



# Finance Act 1960

## 1960 CHAPTER 44

An Act to grant certain duties, to alter other duties, and to amend the law relating to the National Debt and the Public Revenue, and to make further provision in connection with Finance. [29th July, 1960]

Most Gracious Sovereign

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and to grant unto your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I

#### CUSTOMS AND EXCISE

##### 1 Wines

- (1) The duties of customs on wines under section four of Wines, the Finance Act, 1958, shall be charged as if in the Third Schedule to that Act for each of the rates per gallon, other than the rates for still light wines not in bottle and the rates of additional duty in the case of wine exceeding 42 degrees proof spirit, there were substituted a rate less by twelve shillings, and for each of the rates per gallon of additional duty there were substituted a rate less by one shilling.
- (2) This section shall have effect as from the fifth day of April, nineteen hundred and sixty.

## **2 Sweets**

- (1) There shall be charged on sweets, in lieu of the duty charged under section five of the Finance Act, 1958, a duty of excise at the rate of ten shillings and sixpence per gallon in the case of still sweets, and sixteen shillings and sixpence per gallon in the case of sparkling sweets.
- (2) This section shall have effect as from the fifth day of April, nineteen hundred and sixty.

## **3 Spirits: abolition of certificates and consequential provisions**

- (1) It shall not be necessary for spirits sent out from the stock of a rectifier, compounder, dealer or retailer to be accompanied by a certificate, but where any spirits are so sent out, other than—
  - (a) spirits sent out from the stock of a dealer not exceeding in quantity one gallon at a time and sold by him under a retailer's licence to a person who is not a dealer in or retailer of spirits,
  - (b) spirits sent out from the stock of a retailer not exceeding in quantity one gallon of the same denomination at a time for any one person,the person sending them out shall, subject to any dispensation granted by the Commissioners, send to the person to whom they are sent a spirits consignment note, and shall send it either with the spirits or so that it is either delivered or posted on the day on which the spirits are sent out.
- (2) In this Act and the Act of 1952 "spirits consignment note " means a consignment note or similar document containing such particulars as the Commissioners may direct.
- (3) Subsections (1) to (3) of section one hundred and eight of the Act of 1952 (which make provision for certificates) shall cease to have effect; and in subsection (5) of that section for the words " to which none of the foregoing provisions of this section applies " there shall be substituted the words " to which neither the foregoing subsection nor the requirement imposed by the Finance Act, 1960, to send a spirits consignment note applies ".
- (4) Paragraph (b) of subsection (1) of section two hundred and forty-three of the Act of 1952 (definition of Scotch whisky) shall apply for all purposes of customs and excise.
- (5) For the purpose of applying them to spirits consignment notes, the provisions of the Act of 1952 specified in the First Schedule to this Act shall be amended as provided in that Schedule.
- (6) This section and the said First Schedule shall have effect as from the fourth day of August, nineteen hundred and sixty.

## **4 Repeal of entertainments duty**

- (1) Entertainments duty shall not be chargeable on payments for admission to any entertainment given after the passing of this Act, and accordingly the Entertainments Duty Act, 1958, and section three of the Finance Act, 1958, shall cease to have effect.
- (2) Any entertainments duty which is unpaid at the passing of this Act, being duty chargeable on a payment for admission to an entertainment given after the ninth day of April, nineteen hundred and sixty, shall be remitted, and where any entertainments duty so chargeable has been paid by any person before the passing of this Act that person shall be entitled to repayment thereof.

## **5 Tobacco**

- (1) Each of the rates of the duties of customs and excise on tobacco shall be increased by three shillings and fourpence per pound ; and accordingly Parts I and II of the First Schedule to the Finance Act, 1956, shall have effect as if for each of the rates specified therein there were specified a rate increased as aforesaid.
- (2) In the case of tobacco in respect of which it is shown to the satisfaction of the Commissioners that the increased duty chargeable by virtue of the foregoing subsection has been paid, Part III of the said First Schedule (which specifies the rates of drawback on tobacco) shall have effect as if each of the rates specified therein were increased as aforesaid.
- (3) This section shall have effect as from the fifth day of April, nineteen hundred and sixty.

## **6 Tobacco dealers' licences**

- (1) Any licence granted after the end of September, nineteen hundred and sixty, under section one hundred and eighty-seven of the Act of 1952 (tobacco dealers' licences) shall expire at the end of the third calendar year after that in which the licence was issued, and there shall be charged an excise duty of one pound on any such licence; and accordingly in the said section one hundred and eighty seven the words from " and any such licence " in subsection (1) to the end of subsection (2), and paragraph (c) of subsection (2) of section two hundred and thirty-seven of that Act (reduced duty on part-year tobacco licences for new dealers), shall not have effect as respects any such licence.
- (2) An excise licence for the sale of intoxicating liquor granted under section one hundred and fifty-two (passenger aircraft) or one hundred and fifty-three (passenger vessels) of the Act of 1952 after the end of September, nineteen hundred and sixty, shall not authorise the sale of tobacco; but the Commissioners may grant a licence under section one hundred and eighty-seven of that Act to the proprietor of any passenger aircraft within the meaning of the said section one hundred and fifty-two or passenger vessel within the meaning of the said section one hundred and fifty-three, and where any such licence is granted the aircraft or vessel shall, for the purposes of any provision of Part IX of the Act of 1952 relating to excise licences, be deemed to be the premises in respect of which the licence is granted.
- (3) It is hereby declared that the Parliament of Northern Ireland has power to make laws for purposes similar to the purposes of subsection (2) of this section.

## **7 Mechanical lighters**

- (1) As from the fourth day of August, nineteen hundred and sixty, subsection (4) of section two hundred and twenty-one of the Act of 1952 (definition of "mechanical lighter" for customs and excise duty purposes) shall be amended by the substitution, for the words from " means " to the end, of the words " means any portable contrivance intended to provide a means of ignition, whether by spark, flame or otherwise, being a mechanical, chemical, electrical or similar contrivance"; and subject to the provisions of subsection (1) of section thirteen of the Import Duties Act, 1958 (which empowers the Treasury to vary or revoke orders under that Act) in heading 98.10 of the Customs Tariff, 1959, as set out in the Import Duties (General) Order, 1958, sub-heading (A) shall be amended as from the said day by the substitution, for the words from " intended

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" to " gas ", of the words " intended to provide a means of ignition, whether by spark, flame or otherwise ".

- (2) As from the said fourth day of August, the excise duty on mechanical lighters (which by paragraph (b) of subsection (1) of section six of the Finance Act, 1928, is charged on lighters which are complete or could be made complete by the addition of a flint, and on lighters sent out in an incomplete state from the premises of a manufacturer of mechanical lighters) shall in all cases be charged on lighters sent out from such premises, and accordingly in the said paragraph (b) for the words from "manufactured" to " incomplete state" there shall be substituted the words " sent out ".
- (3) Where an officer finds that the number of mechanical lighters in the stock or possession of a manufacturer of mechanical lighters is less than the number of mechanical lighters which, according to records or other documents produced to him by the manufacturer in pursuance of the regulations of the Commissioners having effect under section two hundred and twenty-one of the Act of 1952, ought to be in the manufacturer's stock or possession, then, except in so far as the deficiency is explained by the manufacturer to the satisfaction of the Commissioners, mechanical lighters to the number of the deficiency shall be deemed to have been sent out from the premises of the manufacturer on the day on which the deficiency first came to the notice of the officer.
- (4) The power of the Commissioners under subsection (1) of the said section two hundred and twenty-one to make regulations shall include, and be deemed always to have included, power to make regulations for requiring every manufacturer of mechanical lighters to give security by bond or otherwise for the keeping of such records as are mentioned in the foregoing subsection, and for the payment of all duty of excise payable by him.
- (5) In the case of any mechanical lighter on which the excise duty became chargeable before it was sent out from the manufacturer's premises, and which has not been sent out therefrom before the said fourth day of August,—
  - (a) the duty, if not paid before that day, shall be remitted;
  - (b) if the duty has been so paid, then, without prejudice to sub-paragraph (i) of paragraph (f) of subsection (1) of section two hundred and twenty-one of the Act of 1952 (repayment of duty on lighters accidentally destroyed or damaged before removal from manufacturer's premises), on the lighter being sent out from the manufacturer's premises the duty paid shall be set off against the duty payable in accordance with subsection (2) of this section, and any necessary repayment or further payment shall be made by or to the Commissioners

## **8 Abolition of duties on and licences for playing cards**

- (1) The duties chargeable on playing cards under section one of the Revenue Act, 1862, and under the Customs Tariff Act, 1876, shall cease to be chargeable; and section two hundred and twenty-three of the Customs and Excise Act, 1952 (which requires a person manufacturing playing cards for sale to hold a licence under that section, and imposes a duty of excise on such licences) and section two hundred and twenty-four of that Act (which contains provisions relating to the securing and collecting of the said duties on playing cards) shall cease to have effect.
- (2) The foregoing subsection shall come into operation on the fourth day of August, nineteen hundred and sixty.

- (3) Any person who before the said fourth day of August has paid any sum on account of excise duty under the said section one in respect of a wrapper for playing cards supplied to him by the Commissioners shall be entitled to repayment of that sum—
- (a) if the wrapper was unused on the said day, on his surrendering it to the proper officer within three months from that day, or
  - (b) if the wrapper was used to wrap a pack of playing cards before the said day, but the pack was not sent out from the premises of that person before that day, on his producing the wrapped pack to the proper officer within three months as aforesaid and removing the wrapper in his presence.
- (4) Where a person to whom the foregoing subsection applies—
- (a) has informed the Commissioners on or before the said fourth day of August, as regards any particular part of his stock of playing cards on that day which consists of packs wrapped as aforementioned before that day, that he would prefer those packs to be sent out from his premises with the wrappers on ;
  - (b) has complied with any request which the Commissioners may make to him to afford them facilities for taking account of his stock of playing cards as on that day; and
  - (c) has not on or after that day made any claim for repayment of excise duty in respect of any pack of playing cards which (whether before or after that day) has been returned to his premises as spoiled or unfit for sale,

the Commissioners may agree, subject to such conditions as they see fit to impose, to make repayments to him under the foregoing subsection in respect of the wrappers in question notwithstanding that those wrappers will not be removed as mentioned in paragraph (b) of that subsection, and in particular may make it a condition of their agreeing to do so that, as from the time of their so agreeing, the person shall not make any such claim for repayment of excise duty as is mentioned in paragraph (c) of this subsection.

