payor shall be limited to the appropriate fraction of the sum for which he would have been accountable if the 1938-39 rates of income tax, other than surtax, had applied to the year of assessment in which the payment falls to be made, and the preceding provisions of this section had not been passed; and
 - (b) the relief to be given shall be calculated as if—
 - (i) the gross sum represented by the payment were what it would have been if the 1938-39 rates of income tax, other than surtax, had applied to the year of assessment in which the payment falls to be made, and the preceding provisions of this section had not been passed; and
 - (ii) that gross sum had borne income tax at the standard rate of tax for the year of assessment in which the payment falls to be made.
- (4) This section shall not—
- (a) affect any provision falling within section 391(4) of this Act or section 106(2) of the Taxes Management Act 1970 (which render invalid agreements not to deduct income tax), or
 - (b) affect any provision if, by virtue of any provision in the same or any other deed, instrument, will, codicil, order, local or personal Act or contract which contemplates rises in the rates of income tax, the payments thereunder have ceased or, in the event of further rises in the rates of income tax, may cease, to be wholly free of income tax, or, as the case may be, wholly free of income tax other than surtax; or
 - (c) apply to any emoluments of any office, employment, annuity, pension or stipend taxed under Schedule E; or
 - (d) apply to any dividends or shares of profits:

Provided that the reference in this subsection to any annuity taxed under Schedule E shall not include a reference to any annuity so taxed by virtue of section 208(3) of this Act (approved superannuation funds).

- (5) In this section " the appropriate fraction " in relation to any year of assessment is

$$\frac{100-A}{72.5}$$

where A is the standard rate of income tax for the year expressed as a percentage.

423 Modification of pre-war provisions for tax free salaries, pensions, etc.

- (1) This section applies to offices, employments, annuities, pensions and stipends taxed under Schedule E, where by virtue of—
- (a) some provision which is contained in a contract (whether oral or in writing) made before the 3rd September 1939, and which has not been varied on or after that date; or
 - (b) some provision which is contained in an enactment passed before 3rd September 1939 and which has not been amended on or after that date,

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the emoluments include a payment to or for the benefit of the recipient of the emoluments in respect of his income tax:

Provided that the reference in this subsection to annuities taxed under Schedule E shall not include a reference to any annuities so taxed by virtue of section 208(3) of this Act (approved superannuation funds).

- (2) The amount, if any, payable, in a case to which this section applies, to or for the benefit of the recipient of the emoluments in respect of his income tax for any year of assessment, other than surtax, shall not exceed the amount which would have been payable if the 1938-39 rates of income tax, other than surtax, had applied to the year of assessment in question.
- (3) The amount, if any, payable, in a case to which this section applies, to or for the benefit of the recipient of the emoluments in respect of his surtax for any year of assessment shall not exceed the amount which would have been payable if the rates of surtax in force for the year 1937-38 had applied to the year of assessment in question.

424 Interpretation of last two preceding sections

For the purposes of sections 422 and 423 above—

- (a) a provision, however worded, for the payment of such sum as will after deduction of income tax be equal to a stated amount, shall be treated as a provision for the payment of the said stated amount free of income tax, other than surtax; and
- (b) the expression "a stated amount" includes a stated fraction of the gross amount of any specified income (that is to say, of the amount of that income before income tax has been charged thereon, whether by deduction or otherwise), but does not include a stated fraction of the net amount of any specified income (that is to say, of the amount of that income after it has been charged to income tax, whether by deduction or otherwise); and
- (c) the expression "if the 1938-39 rates of income tax, other than surtax, had applied" means, in relation to a year of assessment, if the standard rate of tax for the year had been 27-5 per cent. and the enactments relating to relief from income tax had not been amended in any respect by any Act passed since 3rd September 1939.

Arrangements for payment of interest less tax or of fixed net amount

425 Application to interest payable without deduction of tax

- (1) It is hereby declared that any provision made before or after the passing of this Act, whether orally or in writing, for the payment of interest "less tax", or using words to that effect, is to be construed, in relation to interest payable without deduction of tax, as if the words "less tax", or the equivalent words, were not included.
- (2) In relation to interest on which the recipient is chargeable to tax under Case III of Schedule D, and which is payable without deduction of tax, any provision, made before or after the passing of this Act, whether orally or in writing, and however worded, for the payment of interest at such a rate (referred to below in this subsection as the "gross rate") as shall, after the deduction of the standard rate of income tax for the time being in force, be equal to a stated rate, shall be construed as if it were a provision requiring the payment of interest at the gross rate.