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SCHEDULES

SCHEDULE 9

STOCK RELIEF

PART II

INCOME TAX

Entitlement to relief

- 3 (1) Where a person carries on a trade in respect of which he is within the charge to income tax under Case I of Schedule D he shall, subject to the provisions of this Schedule, be entitled to relief under this paragraph in respect of a period of account if—
- (a) there is an increase in the all stocks index over that period ; and
 - (b) the value of his trading stock at the end of the preceding period of account exceeded £2,000.
- (2) The relief shall be calculated by reference to the amount by which the value of the trading stock referred to in sub-paragraph (1)(b) above exceeded £2,000 and, subject to sub-paragraph (4) below, shall be equal to such percentage of that amount at corresponds to the percentage increase in the all stocks index over the period referred to in sub-paragraph (1)(a) above.
- (3) A person shall not be entitled to relief under this paragraph in respect of any period of account unless a claim for the relief is made within two years after the end of the year of assessment in which that period of account ends.
- (4) A person may, in making a claim for relief under this paragraph in respect of any period of account, specify an amount of relief less than that available under sub-paragraph (2) above and, if he does so, the relief to which he is entitled under this paragraph in respect of that period shall be the amount specified in the claim.

Recovery of relief on cessation of trade etc.

- 4 (1) Where during or at the end of a period of account a person carrying on a trade ceases to do so, or ceases to be within the charge to income tax under Case I of Schedule D in respect of the trade, then, subject to paragraph 20 below—
- (a) he shall not be entitled to relief in respect of that period; and
 - (b) a charge by way of recovery of relief shall be made on him on an amount equal to the unrecovered past relief allowed to him for that trade.
- (2) Sub-paragraph (1) above shall apply also where the scale of the activities of the trade for any period of account is negligible in comparison with their scale for any previous period of account beginning not more than six years before the first-mentioned period.

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- (3) Where a charge for a period of account falls to be made under sub-paragraph (1)(b) above in consequence of a person ceasing to be within the charge to income tax in respect of a trade, or would fall to be so made apart from this sub-paragraph—
- (a) the unrecovered past relief allowed to him for that trade shall be treated as reduced by any relief to which he was entitled for that trade in respect of a previous period of account but to which effect cannot be given because of his ceasing to be within the charge to income tax in respect of the trade; and
 - (b) the charge shall be reduced accordingly or, if the amount of the relief is equal to or exceeds the unrecovered past relief, shall not be made.
- (4) Where during or at the end of a period of account a person carrying on a trade ceases (by virtue of ceasing to be resident in the United Kingdom) to be within the charge to income tax under Case I of Schedule D in respect of a part of the trade, he shall be treated for the purposes of this Schedule as if that part were a separate trade carried on by him in that period; and all necessary apportionments between the two parts of the trade (including the apportionment of unrecovered past relief allowed for that trade) shall be made by reference to the respective values of the trading stock of each part immediately after that event.

Method of giving effect to relief or charge

- 5 (1) Relief under paragraph 3 above in respect of any period of account shall be given as a deduction in charging the profits or gains of the trade to income tax for the relevant year of assessment.
- (2) Subject to sub-paragraph (3) below, any deduction for capital allowances shall be made before the deduction of the relief.
- (3) Where the deductions for the relevant year of assessment include deductions for relief, capital allowances or losses carried forward from an earlier year under paragraph 9 below, section 70(4) of the Capital Allowances Act 1968 or section 171 of the Taxes Act, the deductions shall be made in the following order—
- (a) capital allowances other than those carried forward under the said section 70(4) from an earlier year ;
 - (b) relief under paragraph 3 above in respect of the period of account in relation to which the year is the relevant year of assessment;
 - (c) capital allowances carried forward as aforesaid from years of assessment not earlier than the year for which the basis period ended on or included 14th November 1980 ;
 - (d) relief under paragraph 3 above carried forward under paragraph 9 below, taking relief in respect of a later period of account before relief in respect of an earlier one ;
 - (e) capital allowances carried forward as aforesaid from years of assessment earlier than those referred to in paragraph (c) above;
 - (f) relief under Schedule 5 to the Finance Act 1976 ;
 - (g) losses carried forward to the year under the said section 171.
- (4) Where the same year is the relevant year of assessment in relation both to—
- (a) a period of account in respect of which relief falls to be allowed under this Part of this Schedule ; and
 - (b) a period of account in respect of which relief fell to be allowed under Schedule 5 to the Finance Act 1976,

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the relief given effect in that year shall be attributed to the latter before the former.