## **9 Rebated heavy oils**

- (1) For the purposes of the provisions of the customs and excise Acts relating to hydrocarbon oils, the presence in any heavy oils of any prescribed marker shall be conclusive evidence that rebate has been allowed on those oils.
- (2) At the end of subsection (1) of section seven of the Finance Act, 1959 (which provides that heavy oils are to be treated as used as fuel for a vehicle if they are used as fuel for the engine provided for propelling the vehicle or for an engine drawing its fuel from the same supply) there shall be added the words " or have been taken into the vehicle as part of that supply " ; and where heavy oils are deemed to be used as fuel for a vehicle by virtue only of this subsection they shall be deemed to be so used by the owner of the vehicle and by any other person for the time being in charge of it.
- (3) The power of the Commissioners to make regulations under section one hundred and ninety-eight of the Act of 1952 shall include power to make regulations for any of the purposes specified in Part I of the Second Schedule to this Act; and in subsection (1) of this section "prescribed" means prescribed by regulations made by virtue of this subsection.
- (4) The provisions of Part II of the Second Schedule to this Act shall have effect with respect to samples of heavy oils taken in pursuance of regulations made by virtue of this section.

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- (5) Regulations under subsection (2) of section two hundred of the Act of 1952 (which relates to payments to the Commissioners in respect of rebate as a condition of the use of rebated oil as fuel for a vehicle) may provide for restricting (whether by reference to locality, the obtaining of a licence from the Commissioners, or other matters) the cases in which such payments are to be effective for the purposes of the subsection.
- (6) Where a person contravenes the said subsection (2) in respect of any oils, then without prejudice to any penalty or forfeiture the Commissioners may recover from him an amount equal to the rebate on like oils at the rate in force at the time of the contravention.
- (7) This section and the Second Schedule to this Act shall have effect, in their application to a vehicle of which a person other than the owner is, or is for the time being, entitled to possession, as if for references to the owner there were substituted references to the person entitled to possession.

## **10 Relaxation of terms of certain reliefs under Import Duties Act, 1958**

- (1) In subsection (4) of section six of the Import Duties Act, 1958 (under which a direction giving exemption from duty is to be of no effect if the goods have been removed from Customs control without due notice to the Commissioners), for the words " be of no effect " there shall be substituted the words " have effect to such extent (if any) as the Commissioners of Customs and Excise (hereinafter referred to as ' the Commissioners ') may allow ".
- (2) In subsection (3) of section seven of the said Act of 1958 (under which the Commissioners shall not exercise their power under that section of remitting or repaying duty except on a written application made by the importer before the articles are released from Customs control) after the word " importer " there shall be inserted the words " and an application for the exercise of that power must, except where the Commissioners otherwise allow, be made ".

## **11 Vehicles (excise): hackney carriages**

- (1) In the definition of " hackney carriage " in section twenty-seven of the Vehicles (Excise) Act, 1949 (under which a vehicle let for hire in the course of a trade is classified as a hackney carriage provided that it is not let for a period amounting to three months or more) the words from " provided that " to " or more " are hereby repealed; but for the purposes of that definition a letting under a hire-purchase agreement (as defined in section twenty-one of the Hire-Purchase Act, 1938) shall not be treated as a letting on hire.
- (2) Nothing in the foregoing subsection shall affect the amount of duty payable under the said Act of 1949 on any licence under that Act taken out before the passing of this Act.

## **12 Vehicles (excise): short-period licences for special vehicles**

- (1) An order of the Minister of Transport under section seven of the Finance Act, 1958 (date and period of vehicle licences) may provide, in the case of a vehicle of such description, or of such description and used in such circumstances, as may be specified in the order, that if application is made therefor a licence under the Vehicles (Excise) Act, 1949, may be issued for such period less than a month as may be prescribed by

the order (instead of the period of a fixed number of months prescribed in accordance with subsection (1) of the said section seven).

- (2) The rate of duty for a licence taken out in pursuance of an order made by virtue of this section shall be such as may be prescribed by the order, being a rate which bears to the rate on the corresponding annual licence no less proportion than the period for which the licence is taken out bears to a year.

### **13 Use of motor vehicle unlicensed during compulsory test**

In subsection (1) of section eight of the Finance Act, 1958 (which permits the use of a motor vehicle unlicensed on its way to or from a compulsory test), after paragraph (a) there shall be inserted the following paragraph—

- “(aa) in the course of a compulsory test, for the purpose of taking it to, or bringing it away from, any place where a part of the test is to be or, as the case may be, has been carried out, or of carrying out any part of the test, the person so using it being either—
- (i) a person authorised as an examiner or appointed as an inspector under section one of the Road Traffic Act, 1956, or acting on behalf of a person so authorised, or
  - (ii) a person acting under the personal direction of such a person as aforesaid; or”.

### **14 Vehicles (excise): charge for new licence under s. 13 of Act of 1949**

- (1) The following provisions shall have effect where under subsection (1) of section thirteen of the Vehicles (Excise) Act, 1949 (which imposes a higher rate of duty in certain circumstances where the condition of a vehicle or the use made of it is altered while a licence under that Act is in force in respect of the vehicle), an existing licence is exchanged for a new licence, and the date on which the higher rate of duty becomes chargeable falls after the end of September, nineteen hundred and sixty.
- (2) The payment to be made on the exchange shall, instead of being of the amount specified in that subsection, be equal to the appropriate proportion of the difference between—
- (a) the amount payable under that Act on the original licence, and
  - (b) the amount payable under that Act on a licence taken out for the period for which the original licence was issued but at the higher rate of duty, that amount being calculated, if that rate has been changed since the issue of the original licence, as if that rate had been in force at all material times at the level at which it is in force when it becomes chargeable.
- (3) For the purposes of this section the appropriate proportion is the proportion which the number of months in the period beginning when the higher rate of duty becomes chargeable and ending with the end of the period for which the original licence was issued bears to the number of months in the whole of the last-mentioned period, any incomplete month being treated as a whole month.

## PART II

### INCOME TAX

#### 15 Charge of income tax for 1960-61

Income tax for the year 1960-61 shall be charged at the standard rate of seven shillings and ninepence in the pound, and in the case of an individual whose total income exceeds two thousand pounds, at such higher rates in respect of the excess as Parliament may hereafter determine.

#### 16 Amendment of s. 486 of Act of 1952

- (1) In section four hundred and eighty-six of the Income Tax Act, 1952 (which limits to five shillings and sixpence in the pound the exoneration from tax of a payee under a pre-war provision for a tax-free payment) for the words " appropriate fraction " wherever they occur in subsections (1) to (3) there shall be substituted the words " appropriate proportion " , and for subsection (5) (which, except as respects the year 1959-60, defines " appropriate fraction " as the fraction of which the denominator is twenty-nine and the numerator is twenty-nine less one for every complete sixpence in the pound by which the standard rate for the year exceeds five shillings and sixpence) there shall be substituted—

“(5) In this section ' the appropriate proportion' means, in relation to any year of assessment, the proportion which the difference between twenty shillings in the pound and the standard rate of income tax for the year bears to fourteen shillings and sixpence in the pound”.

- (2) This section shall be deemed to have had effect as respects payments falling to be made at any time after the beginning of the year 1960-61.

#### 17 Additional relief for widows and others in respect of children

- (1) This section applies—
- (a) to widows, widowers and other persons who are not entitled for the year of assessment to the higher (married persons) relief under subsection (1) of section two hundred and ten of the Act of 1952, except that it does not apply to a woman who is not a widow unless throughout the year of assessment she was either in full-time employment or engaged full-time in some trade, profession or vocation or totally incapacitated by physical or mental infirmity; and
  - (b) to any married man who is entitled for the year of assessment to the higher relief aforesaid but whose wife was throughout that year totally incapacitated by physical or mental infirmity.
- (2) Subject to the provisions of this section, if the claimant, being a person to whom this section applies, proves in the case of a year of assessment,—
- (a) that he is entitled to relief under section two hundred and twelve of the Act of 1952 in respect of a child resident with him, and
  - (b) that he is not entitled to any relief under section two hundred and fourteen, fifteen or eighteen of the Act of 1952, and either that no other individual is entitled to such relief in respect of the charge and care of that child or that his claim thereto has been relinquished,

he shall be entitled to a deduction from the amount of income tax with which he is chargeable equal to tax at the standard rate on forty pounds.

- (3) The enactments relating to income tax, and in particular Part VIII of the Act of 1952, shall have effect as if this section were contained in the said Part VIII immediately after section two hundred and eighteen, and references to that section and the relief thereunder in subsections (4) and (5) thereof (apportionment of reliefs) and section fourteen of the Finance Act, 1957 (effect of personal allowances on surtax) shall include references to this section and the relief under this section.
- (4) This section shall not be deemed to have required any change in the amounts deducted or repaid under section one hundred and fifty-seven (pay as you earn) of the Act of 1952 before the twenty-second day of June, nineteen hundred and sixty.

## **18 Increase of reliefs for housekeeper, dependent relative, etc.**

- (1) In sections two hundred and fourteen, fifteen, sixteen and eighteen of the Act of 1952 (housekeepers, dependent relatives and others) for references to sixty pounds there shall be substituted references to seventy-five pounds, and correspondingly in the said section two hundred and sixteen for the reference to one hundred and ninety-five pounds there shall be substituted a reference to two hundred and ten pounds.
- (2) This section shall not be deemed to have required any change in the amounts deducted or repaid under section one hundred and fifty-seven (pay as you earn) of the Act of 1952 before the twenty-second day of June, nineteen hundred and sixty.

## **19 Income tax relief for National Insurance contributions**

- (1) For the year of assessment in which the graduated contribution scheme comes into operation and subsequent years the following provisions of this section shall have effect in substitution for subsection (2) of section three hundred and seventy-seven of the Act of 1952 (deduction from income for National Insurance contributions):

Provided that this section shall not affect any deduction in respect of employer's contributions.

- (2) A claimant who proves that he is a contributor of any description specified in the first column of Part I of the Third Schedule to this Act shall be entitled, subject to the provisions of Part II of that Schedule, to a deduction from the amount of tax with which he is chargeable equal to tax at the standard rate on the amount specified in relation to that description in the second column of the said Part I.
- (3) Where a claimant proves that he has his wife living with him, and that she is a contributor of any description specified in Part I of the Third Schedule to this Act, he shall be entitled to the like deduction from tax (in addition to any deduction under subsection (2) of this section to which he is entitled) as the wife would have been entitled to apart from section three hundred and fifty-four of the Act of 1952 (tax on husbands and wives), or where the husband proves the matters aforesaid as respects part only of the year of assessment, to the deduction to which the wife would have been so entitled if she had not been a contributor of any description specified in the said Part I during the remainder of the year ; and—
  - (a) in paragraph (c) of subsection (5) of section two hundred and twenty of the Act of 1952 (reduced rate relief) for the words from " under section three

- hundred and seventy-seven " to the end there shall be substituted the words " under subsection (3) of section nineteen of the Finance Act, 1960 ";
- (b) where the wife has earned income for the year, the deduction under this subsection shall go, so far as may be, to reduce the tax chargeable on that income;
  - (c) section three hundred and fifty-eight of the Act of 1952 (consequences as respects personal allowances of exercise of option for separate assessment) shall apply in relation to relief under this section as it applies in relation to relief under section two hundred and nineteen or two hundred and twenty-five of that Act, but as if in paragraph (c) of subsection (2) of the said section three hundred and fifty-eight for the words "according as he or she made the payment giving rise to the relief" there were substituted the words " according as it was his or her liability to pay, or payment of, contributions which gave rise to the relief " and as if in the proviso to that subsection the reference to subsection (3) of section three hundred and fifty-four of the Act of 1952 included a reference to paragraph (b) of this subsection;
  - (d) in paragraph (b) of subsection (2) of section fourteen of the Finance Act, 1957 (allowance of personal reliefs for purposes of surtax where husband and wife are separately assessed), at the end of sub-paragraph (i) there shall be inserted the following—
    - “(ia) the amount (if any) added to the deduction in respect of relief under section nineteen of the Finance Act, 1960, shall be treated as reducing the income of the husband or the wife according as it was his or her liability to pay, or payment of, contributions which gave rise to the relief; ", and accordingly for the word " sub-paragraph " in sub-paragraph (ii) there shall be substituted the word " sub-paragraphs " , and for the words " sub-paragraphs (i) and (ii)" there shall be substituted the words " sub-paragraphs (i) to (ii) " .”.
- (4) In subsection (1) of section fourteen of the Finance Act, 1957 (under which certain reliefs specified in paragraphs (a) to (c) thereof by reference to the enactments conferring them are allowable for purposes of surtax) at the end of paragraph (c) there shall be inserted the following—
- “and
- (d) subsection (2) or (3) of section nineteen of the Finance Act, 1960 (relief for National Insurance contributions) ;”.
- (5) The enactments relating to income tax, and in particular Part VIII of the Act of 1952, shall have effect as if subsections (1) to (3) of this section were contained in the said Part VIII between sections two hundred and eighteen and two hundred and nineteen.
- (6) In this section and in the Third Schedule to this Act references to a contributor of any description shall be construed as references to a person liable to pay (directly or by deductions from remuneration) contributions under the National Insurance Act of the amount appropriate to that description, or a person entitled to pay such contributions who pays them, except that any married woman or widow who as such is by virtue of regulations under the National Insurance Act not required to pay contributions shall nevertheless be treated as a contributor and an employed person while she is an employed person and either is under pensionable age or has not retired from regular

employment ; and other expressions have the same meanings as for the purposes of the National Insurance Act.

- (7) In subsection (1) of this section the reference to the coming into operation of the graduated contribution scheme—
- (a) in relation to a person whose liability to pay contributions arises, or who pays contributions, under the National Insurance Act, 1946, is a reference to the beginning of the week appointed under paragraph (b) of subsection (1) of section one of the National Insurance Act, 1959,
  - (b) in relation to a person whose liability to pay contributions arises, or who pays contributions, under the National Insurance Act (Northern Ireland), 1946, is a reference to the beginning of the week appointed under paragraph (b) of subsection (1) of section one of the National Insurance Act (Northern Ireland), 1959.

## **20      Restriction of relief for losses**

- (1) Losses (including amounts in respect of allowances which by virtue of section twenty of the Finance Act, 1954, are to be treated as losses, being allowances in respect of expenditure incurred after the fifth day of April, nineteen hundred and sixty) in respect of which, apart from this section and on the assumption that the applicant's aggregate income was sufficient, relief could be given for the year 1960-61 or any subsequent year of assessment under section three hundred and forty-one of the Act of 1952 (relief from tax by deducting losses of a trade from aggregate income of same year) as originally enacted shall not be available for relief under that section, or that section as extended by subsection (3) of section fifteen of the Finance Act, 1953 (relief under section three hundred and forty-one for losses of previous year), unless it is shown that the trade was being carried on for that year of assessment on a commercial basis and with a view to the realisation of profits in the trade or, where the carrying on of the trade formed part of a larger undertaking, in the undertaking as a whole:

Provided that this subsection shall not apply to a loss made, or an allowance in respect of expenditure incurred, by a local authority (within the meaning of section one hundred and seventy-one of the Act of 1952) or by any person in the exercise of functions conferred by or under any enactment (including an enactment contained in a local or private Act).

- (2) Losses shall be disregarded in computing deficit or surplus for tax purposes under section twenty of the Finance Act, 1953 (subvention payments) for any accounting period ending in the year 1960-61 or in any subsequent year of assessment unless it is shown that the trade was being carried on for that accounting period on a commercial basis and with a view to the realisation of profits by the company carrying on the trade, or that company and its associated company or companies taken together.

The foregoing provisions of this subsection shall apply to allowances under Part X (except Chapter IV thereof) or Part XI of the Act of 1952 in respect of expenditure incurred after the fifth day of April, nineteen hundred and sixty, as they apply to losses.

- (3) Where during a year of assessment or accounting period there is a change in the manner in which a trade is being carried on, it shall be treated for the purposes of this section as having been carried on throughout the year or period, as the case may be, in the way in which it was being carried on by the end of the year or period.

- (4) Subject to the following subsection, where a trade is, or falls to be treated as being, carried on for part only of a year of assessment or accounting period by reason of its being, or falling to be treated as being, set up and commenced, or discontinued, or both, in that year or period, the foregoing provisions of this section shall have effect in relation to that trade as regards that part of that year or period as if any reference to the manner of carrying on the trade for or by the end of that year or period were a reference to the manner of carrying it on for or by the end of the said part thereof.
- (5) Where in any year of assessment or accounting period there is a change in the persons engaged in carrying on a trade, then, for the purposes of the application of the foregoing provisions of this section in the case of any person who, being engaged in carrying on the trade immediately before the change, continues to be so engaged immediately after it, the trade carried on by that person immediately before the change shall be treated as continuing to be carried on by him notwithstanding the change, whether or not it falls to be treated for any other purpose as having been discontinued on the change.
- (6) For the purposes of this section the fact that a trade was being carried on at any time so as to afford a reasonable expectation of profit shall be conclusive evidence that it was then being carried on with a view to the realisation of profits.
- (7) The foregoing provisions of this section shall apply to professions and vocations as they apply to trades, and references to a commercial basis shall be construed accordingly.
- (8) Section one hundred and forty-two of the Act of 1952 (setting off of losses against profits of another business) shall not have effect as respects losses of any accounting period ending after the fifth day of April, nineteen hundred and sixty.

## **21 Sale of shares in certain trading companies**

- (1) Where in the case of a company carrying on—
  - (a) a trade of dealing in securities or land or buildings, or of developing land, or
  - (b) any other trade such that the value of any one object which forms part of or constitutes the trading stock belonging to the company at the time of the sale hereinafter mentioned amounts to one-fifth or more of the value of the net assets of the company,
 shares in the company are sold after the fifth day of April, nineteen hundred and sixty, to a person who has, or in consequence of the sale will have, control of the company, and apart from this section the consideration would not be a receipt of an income nature in the hands of the seller, the following provisions shall have effect.
- (2) If on the surveyor certifying to the Commissioners having jurisdiction in the matter particulars showing that the case falls within the foregoing subsection, and giving notice thereof in writing to the seller, it is not shown to the satisfaction of those Commissioners that all trading stock belonging to the company at the time of the sale has been or will be disposed of either in the course of its trade or to a person carrying on a trade such that the stock will be trading stock in his hands, the consideration shall be deemed to be income of the seller (and, if the seller is a company to which section two hundred and forty-five of the Act of 1952 (surtax on undistributed income of certain companies) applies, to be investment income) up to the amount specified in the next following subsection, and shall be chargeable under Case VI of Schedule D accordingly.

- (3) Subject to the next following subsection, the said amount is the appropriate proportion of the amount (if any) of profits or gains of the company chargeable to tax which would have been produced by the company receiving, at the time of the sale, consideration for the sale of its trading stock equal to the following amount, that is to say, the amount of the proper consideration for all the issued shares in the company—
- (a) reduced by any excess of the aggregate of the values specified in subsection (5) of this section over the aggregate liabilities of the company at the time of the sale, or
  - (b) increased by any excess of the said aggregate liabilities over the aggregate of the said values.
- (4) Where the said amount exceeds the difference between the actual consideration for the sale of the shares and the consideration for which the seller bought them (or, if he acquired them otherwise than by buying them, their value on a sale in the open market at the time when he acquired them), and—
- (a) immediately before the time of the sale the shares belonging to the seller amounted to less than five per cent. of the shares issued by the company (regard being had to any differences in the nature of the shares or the rights attaching thereto), or
  - (b) subsection (2) of this section has had effect, in relation to all or any of the same trading stock on a previous sale of the shares,
- then if not later than six years after the end of the year of assessment the seller applies in writing to the Commissioners of Inland Revenue for relief, and, in the case of an application made only by virtue of paragraph (a) of this subsection, shows to the satisfaction of those Commissioners that he did not acquire his shares in pursuance of arrangements for transferring control of the company to another person, the Commissioners of Inland Revenue shall give, by repayment or otherwise, such relief (if any) as may be reasonable and just.
- Any applicant aggrieved by a decision of the Commissioners of Inland Revenue under this subsection may, on giving notice in writing within thirty days after the notification of the decision, appeal to the General Commissioners having jurisdiction in the matter of the assessment under this section, or if he so elects to the Special Commissioners, and the provisions of the Act of 1952 relating to such an appeal (including the provisions relating to the statement of a case for the opinion of the High Court on a point of law) shall apply with any necessary modification.
- (5) The values referred to in paragraphs (a) and (b) of subsection (3) of this section are the following, that is to say—
- (a) the value of any assets of the company in respect of which capital allowances have been made (which shall be taken to be the amount of the capital expenditure of the company on the construction or provision of the assets unallowed as at the time of the sale),
  - (b) the value of the goodwill of the business of the company, to the extent (if any) that consideration was given therefor on a transaction between independent persons dealing at arm's length, and
  - (c) the value at the time of the sale of other assets of the company not being trading stock, ascertained as on a sale in the open market.
- (6) For the purposes of this section the proper consideration for all the issued shares in a company shall be the actual consideration for the sale of shares mentioned in subsection (1) of this section increased (unless that sale was of all the issued shares) in

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the proportion which the total number of issued shares bears to the number of shares sold:

Provided that where the issued shares of the company are not all of the same nature or do not all have the same rights attaching thereto and the said sale was not of all the issued shares, the proper consideration for all the issued shares in the company shall be ascertained for the purposes of this section by aggregating the value of the trading stock of the company, ascertained as on a sale in the open market at the time of the sale of shares, and the values mentioned in paragraphs (a) to (c) of the foregoing subsection and deducting therefrom the aggregate amount of the liabilities of the company at that time.