- (5) A charge under paragraph 4 above in respect of any period of account shall be made by means of an assessment to income tax on the profits or gains of the trade—
- (a) in the case of a charge by reason of a person ceasing to carry on the trade or ceasing to be within the charge to income tax in respect of the trade, for the year of assessment in which the cessation occurs; and
 - (b) in the case of a charge in the circumstances mentioned in sub-paragraph (2) of that paragraph, for the relevant year of assessment.

Any such assessment shall be in addition to any other assessment falling to be made on the profits or gains of the trade for the year of assessment in question.

Top-slicing

- 6 (1) Where a trade has been carried on by a person for more than one year before the discontinuance or other event on which a charge under paragraph 4 above falls to be made on him, then his liability to tax for the year of assessment for which the charge is made shall, on a claim made by him within two years after the end of that year of assessment, be reduced in accordance with the following provisions of this paragraph.
- (2) The reduction is the amount of the difference between—
- (a) the tax on the whole amount on which the charge is made (the "chargeable amount"), calculated on the basis set out in sub-paragraph (4) below ; and
 - (b) the tax (if any) on the appropriate fraction of the chargeable amount, calculated on the same basis, and multiplied by the reciprocal of the appropriate fraction.
- (3) The " appropriate fraction " depends on the period for which the trade has been carried on before the discontinuance or other event and is—
- (a) one-half if the trade has been so carried on for more than one but less than two years ;
 - (b) one-third if it has been so carried on for two years or more.
- (4) The amounts of tax referred to in sub-paragraph (2) above are to be calculated on the following assumptions—
- (a) that the person's total income does not include any amount in respect of which he is chargeable to tax under section 80, 81 or 82 of the Taxes Act (premiums, etc. treated as rent), section 187 of that Act (payments on retirement or removal from office) or section 399(1)(a) of that Act (gains from life policies etc.);
 - (b) that deductions to be made in computing the tax are so far as possible set against sums other than the chargeable amount (or the fraction of it);
 - (c) that the chargeable amount (or fraction), after any deductions remaining to be made after applying paragraph (b) above, is the highest part of the person's total income (notwithstanding any other provisions of the Income Tax Acts directing any other income to be so treated).
- (5) Where a claim under this paragraph for any year of assessment is made in respect of more than one trade, this paragraph applies to each chargeable amount individually as if there were only one charge in that year.

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- (6) For the purposes of section 400 of, and paragraphs 3 and 4 of Schedule 3 to, the Taxes Act (other top-slicing provisions) a person's total income shall not be treated as including any amount as a result of a charge under paragraph 4.

Meaning of " relevant year of assessment" and " basis period "

- 7 (1) This paragraph provides for ascertaining the relevant year of assessment in relation to a period of account for the purposes of this Part of this Schedule.
- (2) In this Part of this Schedule—
- (a) the " basis period " for any year of assessment means the the period on the profits or gains of which income tax for that year falls to be finally computed under Case I of Schedule D in respect of the trade in question, or, where, by virtue of any provision of section 115 of the Taxes Act, the profits or gains of any other period are to be taken as the profits or gains of the said period, that other period; and
- (b) references to a period of account entering into a basis period are to the period of account, or any part of it, falling within or coinciding with that basis period.
- (3) Where a period of account enters into the basis period for only one year of assessment, that year is the relevant year of assessment in relation to that period of account.
- (4) Where a period of account enters into the basis period for more than one year of assessment, then—
- (a) if it does so by virtue of section 116 or 117 of the Taxes Act (commencement of trade), the relevant year of assessment in relation to that period of account is the first year of assessment into whose basis period the period of account enters; and
- (b) in any other case, the relevant year of assessment is the last such year of assessment.
- (5) Where a period of account does not enter into the basis period for any year of assessment, the relevant year of assessment in relation to that period of account is that following the year of assessment in which the period of account ends.

Right to set unused relief against general income

- 8 (1) Subject to the provisions of this paragraph, a claim made under section 168 of the Taxes Act (set-off of losses against general income) for relief in respect of a loss sustained by the claimant in a trade in any year of assessment (the " year of loss ") may require the amount of that loss to be determined as if an amount equal to the relief to which he is entitled under this Part of this Schedule for the year of assessment for which the year of loss is the basis year were to be deducted in computing the profits or gains or losses of the trade in the year of loss.
- (2) Where there are capital allowances that can be the subject of a claim under the said section 168 by virtue of section 169 of the Taxes Act, no claim shall be made under section 168 by reference to relief under this Part of this Schedule unless a claim is also made by reference to those capital allowances; but a claim may be made under section 168 for relief in respect of a loss sustained by the claimant in any trade in

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any year of assessment notwithstanding that the claimant would not have sustained a loss in that year unless relief under this Part of this Schedule is brought into account.