- (7) For the purposes of subsection (3) of this section the appropriate proportion, in relation to any sale of shares, is the proportion which the actual consideration for that sale bears to the proper consideration for all issued shares in the company, so however that where the proviso to the foregoing subsection has effect the appropriate proportion is such proportion as may be just having regard to the number and nature of the shares sold and the rights attaching thereto, as compared with the number and nature of all the issued shares in the company and the rights or different rights attaching thereto.
- (8) Any tax chargeable on the seller by virtue of the foregoing provisions of this section and not paid by him shall be recoverable from the company, and where the seller is an individual the amount which (by virtue of subsection (2) of this section) is deemed to be income of his shall be deemed for the purposes of this subsection to be the highest part of his income.
- (9) The following provisions shall have effect where in pursuance of this subsection a person proposing to sell shares in such circumstances that the sale would fall within subsection (1) of this section and the person proposing to buy the shares furnish to the Commissioners of Inland Revenue particulars of the proposed transaction, that is to say:—
  - (a) if the Commissioners are of opinion that the particulars, or any further information furnished in pursuance of this paragraph, are not sufficient for the purposes of this subsection, they shall within thirty days of the receipt thereof notify to the said persons what further information they require for those purposes, and unless that further information is furnished to the Commissioners within thirty days from the notification or such further time as the Commissioners may allow they shall not be required to proceed further under this subsection ;
  - (b) subject to the foregoing paragraph, the Commissioners shall within thirty days of the receipt of the particulars, or where that paragraph has effect of all further information required, notify the said persons whether the Commissioners are satisfied that the trading stock will be disposed of as mentioned in subsection (2) of this section;

and if the Commissioners notify the said persons that they are so satisfied, the surveyor shall not give a certificate under subsection (2) of this section in respect of a sale of shares in the company by the one of the said persons to the other which is carried out within six months after the notification by the Commissioners.

- (10) Where under subsection (1) of this section any amount would have been deemed to be income of the seller if subsection (2) of this section had had effect, and on the sixth anniversary of the sale any asset which was trading stock of the company at the time of the sale, or any part of or interest in such an asset, is still held by the company, then, unless the company has ceased to carry on the trade or it is shown to the satisfaction

of the said Commissioners that the retention of the asset was for bona fide reasons connected with the trade, income of the like amount shall be deemed to have been received by the company on the said anniversary and shall be chargeable under Case VI of Schedule D accordingly.

- (11) If after the sale of the shares any receipts accrue (whether in money or in money's worth) from the sale of stock which was trading stock of the company at the time of the sale of the shares, or as the result of any other dealing with any of that trading stock, or any dealing with anything constructed, produced or derived therefrom, or by way of compensation for (including insurance moneys payable in respect of) the loss or destruction of or damage to any such trading stock or anything constructed, produced or derived therefrom, the receipts shall be disregarded for income tax purposes if and to the extent that it is just so to do having regard to any tax charged under the foregoing provisions of this section (being tax charged at the standard rate):

Provided that nothing in this subsection shall be construed as requiring receipts to be disregarded in so far as they are in the nature of rent or hire.

- (12) If after the sale of the shares, in a case not falling within the proviso to subsection (6) of this section, a balancing charge falls to be made in respect of any asset of the company falling within paragraph (a) of subsection (5) of this section, the amount on which the charge is made shall not exceed the aggregate of—
- (a) the appropriate proportion of what would have been the maximum amount of the balancing charge if the asset had been bought by the company at the time of the sale of the shares for a price equal to the amount unallowed at the time of the sale of the capital expenditure actually incurred by the company on the construction or provision of the asset, the said maximum amount being ascertained on the footing that no initial allowance fell to be made, and
  - (b) the amount which apart from this subsection would be the maximum amount of the balancing charge less the appropriate proportion of that amount.
- (13) In this section "the Commissioners having jurisdiction in the matter", in relation to any sale of shares in a company, means the Commissioners having jurisdiction with respect to the making of assessments under Schedule D on the company or, if more than one body of Commissioners has such jurisdiction, such of those bodies as the Commissioners of Inland Revenue may direct; and the Commissioners having jurisdiction in the matter shall in any case have jurisdiction with respect to the making of an assessment on the seller in respect of any amount in respect of which he is chargeable under this section.

## **22 Provisions as to certain building companies not carrying on a trade**

- (1) Where the activities of a company consist of or include the erection or the securing of the erection of a building, and after the erection has begun and not later than six years after its completion shares in the company are sold to a person who has, or in consequence of the sale will have, control of the company, then if at the time of the sale the company has (directly or indirectly) an interest in the building and the value of that interest, or the aggregate value of that interest and any interest which the company so has at that time in any other building (not being a building completed more than six years before that time) the erection of which was carried out or secured by the company, amounts to one-fifth or more of the net assets of the company, it shall be treated for the purposes of the foregoing section as carrying on a trade of which the interest or interests are trading stock, whether or not apart from this subsection it would be so treated, and if apart from this subsection it would not be so treated such

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proportion of the expenses of the company as may be just shall be treated as expenses of that trade:

Provided that this subsection shall not apply if—

- (a) the shares in the company are sold by a person or persons to another company and the shares in each company are held (directly or indirectly) by the same person or by the same persons in the same proportion, or
- (b) the shares are sold by one company to another company and the shares in each company are held (directly or indirectly) by the same person or by the same persons in the same proportion,

regard being had in each case to any differences in the nature of the shares or the rights attaching thereto.

(2) Where before the sale of shares mentioned in the foregoing subsection the company—

- (a) has sold its interest in the building or any such other building as aforesaid to the person who is the purchaser of the shares or (if that person is a company) to an associated company, or
- (b) has created an interest in the building or any such other building as aforesaid in favour of that person or any such associated company, or
- (c) has sold or created such an interest to or in favour of any person, and the purchaser of the shares or any such associated company acquires the interest, either before the sale of the shares or after the sale in pursuance of arrangements made not later than the sale,

the foregoing subsection shall apply as if the interest sold were still vested in the first-mentioned company at the time of the sale of the shares, or, as the case may be, as if the interest had not been created as mentioned in paragraph (b) or (c) of this subsection, and as if any assets of the company representing the consideration for the sale or creation of the interest were not assets of the company.

(3) Where a building has been or has begun to be erected by a company on land belonging to an associated company, and after the erection has been begun and not later than six years after its completion a person acquires control of the first company, then as respects sales to that person of shares in the company owning the land (whether effected before or after that person acquires control of the first company) the foregoing subsections shall apply as they apply to such a company as is therein mentioned but with the substitution for references to an interest in the building of references to an interest in the land.

(4) Where a company not carrying on a trade, but of which the activities consist of or include the erection or the securing of the erection of a building, is wound up, and the commencement of the winding up falls at a time after the erection has begun and not later than six years after its completion, then if immediately before that time the company had (directly or indirectly) an interest in the building and the value of the interest or the aggregate value of the interest and any interest which the company so had immediately before that time in any other building (not being a building completed more than six years before that time) the erection of which was carried out or secured by the company, amounted to one-fifth or more of the net assets of the company, the company shall be treated for income tax purposes as having received immediately before that time untaxed profits, chargeable under Case VI of Schedule D, of an amount equal to the amount (if any) of profits or gains of the company chargeable to tax which would have been produced by a sale of the interest or interests in the open market immediately before that time if the company had erected or secured the erection of the building or buildings in the course of a trade carried on by it and if

such proportion of the expenses of the company as may be just had been expenses of that trade:

Provided that where all the shares in the company belong to another company, that other company may, by notice in writing given to the surveyor within one year after the commencement of the winding up, elect that if in the winding up the company acquires the interest or interests of the subsidiary company in the building or buildings, the foregoing provisions of this subsection shall not apply and shall be deemed not to have applied, but that if the acquiring company sells the interest or any of the interests, or grants an interest thereout, or sells an interest created thereout, that company shall be chargeable to income tax under Case VI of Schedule D on the amount which would have been its profit if the interest or interests it acquired had been trading stock acquired for the amount which under the foregoing provisions of this subsection (if they had had effect) would have been deductible in ascertaining the amount of profits or gains chargeable to tax referred to in those provisions; and if the company elects as aforesaid it shall be treated for the purpose of subsections (1) and (4) of this section as if its activities had included the erection of the building or buildings, whether or not it would otherwise have been so treated.

- (5) For the purposes of this section there shall be disregarded any building provided for use, and brought into use, for the purposes of a bona fide trade carried on by the company, other than a trade of dealing in securities or land or buildings, or of developing land, or of the provision of services for the occupier of land an interest in which is held by the company.
- (6) For the purposes of the foregoing subsections an uncompleted building shall be taken to include so much of any materials belonging to the company as are required for erecting the building, and a building (whether complete or not) shall be taken to include its site.

## **23 Application of ss. 21 and 22 to sales of shares in holding companies**

- (1) Subject to the provisions of this section, where—
  - (a) a company (" the first company ") is such that section twenty-one of this Act, or that section as extended by subsection (1) of section twenty-two of this Act, would apply if shares in the company were sold to a person who has, or in consequence of the sale would have, control of the company; and
  - (b) shares in that company belong (either directly or through a nominee) to another company (" the second company "); and
  - (c) shares in the second company are at any time (" the relevant time ") sold to a person who has, or in consequence of the sale will have, control of the first company; and
  - (d) all the issued shares in the second company at the relevant time are of the same nature and carry the same rights,

the appropriate number of shares in the first company shall be treated for the purposes of the said section twenty-one and of subsection (1) of the said section twenty-two as having been sold at the relevant time to the person mentioned in paragraph (c) of this subsection by the seller of the shares mentioned in that paragraph for a consideration equal to the amount specified in subsection (3) of this section.

- (2) For the purposes of the foregoing subsection, the appropriate number of shares in the first company is the number arrived at by multiplying the total number of shares in the first company which at the relevant time belonged (as aforesaid) to the second

company by the fraction of which the numerator is the number of shares in the second company sold as mentioned in paragraph (c) of that subsection and the denominator is the total number of the issued shares in the second company at the relevant time.

- (3) The amount referred to in subsection (1) of this section is the amount of the consideration for the sale mentioned in paragraph (c) of subsection (1) of this section—
  - (a) reduced by the amount arrived at by multiplying by the fraction specified in the foregoing subsection any excess of the value specified in the following subsection over the aggregate liabilities of the second company at the relevant time, or
  - (b) increased by the amount arrived at by multiplying by the said fraction any excess of the said aggregate liabilities over the said value.
- (4) The value referred to in the foregoing subsection is the value at the relevant time of all the assets of the second company other than the shares in the first company belonging (as aforesaid) to it at that time, ascertained as on a sale in the open market.
- (5) Where, in the circumstances described in paragraphs (a) to (c) of subsection (1) of this section, all the issued shares in the second company at the relevant time are not of the same nature or do not carry the same rights, the foregoing provisions of this section shall have effect as if paragraph (d) of subsection (1) were omitted and for the fraction specified in subsection (2) there were substituted such fraction as may be just having regard to the number and nature of the shares in the second company which were sold as mentioned in the said paragraph (c) and the rights attaching thereto, as compared with the number and nature of all the issued shares in the second company at the relevant time and the rights or different rights attaching thereto, any reference to the first-mentioned fraction being construed accordingly.
- (6) Where, in the circumstances described in paragraphs (a) to (c) of subsection (1) of this section—
  - (a) the second company is itself such a company as is mentioned in the said paragraph (a), and
  - (b) the person to whom the shares in the second company are sold has, or in consequence of the sale will have, control of the second company,
 the provisions of section twenty-one and, where applicable, of subsection (1) of section twenty-two of this Act, and the foregoing provisions of this section, shall all apply.
- (7) Where, instead of shares in the second company being sold as mentioned in paragraph (c) of subsection (1) of this section, the sale is of shares in a company ("the last company") which, through a series of companies, has an indirect interest in the shares of the first company, the foregoing provisions of this section shall apply with such modifications as may be necessary in relation to each company (being either the first company, the last company, or one of the series of companies) of which the person to whom the shares in the last company are sold either has control at the time of the sale or will have control in consequence of it.

## **24 Supplementary provisions as to ss. 21 to 23**

- (1) Where sales of associated parcels of shares in a company, being sales to the same person, take place at different times, and in consequence of any of the sales other than the first that person obtains control of the company, then for the purposes of any of the three foregoing sections any sales earlier than that in consequence of which he obtains

control (not being sales effected before the sixth day of April, nineteen hundred and sixty) shall be treated as having all taken place at the time of that sale.

- (2) For the purposes of the foregoing subsection parcels of shares shall be treated as associated if (either directly or through a nominee) they belong respectively to the same person or two or more related persons, or to two or more persons carrying on business in partnership; and for the purposes of this subsection shares shall be treated as belonging to a person—

- (a) if they belong to a company under his control, or
- (b) if they are held by trustees in consequence of a settlement (as defined in section four hundred and three of the Act of 1952) in relation to which he is the settlor (as so defined), or
- (c) in the case of a person carrying on business in partnership, if they belong to a person related to him,

and two or more persons shall be deemed to be related if each of them, as respects each of the others, is a relative (that is to say an ancestor, lineal descendant, brother or sister), or the husband or wife of a relative, of that other or of the husband or wife of that other.

- (3) Where a person acquires control of a company at any time,—

- (a) any sale of shares in the company, whether to that person or to a person from whom he acquires the shares directly or indirectly, which took place before that time and was effected in pursuance of arrangements for transferring control of the company, or
- (b) any sale of shares in the company to another person from whom the first-mentioned person acquired them, directly or indirectly, being a sale which took place after that time and was effected in pursuance of arrangements for transferring the shares to the first-mentioned person,

shall be treated for the purposes of the three foregoing sections as a sale in consequence of which the immediate purchaser will have control of the company.

- (4) For the purposes of this and the three foregoing sections a sale to a company under a person's control, or to his nominee, shall be treated as a sale to him, and the creation of an interest in favour of a company under a person's control, or in favour of his nominee, shall be treated as the creation of the interest in his favour.
- (5) For the purposes aforesaid two or more persons acting together to secure or exercise control of a company shall be treated in relation to that company as a single person.
- (6) Where a sale of shares is effected in pursuance of a previous agreement, the time of the sale shall be taken for the purposes of the three foregoing sections and of the foregoing provisions of this section to be the time of the making of the agreement.

## **25 Transactions between associated dealing companies and other companies**

- (1) Where after the fifth day of April, nineteen hundred and sixty, and otherwise than in pursuance of an agreement made on or before that day a company, not being a dealing company,—

- (a) acquires from an associated company, being a dealing company, any assets being trading stock of the dealing company and not being securities which are shown to have been acquired in pursuance of an offer for sale to the public made by that company and in the allotment of which no preference was given to associated companies, and subsequently disposes of those assets, or

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- (b) otherwise disposes of an asset to an associated company, being a dealing company,

any profit which the first-mentioned company makes out of the transaction shall be deemed to be income (and, if that company is a company to which section two hundred and forty-five of the Act of 1952 (surtax on undistributed income of certain companies) applies, to be investment income) of that company and chargeable with income tax under Case VI of Schedule D:

Provided that where, in the case of any such acquisition of assets by a company as is mentioned in paragraph (a) of this subsection or any such disposal of assets by a company as is mentioned in paragraph (b) thereof, the assets fall by virtue of a direction under section four hundred and sixty-nine of the Act of 1952 (sales etc. between associated persons) to be treated in computing the profits of the other associated company for income tax purposes as having been sold for a price other than that actually paid, the foregoing provisions of this subsection shall have effect as if the assets had been acquired or, as the case may be, disposed of for that other price instead of for the price actually paid for them.

- (2) Where the disposal by the first-mentioned company of the assets; acquired from the dealing company is to another associated company, and that company is not a dealing company, then that company and any other associated company subsequently acquiring the asset shall be treated for the purposes of paragraph (a) of the foregoing subsection as if it had acquired the asset from an associated company being a dealing company:

Provided that this subsection shall not by virtue of the said disposal apply to any acquisition after the asset has been acquired by an associated company being a dealing company or by a person not being an associated company.

- (3) Where a company, not being a dealing company, acquires as mentioned in paragraph (a) of subsection (1) of this section any assets being shares in or debentures of a body corporate, or by virtue of subsection (2) of this section falls to be treated as if it had so acquired any such assets, and shares in or debentures of the same or any other body corporate are issued, or any right to acquire any such shares or debentures is granted, to the company as the holder of the first mentioned shares or debentures, the company shall be treated for the purposes of the said paragraph (a) as if it had acquired the shares or debentures so issued, or the right granted, from an associated company being a dealing company.

In this subsection the reference to an issue being made or right being granted to the company as the holder of shares or debentures shall be taken to include any case in which an issue or grant is made to the company as having been the holder of those shares or debentures, or is made to it in pursuance of an offer or invitation made to it as being or having been the holder of those shares or debentures, or of an offer or invitation in connection with which any preference is given to it as being or having been the holder thereof.

- (4) Where a dealing company becomes entitled to a deduction, in computing the profits or gains of the company for income tax purposes for a period ending after the fifth day of April, nineteen hundred and sixty, in respect of the depreciation in the value of any right subsisting against an associated company, not being a dealing company, or where a dealing company makes any payment to such an associated company, being a payment in respect of which the dealing company is entitled to a deduction in computing its profits or gains as aforesaid, and the depreciation or payment is not

brought into account in computing the profits or gains of the company not being a dealing company, that company shall be deemed to have received on the last day of the period income of an amount equal to the amount of the deduction and shall be chargeable in respect thereof under Case VI of Schedule D:

Provided that—

- (a) where the company not being a dealing company is carrying on a trade, the said income shall, if the company so elects, not be so chargeable but shall be deemed to have been a receipt of the trade, or, if the company is carrying on more than one trade, to have been a receipt of such one of the trades as the company may choose, and, if the company is an Overseas Trade Corporation, to have been trading income;
  - (b) where the said company is carrying on, or was formed to carry on, a trade, then if the said right subsisting against the company was a right to the repayment of moneys lent for meeting expenditure which has proved (in whole or in part) abortive, or the payment to the company was made for meeting such expenditure, and the expenditure is such that the company is not entitled in respect thereof to any allowance or deduction in computing losses or gains, this subsection shall not apply in so far as the expenditure proved abortive.
- (5) Where an investment company is in liquidation, and the liquidator effects any disposal of an asset in respect of which the company would have been chargeable under subsection (1) of this section if the disposal had been effected by the company, the liquidator shall be chargeable with tax in like manner and to the like extent, and the profit in respect of which he is so chargeable shall be deemed to be income of the company arising since the commencement of the winding up.
- (6) Any loss which a company, not being a dealing company, sustains in any transaction falling within subsection (1) of this section by virtue of paragraph (a) thereof shall be treated as being a loss to which section three hundred and forty-six of the Act of 1952 (relief in respect of losses in transactions the profits of which would be chargeable under Case VI of Schedule D) applies, so however that relief under that section for any loss to which that section applies by virtue of this subsection shall be given only to the extent that that loss can be deducted from or set off against profits arising from other transactions falling within subsection (1) of this section by virtue of paragraph (a) thereof.

## **26 Sale of shares in investment company to associated dealing company**

- (1) Where a person who has control of an investment company sells shares in the company to a dealing company of which he has control, and—
- (a) the shares were acquired by the seller after the beginning of the year 1960-61, or the rights attached to the shares were altered after the beginning of that year, or
  - (b) at the time of the sale he had shares so acquired similar in number and rights to the shares sold by him,
- the provisions of subsections (2) and (3) of this section shall have effect.
- (2) If apart from this section the consideration for the sale of the shares would not be a receipt of an income nature in the hands of the seller, it shall be deemed to be income of his (and, if the seller is a company to which section two hundred and forty-five of the Act of 1952 (surtax on undistributed income of certain companies) applies, to be investment income) up to the amount specified in the next following subsection,

or, if the seller so elects, up to the full amount of the said consideration reduced by the amount of the consideration (if any) paid for the shares or for the alteration of the rights, and shall be chargeable under Case VI of Schedule D accordingly.

- (3) The said amount is the amount of the profit which would have been made by the investment company if, at the time of the sale of the shares, it had sold to the dealing company, for the consideration paid for the shares, such proportion of all its assets as is properly apportionable to the shares, having regard to the number and nature of the shares sold and the rights attaching thereto, as compared with the number and nature of all shares in the investment company and the rights or different rights attaching thereto.
- (4) Where a person sells shares in an investment company to a dealing company, and he and one or more other persons together have control of both companies, then if each of the other persons sells or has sold shares in the investment company to the dealing company and paragraph (a) or (b) of subsection (1) of this section applies in relation to all of the sales, the provisions of subsections (2) and (3) of this section shall have effect in relation to each of the sales.
- (5) References in subsection (1) or (4) of this section to the sale of shares to such a dealing company as is therein mentioned include references to the sale of the shares to a person not being such a dealing company in any case where the shares are subsequently acquired by such a dealing company in pursuance of arrangements for their eventual acquisition by it made not later than the sale to the said person, and in any such case the shares shall be deemed for the purposes of this section to have been sold to the said person for the consideration paid for them by the dealing company.

## **27 Sale of securities cum-dividend**

- (1) Subject to the provisions of this section, where—
  - (a) under a contract for the sale of securities the seller is required to pay to the purchaser the amount of a periodical payment of interest on the securities, and
  - (b) the seller does not satisfy the following condition, that is to say that he is entitled to that payment of interest either as the registered holder of the securities or from a person from whom the seller purchased them,
 subsections (2) and (3) of section one hundred and seventy of the Act of 1952 shall apply as if the payment by the seller were an annual payment made, after due deduction of tax, wholly out of a source other than profits or gains brought into charge to tax.
- (2) The foregoing subsection shall not apply where the interest in question is payable without deduction of tax or where, under the rules of the stock exchange governing the transaction, the payment required to be made in respect of the interest is of the amount of the interest before deduction of tax.
- (3) If for any year of assessment the liability to income tax of a jobber or dealing broker is determined on the footing that any excess of his payments in respect of interest on securities over his receipts in respect thereof, being payments made or receipts accrued in pursuance of a contract for the sale or purchase of the securities, is to be treated for all the purposes of the Income Tax Acts as an annual payment made by him, then as respects that year subsection (1) of this section shall not apply to him if he sold the securities in the ordinary course of his business as a jobber or dealing broker.
- (4) Where the seller is resident in the United Kingdom and purchased the securities (otherwise than through a broker) from a person not so resident, then except where the

contract for that purchase was made before the seventh day of July, nineteen hundred and sixty, paragraph (b) of subsection (1) of this section shall have effect as if after the word " say " there were inserted the word " either " and as if for the words from " either as" to the end of the paragraph there were inserted the words " as the registered holder of the securities or that he shows to the satisfaction of the Special Commissioners that he acquired the securities, directly or indirectly, from a person who was so entitled to the payment ".