- (3) Relief for any year of assessment shall be taken into account by virtue of this paragraph only if and so far as it is not required to offset any charge for that year under paragraph 4 above; and for the purposes of this sub-paragraph the relief for a year of assessment shall be treated as required to offset the charge for a year up to the amount on which the charge falls to be made after deducting from it the amount (if any) of relief for earlier years which is carried forward to that year and would, if not set against the charge, be unused in that year.
- (4) Where the relief taken into account by virtue of this paragraph is that for the year of assessment for which the claim is made or for the preceding year (the year of loss being the basis year for that year itself, or the claim being made by way of carry forward of the loss by virtue of section 168(2) of the Taxes Act), effect shall not be given to that relief in respect of an amount greater than the amount unused in the year for which the claim is made, or, in the case of relief for the preceding year, the amount unused in both years.
- (5) For the purposes of this paragraph—
 - (a) where the end of the basis period for a year of assessment falls in, or coincides with the end of, any year of assessment, that year is the basis year for the first-mentioned year of assessment, but so that, if a year of assessment would under the foregoing provision be the basis year both for that year itself and for another year of assessment, it shall be the basis year for the year itself and not for the other year;
 - (b) any reference to the relief or charge for a year of assessment shall be construed as a reference to the relief or charge falling to be given effect in that year (excluding, in the case of relief, any part of the relief for an earlier year carried forward under paragraph 9 below);
 - (c) any reference to an amount of relief unused in a year shall be construed as referring to the amount by which, by reason of an insufficiency of profits or gains, effect cannot be given to the relief in that year.
- (6) Where, on a claim made by virtue of this paragraph, relief is not given under section 168 of the Taxes Act for the full amount of the loss determined as mentioned in sub-paragraph (1) above, the relief under that section shall be attributed—
 - (a) to the loss sustained by the claimant in the trade rather than to the capital allowances in respect of the trade brought into account by virtue of section 169 of the Taxes Act; and
 - (b) to those capital allowances rather than to relief under this Part of this Schedule.
- (7) Where a claim is made under the said section 168 by a person who, since the end of the year for which the claim is made, has carried on the trade in question in partnership, then effect shall be given to this paragraph in relation to that claim only with the consent in writing of every other person engaged in carrying on the trade between the end of that year and the making of the claim, except that where the claim is for a loss sustained before an event treated as the permanent discontinuance of the trade, the consent is not required of a person so engaged only since the discontinuance.
- (8) If a person whose consent is required under sub-paragraph (7) has died, the consent in writing of his personal representatives is required instead.

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Carry forward of unused relief

- 9 (1) Where, in any year of assessment, full effect cannot be given to any relief falling to be allowed under this Part of this Schedule owing to there being no profits or gains of the trade chargeable for that year, or owing to the profits or gains chargeable being less than the amount of the relief, the relief or part of the relief to which effect has not been given, as the case may be, shall be carried forward and given effect in accordance with paragraph 5 above in the following year and, subject to paragraph 10 below, so on for succeeding years.
- (2) There may be carried forward under this paragraph to a year of assessment any relief under Schedule 5 to the Finance Act 1976 to the extent to which effect has not been given to it in a previous year.
- (3) This paragraph has effect subject to paragraph 8 above.

Restriction on carry forward of unused relief

- 10 Relief falling to be allowed under this Part of this Schedule in respect of a period of account shall not by virtue of paragraph 9 above be carried forward to a year of assessment if that period ended six years or more before the beginning of the period of account in relation to which that year is the relevant year of assessment.

Social security contributions

- 11 In computing for the purposes of Schedule 2 to the Social Security Act 1975 the amount of the profits or gains of a trade in respect of which Class 4 contributions are payable—
- (a) deductions or additions shall be made under paragraph 2 of that Schedule for any relief or charge under this Part of this Schedule which falls to be made in charging profits or gains to income tax under Case I of Schedule D ; and
- (b) paragraphs 8 and 9 above shall be included among the relief provisions to which paragraph 3(1) of that Schedule applies.