- (5) Where the seller under such a contract as is mentioned in paragraph (a) of subsection (1) of this section is not resident in the United Kingdom, and the sale is effected through a broker, that subsection shall not apply but, except where the contract was made before the seventh day of July, nineteen hundred and sixty, unless the broker shows to the satisfaction of the Special Commissioners either that the seller was entitled to the payment of interest as the registered holder of the securities or that the seller acquired the securities, directly or indirectly, from a person who was so entitled to the payment, subsections (2) and (3) of section one hundred and seventy of the Act of 1952 shall apply as if the payment through the broker of the amount of the payment of interest were an annual payment by the broker made, after due deduction of tax, wholly out of such a source as is mentioned in the said subsection (1).
- (6) In section three hundred and forty-five of the Act of 1952 (amounts assessed under section one hundred and seventy treated as losses of a trade) at the end of subsection (2) (which excludes certain payments from the operation of the section) there shall be added—

“or

- (e) any payment to which the said section one hundred and seventy applies by virtue of section twenty-seven of the Finance Act, 1960.”

- (7) In this section—

" broker " means a member of a stock exchange in the United Kingdom other than a jobber ;

" dealing broker ", in relation to any sale of securities, means a member of a stock exchange in the United Kingdom, other than the London Stock Exchange, who is recognised by the committee of his exchange as carrying on the business of a dealer and authorised by them to deal in those securities; and

" jobber " means a member of the London Stock Exchange who is recognised by the committee thereof as carrying on the business of a jobber;

and references to a periodical payment of interest include references to a dividend.

## **28 Cancellation of tax advantages from certain transactions in securities**

- (1) Where—

- (a) in any such circumstances as are mentioned in the next following subsection, and  
(b) in consequence of a transaction in securities or of the combined effect of two or more such transactions,

a person is in a position to obtain, or has obtained, a tax advantage, then unless he shows that the transaction or transactions were carried out either for bona fide commercial reasons or in the ordinary course of making or managing investments, and that none of them had as their main object, or one of their main objects, to enable tax

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*Status: This is the original version (as it was originally enacted).*

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advantages to be obtained, this section shall apply to him in respect of that transaction or those transactions:

Provided that this section shall not apply to him if—

- (i) the transaction or transactions in securities were carried out, and
- (ii) any change in the nature of any activities carried on by a person, being a change necessary in order that the tax advantage should be obtainable, was effected,

before the fifth day of April, nineteen hundred and sixty.

(2) The circumstances mentioned in the foregoing subsection are that—

- (a) in connection with the distribution of profits of a company, or in connection with the sale or purchase of securities being a sale or purchase followed by the purchase or sale of the same or other securities, the person in question, being entitled (by reason of any exemption from tax or by the setting off of losses against profits or income) to recover tax in respect of dividends received by him, receives an abnormal amount by way of dividend; or
- (b) in connection with the distribution of profits of a company or any such sale or purchase as aforesaid the person in question becomes entitled, in respect of securities held or sold by him, to a deduction in computing profits or gains by reason of a fall in the value of the securities resulting from the payment of a dividend thereon or from any other dealing with any assets of a company; or
- (c) the person in question receives, in consequence of a transaction whereby any other person—
  - (i) subsequently receives, or has received, an abnormal amount by way of dividend; or
  - (ii) subsequently becomes entitled, or has become entitled, to a deduction as mentioned in paragraph (b) of this subsection,

a consideration which either is, or represents the value of, assets which are (or apart from anything done by the company in question would have been) available for distribution by way of dividend, or is received in respect of future receipts of the company or is, or represents the value of, trading stock of the company, and the said person so receives the consideration that he does not pay or bear tax on it as income; or

- (d) in connection with the distribution of profits of a company to which this paragraph applies, the person in question so receives as is mentioned in paragraph (c) of this subsection such a consideration as is therein mentioned.

In this subsection—

- (i) references to profits include references to income, reserves or other assets,
- (ii) references to distribution include references to transfer or realisation (including application in discharge of liabilities), and
- (iii) references to the receipt of consideration include references to the receipt of any money or money's worth,

but the assets mentioned in paragraph (c) of this subsection do not include assets which (while of a description which under the law of the country in which the company is incorporated is available for distribution by way of dividend) are shown to represent a return of sums paid by subscribers on the issue of securities: and the companies to which paragraph (d) of this subsection applies are—

- (iv) any company under the control of not more than five persons, and

- (v) any other company which does not satisfy the condition that its shares or stock or some class thereof (disregarding debenture stock, preferred shares or preferred stock), are authorised to be dealt in on a stock exchange in the United Kingdom, and are so dealt in (regularly or from time to time),

so however that the said paragraph (d) does not apply to a company under the control of one or more companies to which that paragraph does not apply; and subsections (2) and (3) of section two hundred and fifty-six of the Act of 1952 (which define for the purposes of that section the circumstances in which a company is to be deemed to be under the control of not more than five persons) shall apply for the purposes of this subsection as they apply for the purposes of that section.

- (3) Where this section applies to a person in respect of any transaction or transactions, the tax advantage obtained or obtainable by him in consequence thereof shall be counteracted by such of the following adjustments, that is to say an assessment or additional assessment, the nullifying of a right to repayment or the requiring of the return of a repayment already made (the amount to be returned being chargeable under Case VI of Schedule D and recoverable accordingly), or the computation or recomputation of profits or gains, or liability to tax, on such basis as the Commissioners of Inland Revenue may specify by notice in writing served on him as being requisite for counteracting the tax advantage so obtained or obtainable.
- (4) The Commissioners of Inland Revenue shall not give a notice under the foregoing subsection until they have notified the person in question that they have reason to believe that this section may apply to him in respect of a transaction or transactions specified in the notification; and if within thirty days of the issue of the notification the said person, being of opinion that this section does not apply to him as aforesaid, makes a statutory declaration to that effect stating the facts and circumstances upon which his opinion is based, and sends it to the Commissioners, then subject to the next following subsection this section shall not apply to him in respect of the transaction or transactions.
- (5) If, when a statutory declaration has been sent to the Commissioners under the foregoing subsection, they see reason to take further action in the matter—
  - (a) the Commissioners shall send to the tribunal a certificate to that effect, together with the statutory declaration, and may also send therewith a counter-statement with reference to the matter;
  - (b) the tribunal shall take into consideration the declaration and the certificate, and the counter-statement, if any, and shall determine whether there is or is not a *prima facie* case for proceeding in the matter, and if they determine that there is no such case this section shall not apply to the person in question in respect of the transaction or transactions:

Provided that such a determination shall not affect the operation of this section in respect of transactions which include that transaction or some or all of those transactions and also include another transaction or other transactions.

- (6) Any person to whom notice has been given under subsection (3) of this section may within thirty days by notice to the clerk to the Special Commissioners appeal to the Special Commissioners on the grounds that this section does not apply to him in respect of the transaction or transactions in question, or that the adjustments directed to be made are inappropriate; and if he or the Commissioners of Inland Revenue are dissatisfied with the determination of the Special Commissioners they may require the appeal to be re-heard by the tribunal.

- (7) For the purposes of this section the tribunal shall consist of—
- (a) a chairman, being either the chairman of the Board of Referees or a person appointed by the Lord Chancellor, for a specified period or in relation to a specified case, to act as chairman of the tribunal in the absence of the chairman of the Board of Referees on account of illness or for any other reason, and
  - (b) two or more persons appointed by the Lord Chancellor as having special knowledge of and experience in financial or commercial matters.
- (8) The provisions of section two hundred and forty-seven of the Act of 1952 (appeals against directions as to undistributed income) as to the giving of notices, the application of provisions of that Act relating to appeals, and the powers and duties of the Special Commissioners, shall with the necessary modifications apply in relation to appeals under this section; and subsections (3) and (4) of the said section two hundred and forty-seven (re-hearings, statement of case on a point of law, etc.) shall apply in relation to appeals under this section and to the said tribunal as they apply in relation to appeals under that section and to the Board of Referees.
- (9) Without prejudice to the generality of the foregoing subsection, on an appeal under this section the Special Commissioners or the tribunal shall have power to cancel or vary a notice under subsection (3) of this section or to vary or quash an assessment made in accordance with such a notice, but the bringing of an appeal or the statement of a case shall not affect the validity of a notice given or of any other thing done in pursuance of the said subsection (3) pending the determination of the proceedings.
- (10) The following provisions shall have effect where in pursuance of this subsection a person furnishes to the Commissioners of Inland Revenue particulars of a transaction or transactions effected or to be effected by him, that is to say—
- (a) if the Commissioners are of opinion that the particulars, or any further information furnished in pursuance of this paragraph, are not sufficient for the purposes of this subsection, they shall within thirty days of the receipt thereof notify to the said person what further information they require for those purposes, and unless that further information is furnished to the Commissioners within thirty days from the notification or such further time as the Commissioners may allow they shall not be required to proceed further under this subsection ;
  - (b) subject to the foregoing paragraph, the Commissioners shall within thirty days of the receipt of the particulars, or where that paragraph has effect of all further information required, notify the said person whether or not they are satisfied that the transaction or transactions as described in the particulars were or will be such that no notice under subsection (3) of this section ought to be given in respect of it or them,

and if the Commissioners notify him that they are so satisfied this section shall not apply to him in respect of that transaction or those transactions:

Provided that—

- (i) if the particulars, and any further information given under this subsection with respect to any transaction or transactions are not such as to make full and accurate disclosure of all facts and considerations relating thereto which are material to be known to the Commissioners, any notification given by the Commissioners under this subsection shall be void;
- (ii) in no event shall the giving of a notification under this subsection with respect to any transaction or transactions prevent this section applying to a person in

respect of transactions which include that transaction or all or some of those transactions and also include another transaction or other transactions.

(11) For the purposes of subsection (2) of this section an amount received by way of dividend shall be treated as abnormal if the Commissioners of Inland Revenue, the Special Commissioners or the tribunal, as the case may be, are satisfied—

- (a) in the case of a dividend at a fixed rate, that it substantially exceeds the amount which the recipient would have received if the dividend had accrued from day to day and he had been entitled only to so much of the dividend as accrued while he held the securities, so however that an amount shall not be treated as abnormal by virtue only of this paragraph if during the six months beginning with the purchase of the securities the recipient does not sell or otherwise dispose of, or acquire an option to sell, any of those securities or any securities similar (within the meaning of section twenty-three of the Finance Act, 1959) to those securities, or
- (b) in any case, that it substantially exceeds a normal return on the price paid for the securities:

Provided that there shall be disregarded any amount received by a company by way of dividend from an associated company except in so far as the dividend is paid out of profits accumulated before the two companies became associated companies; and the Third Schedule to the Finance (No. 2) Act, 1955, shall with the necessary modifications apply for determining the extent to which a dividend was so paid.

(12) No other provision contained in this Act, or in any other of the Income Tax Acts, shall be construed as limiting the powers conferred by this section, but nothing in this section shall authorise the making of an assessment later than six years after the year to which the tax advantage relates.

## **29 Information for purposes of ss. 21 to 28**

Where it appears to the Commissioners of Inland Revenue that by reason of any transaction or transactions a person—

- (a) may by virtue of any of the provisions of sections twenty-one to twenty-seven of this Act have incurred any liability to income tax, or
- (b) may be a person to whom the foregoing section applies,

the Commissioners may by notice in writing served on him require him, within such time not less than twenty-eight days as may be specified in the notice, to furnish information in his possession with respect to the transaction or any of the transactions, being information as to matters, specified in the notice, which are relevant to the question whether he has incurred such a liability as aforesaid or whether a notice under subsection (3) of the foregoing section should be given in respect of him.

## **30 Appointment of chairman of Board of Referees**

The chairman of the Board of Referees shall be a person appointed by the Lord Chancellor.

## **31 Amendment of s. 4 of Finance (No. 2) Act, 1955**

In the case of shares or stock sold or issued to a person, or otherwise acquired by him, after the fifth day of April, nineteen hundred and sixty, section four of the Finance

(No. 2) Act, 1955 (tax on dividends on shares paid within six years of acquisition of shares and out of profits accumulated before acquisition) shall have effect in relation to the said person as if the words " and not more than six years before the date on which the dividend becomes payable " were omitted wherever they occur.

## **32 Receipts accruing after discontinuance of trade, profession or vocation**

- (1) Where any trade, profession or vocation of which the profits or gains are chargeable to tax under Case I or Case II of Schedule D has been permanently discontinued, tax shall be charged under Case VI of that Schedule in respect of any sums to which this section applies which are received after the discontinuance, subject to any such deduction as is authorised by subsection (4) of this section.
- (2) Subject to the provisions of subsection (3) of this section, this section applies to the following sums arising from the carrying on of the trade, profession or vocation during any period before the discontinuance (not being sums otherwise chargeable to tax), that is to say—
  - (a) where the profits or gains for that period were computed by reference to earnings, all such sums in so far as their value was not brought into account in computing the profits or gains for any period before the discontinuance;
  - (b) where those profits or gains were not so computed, any sums which, if those profits or gains had been so computed, would not have been brought into the computation for any period before the discontinuance because the date on which they became due, or the date on which the amount due in respect thereof was ascertained, fell after the discontinuance.
- (3) This section does not apply to any of the following sums, that is to say—
  - (a) sums received by a person beneficially entitled thereto who is not resident in the United Kingdom, or by a person acting on his behalf, which represent income arising directly or indirectly from a country or territory outside the United Kingdom ;
  - (b) a lump sum paid to the personal representatives of the author of a literary, dramatic, musical or artistic work as consideration for the assignment by them, wholly or partially, of the copyright in the work;
  - (c) sums realised by the transfer of trading stock belonging to a trade at the discontinuance thereof, or by the transfer of the work of a profession or vocation in progress at the discontinuance thereof.
- (4) In computing the charge to tax in respect of sums received by any person which are chargeable to tax by virtue of this section, there shall be deducted from the amount which, apart from this subsection, would be chargeable to tax—
  - (a) any loss, expense or debit (not being a loss, expense or debit arising directly or indirectly from the discontinuance itself) which, if the trade, profession or vocation had not been discontinued, would have been deducted in computing for tax purposes the profits or gains of the person by whom it was carried on before the discontinuance, or would have been deducted from or set off against those profits or gains as so computed; and
  - (b) any allowance under Part X or Part XI of the Act of 1952 to which the person who carried on the trade, profession or vocation was entitled immediately before the discontinuance and to which effect has not been given either by way of relief before the discontinuance or by deduction under this subsection.

- (5) For the purposes of this section the profits or gains of a trade, profession or vocation in any period shall be treated as computed by reference to earnings where all credits and liabilities accruing during that period as a consequence of the carrying on of the trade, profession or vocation are brought into account in computing those profits or gains for tax purposes, and not otherwise; and the value of any sum received in payment of a debt shall be treated as not brought into account in the computation to the extent that a deduction has been allowed in respect of that sum under paragraph (i) of section one hundred and thirty-seven of the Act of 1952 (which relates to bad and doubtful debts).
- (6) This section does not apply to sums received before the sixth day of April, nineteen hundred and sixty, but subject as aforesaid this section applies to sums received before as well as after the commencement of this Act.

### **33 Supplementary provisions as to tax under s. 32**

- (1) In the case of a transfer for value of the right to receive any such sums as are described in subsection (2) of section thirty-two of this Act, any tax chargeable by virtue of that section shall be charged in respect of the amount or value of the consideration (or, in the case of a transfer otherwise than at arm's length, in respect of the value of the right transferred as between parties at arm's length), and references in that section to sums received shall be construed accordingly.
- (2) Where an individual is chargeable to tax by virtue of section thirty-two of this Act in respect of any sums received after the discontinuance of a trade, profession or vocation, and the profits or gains of the trade, profession or vocation to which he was entitled before the discontinuance fell to be treated as earned income for the purposes of the Act of 1952, those sums shall also be treated for those purposes as earned income.
- (3) Where any sum or sums chargeable to tax by virtue of the said section thirty-two are received, in any year of assessment beginning not later than six years after the discontinuance of the trade, profession or vocation, by the person by whom it was carried on before the discontinuance, that person may, by notice in writing sent to the surveyor within twelve months after the end of that year of assessment, elect that the tax chargeable by virtue of that section shall, in lieu of being charged for that year of assessment, be charged for the year in which the discontinuance took place; and in any such case an additional assessment shall (notwithstanding anything in section forty-seven of the Act of 1952) be made upon him for the last-mentioned year in the amount on which he is chargeable under the said section thirty-two in respect of that sum or in respect of all those sums, as the case may be, and in connection with that assessment no further deduction or relief shall be made or given in respect of any loss or allowance deducted in pursuance of subsection (4) of the said section thirty-two.
- (4) Where the person chargeable to tax by virtue of the said section thirty-two in respect of sums received after the discontinuance of a trade is a company to which section two hundred and forty-five of the Act of 1952 applies, not being an investment company, and an order has been made or a resolution passed for the winding-up of the company, then—
  - (a) the sums chargeable to tax by virtue of the said section thirty-two, so far as received after the commencement of the winding-up, shall, for the purposes of assessment to surtax, be deemed to be the income of the members;
  - (b) the Special Commissioners shall from time to time by notice in writing to the liquidator direct that the amount of those sums received in the year or

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period specified in the notice shall be deemed for those purposes to be the income of the members for that year or period, and the amount thereof shall be apportioned and surtax assessed and charged accordingly ; and

- (c) the provisions of Chapter III of Part IX of the Act of 1952 shall, with any necessary modifications, apply in relation to any such directions, apportionments and assessments as they apply in relation to directions under the said section two hundred and forty-five and apportionments and assessments resulting therefrom.
- (5) Expressions used in subsection (4) of this section and in the said Chapter III have the same meanings in that subsection as they have in that Chapter.

#### **34 Receipts and losses accruing after change treated as discontinuance under Finance Act, 1953, s. 19**

- (1) The following provisions of this section shall apply in any case where, as the result of a change in the persons engaged in carrying on a trade, profession or vocation, the trade, profession or vocation is treated by virtue of section nineteen of the Finance Act, 1953, as if it had been permanently discontinued and a new trade, profession or vocation set up and commenced.
- (2) Sections thirty-two and thirty-three of this Act shall apply in the case of any such change as aforesaid as if the trade, profession or vocation had been permanently discontinued:

Provided that where the right to receive any sums to which the said section thirty-two applies is or was transferred, at the time of the change, to the persons carrying on the trade, profession or vocation after the change, tax shall not be charged by virtue of that section, but (except where the change took place before the sixth day of April, nineteen hundred and sixty) any sums received by those persons by virtue of the transfer shall be treated for all purposes as receipts to be brought into the computation of profits or gains of the trade, profession or vocation in the period in which they are received.

- (3) In computing for tax purposes the profits or gains of the trade, profession or vocation in any period after the change there may be deducted a sum equal to any amount proved during that period to be irrecoverable in respect of any debts credited in computing for tax purposes the profits or gains for any period before the change (being debts the benefit of which was assigned to the persons carrying on the trade, profession or vocation after the change), in so far as the total amount proved to be irrecoverable in respect of those debts exceeds any deduction allowed in respect of them under paragraph (i) of section one hundred and thirty-seven of the Act of 1952 in a computation for any period before the change.

#### **35 Work in progress at discontinuance**

- (1) Where, in computing for any income tax purpose the profits or gains of a profession or vocation which has been discontinued, a valuation is taken of the work of the profession or vocation in progress at the discontinuance, that work shall be valued as follows—
  - (a) if the work is transferred for money or any other valuable consideration to a person who carries on or intends to carry on a profession or vocation in the United Kingdom, and the cost of the work may be deducted by that person as an expense in computing for any such purpose the profits or gains of that

- profession or vocation, the value of the work shall be taken to be the amount paid or other consideration given for the transfer;
- (b) if the work does not fall to be valued under the foregoing paragraph, its value shall be taken to be the amount which would have been paid for a transfer thereof on the date of the discontinuance as between parties at arm's length.
- (2) Subsection (2) of section one hundred and forty-three of the Act of 1952 (determination of questions arising on the valuation of trading stock sold when a trade is discontinued) shall apply to the determination of any question arising under paragraph (a) of subsection (1) of this section as it applies to the determination of any question arising under paragraph (a) of subsection (1) of that section, but with the substitution of references to professions and vocations for references to trades.
- (3) Where a profession or vocation is discontinued and the person by whom it was carried on immediately before the discontinuance so elects, by notice in writing sent to the surveyor at any time within twelve months after the discontinuance, the amount, if any, by which the value of the work in progress at the discontinuance (as ascertained under subsection (1) of this section) exceeds the actual cost of the work shall not be brought into account in computing the profits or gains of the period immediately before the discontinuance, but the amount by which any sums received for the transfer of the work exceed the actual cost of the work shall be included in the sums chargeable to tax by virtue of section thirty-two of this Act as if it were a sum to which that section applies received after the discontinuance.
- (4) The foregoing provisions of this section apply where a profession or vocation is treated under section nineteen of the Finance Act, 1953, as permanently discontinued as they apply in the case of an actual discontinuance, but shall not apply in a case where a profession or vocation carried on by a single individual is discontinued by reason of his death.
- (5) For the purposes of section one hundred and forty-three of the Act of 1952 (valuation of trading stock on the discontinuance of trades) "trading stock", in relation to a trade, includes any services, article or material which would, if the trade were a profession or vocation, be treated as work in progress thereof for the purposes of this section, and references to the sale or transfer of trading stock shall be construed accordingly.
- (6) This section applies, and applies only, to discontinuances occurring after the fifth day of April, nineteen hundred and sixty.

### **36 Debts set off against profits and subsequently released**

- (1) Where, in computing for tax purposes the profits or gains of a trade, profession or vocation, a deduction has been allowed for any debt incurred for the purposes of the trade, profession or vocation, then, if the whole or any part of that debt is thereafter released, the amount released shall be treated as a receipt of the trade, profession or vocation arising in the period in which the release is effected.
- (2) If in any such case as aforesaid the trade, profession or vocation has been permanently discontinued at or after the end of the period for which the deduction was allowed and before the release was effected, or is treated for tax purposes, by virtue of section nineteen of the Finance Act, 1953, as if it had been so discontinued, section thirty-two of this Act shall apply as if the amount released were a sum received after the discontinuance.

- (3) This section applies, and applies only, to a release effected after the fifth day of April, nineteen hundred and sixty.

### **37 Payments on retirement or removal from office or employment**

- (1) Subject to the provisions of this and the next following section, income tax shall be charged under Schedule E in respect of any payment to which this section applies which is made to the holder or past holder of any office or employment, or to his executors or administrators, whether made by the person under whom he holds or held the office or employment or by any other person.
- (2) This section applies to any payment (not otherwise chargeable to income tax) which is made, whether in pursuance of any legal obligation or not, either directly or indirectly in consideration or in consequence of, or otherwise in connection with, the termination of the holding of the office or employment or any change in its functions or emoluments, including any payment in commutation of annual or periodical payments (whether chargeable to tax or not) which would otherwise have been made as aforesaid.
- (3) For the purposes of this and the next following section, any payment made to the spouse or any relative or dependant of a person who holds or has held an office or employment, or made on behalf of or to the order of that person, shall be treated as made to that person, and any valuable consideration other than money shall be treated as a payment of money equal to the value of that consideration at the date when it is given.
- (4) Any payment which is chargeable to tax by virtue of this section shall be treated as income received on the following date, that is to say—
  - (a) in the case of a payment in commutation of annual or other periodical payments, the date on which the commutation is effected;
  - (b) in the case of any other payment, the date of the termination or change in respect of which the payment is made,
 and shall be treated as emoluments of the holder or past holder of the office or employment assessable to income tax under Schedule E; and any such payment shall be treated for all the purposes of the Act of 1952 as earned income.
- (5) In the case of the death of any person who, if he had not died, would have been chargeable to tax in respect of any such payment, 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.
- (6) This section does not apply to any payment made before the sixth day of April, nineteen hundred and sixty, nor to any payment, whenever made, being—
  - (a) a payment made in pursuance of an obligation incurred before that date; or
  - (b) a payment made in respect of a termination or change which took place before that date, not being a payment made in commutation of annual or periodical payments;
 but subject as aforesaid this section applies to payments made before as well as after the commencement of this Act.
- (7) Where any payment chargeable to tax under this section is made to any person in any year of assessment, it shall be the duty of the person by whom it is made to deliver

particulars thereof in writing to the surveyor not later than fourteen days after the end of that year.

### **38 Exemptions and reliefs in respect of tax under s. 37**

(1) Tax shall not be charged by virtue of the last foregoing section in respect of the following payments, that is to say—

- (a) any payment made in connection with the termination of the holding of an office or employment by the death of the holder, or made on account of injury to or disability of the holder of an office or employment;
- (b) any sum chargeable to surtax under section two hundred and forty-two of the Act of 1952 (consideration for certain restrictive covenants);
- (c) a benefit provided in pursuance of any such scheme or agreement as is referred to in section three hundred and eighty-six of that Act, where the holder of the office or employment was chargeable to tax in respect of sums paid, or treated as paid, with a view to the provision of the benefit;
- (d) a benefit paid in pursuance of any such scheme or fund as is described in subsection (1) and subsection (2) of section three hundred and eighty-seven of that Act (exemptions from charge to tax under the said section three hundred and eighty-six);
- (e) any terminal grant, gratuity or other lump sum paid under any Royal Warrant, Queen's Order, or Order in Council relating to members of Her Majesty's forces, and any payment made in commutation of annual or other periodical payments authorised by any such Warrant or Order;
- (f) a payment of benefit under any superannuation scheme administered by the government of an overseas territory within the Commonwealth, or of compensation for loss of career, interruption of service or disturbance made in connection with any change in the constitution of any such overseas territory to persons who, before the change, were employed in the public services of that territory;

and references in paragraph (f) of this subsection to an overseas territory, to the government of such a territory and to employment in the public services of such a territory shall be construed as if they occurred in the Overseas Service Act, 1958, and subsections (2) and (3) of section seven of that Act (which relate to the construction of such references) shall apply accordingly.

(2) Tax shall not be charged by virtue of the last foregoing section in respect of a payment in the case of which any of the following conditions is satisfied, that is to say—

- (a) in any case, that on the relevant date the holder of the office or employment was domiciled elsewhere than in the United Kingdom, and that immediately before that date he held the office or employment under or with any person, body of persons or partnership then resident outside, and not resident in, the United Kingdom; or
- (b) in the case of a payment of compensation for loss of office—
  - (i) that the holder of the office or employment held it under a contract which did not require him to perform any of the duties of the office or employment in the United Kingdom; or
  - (ii) there being no express requirement in the contract as to the place of performance of those duties, that he did not perform any of them in the United Kingdom during the three years immediately preceding the relevant date; or

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- (c) in the case of a payment in respect of an office or employment in which the holder's service included foreign service, not being a payment of compensation for loss of office, that the foreign service comprised either—
  - (i) in any case, three-quarters of the whole period of service down to the relevant date; or
  - (ii) where the period of service down to the relevant date exceeded ten years, the whole of the last ten years; or
  - (iii) where the period of service down to the relevant date exceeded twenty years, one-half of that period, including any ten of the last twenty years;

and where an office or employment was in substance one the duties of which fell in any year to be performed outside the United Kingdom, there shall be treated for the purposes of paragraph (b) of this subsection as so performed any duties performed in the United Kingdom the performance of which was merely incidental to the performance of the other duties outside the United Kingdom.

- (3) Tax shall not be charged by virtue of the last foregoing section in respect of a payment of an amount not exceeding five thousand pounds, and in the case of a payment which exceeds that amount shall be charged only in respect of the excess:

Provided that where two or more payments in respect of which tax is chargeable by virtue of that section, or would be so chargeable apart from the foregoing provisions of this subsection, are made to or in respect of the same person in respect of the same office or employment, or in respect of different offices or employments held under the same employer or under associated employers, this subsection shall apply as if those payments were a single payment of an amount equal to that aggregate amount; and the amount of any one payment chargeable to tax shall be ascertained as follows, that is to say—

- (a) where the payments are treated as income of different years of assessment, the said sum of five thousand pounds shall be deducted from a payment treated as income of an earlier year before any payment treated as income of a later year; and
  - (b) subject as aforesaid, the said sum shall be deducted rateably from the payments according to their respective amounts.
- (4) The person chargeable to tax by virtue of the last foregoing section in respect of any payment may, before the expiration of six years after the end of the year of assessment of which it is treated as income, by notice in writing to the surveyor claim any such relief in respect of the payment as is applicable thereto under the Fourth Schedule to this Act; and where such a claim is duly made and allowed, all such repayments and assessments of tax shall be made as are necessary to give effect thereto.
- (5) For the purposes of this section and of the Fourth Schedule to this Act offices or employments in respect of which payments to which the last foregoing section applies are made shall be treated as held under associated employers if, on the date which is the relevant date in relation to any of those payments, one of those employers is under the control of the other or of a third person who controls or is under the control of the other on that or any other such date.
- (6) In this section " the relevant date ", " payment of compensation for loss of office " and " foreign service " have the same meaning as in the Fourth Schedule to this Act,

and references to an employer or to a person controlling or controlled by an employer include references to his successors.

- (7) Any dispute as to the domicile of any person arising under this section shall be referred and determined as provided by subsection (3) of section ten of the Finance Act, 1956, in the case of disputes as to domicile under paragraph 1 of Schedule E, and the provisions of that subsection shall apply with the necessary modifications accordingly.
- (8) For the purposes of any provision of the Act of 1952 or of this Act requiring income of any description to be treated as the highest part of a person's income, that income shall be calculated without regard to any payment chargeable to tax by virtue of the last foregoing section.

### **39 Application of Income Tax Acts to public departments**

- (1) Subject to subsection (2) of this section, all the provisions of the Income Tax Acts relating to the assessment, charge, deduction and payment of income tax shall apply in relation to public offices and departments of the Crown:

Provided that nothing in those provisions shall require the payment by any such office or department of any tax which would be ultimately borne by the Crown.

- (2) Subsection (1) of this section shall not apply to public offices and departments of any country, state, province or colony specified in subsection (2) of section four hundred and sixty-one of the Act of 1952, and nothing in the said subsection (1) shall exempt any Government from taxation to which it is liable in connection with any office or department by virtue of section twenty-five of the Finance Act, 1925 (liability of Governments of places within, and certain places outside, Her Majesty's dominions to taxation in respect of trading operations).
- (3) Where premises are let (whether on a long lease or a short lease, and whether at a rack rent or otherwise) to any public office or department of the Crown to which, by virtue of the foregoing subsection, subsection (1) of this section does not apply, tax to be charged under Schedule A in respect of the premises shall be charged on and paid by the landlord or person immediately entitled to the rent of the premises, for which purpose the annual value of the premises shall in all cases be determined by reference to the amount of the rent by the year at which they are let and the other terms of the lease.
- (4) In section one hundred and seventy of the Act of 1952 (under which tax must be deducted on the making of certain annual and other payments if not payable or not wholly payable out of profits or gains brought into charge to tax), any reference to a payment or sum as being not payable or not wholly payable as aforesaid shall be construed as a reference to it as being payable wholly or in part out of a source other than profits or gains brought into charge; and any such reference elsewhere in the Income Tax Acts shall be construed accordingly.
- (5) The foregoing provisions of this section shall be deemed always to have had effect; and, without prejudice to the generality of the foregoing, any deduction on account of income tax made from any payment at any time before the passing of this Act which would have been authorised or required if the said provisions had been in force at that time shall be deemed for all purposes (including all the purposes of legal proceedings instituted before the passing of this Act) to have been lawfully made:

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Provided that where any deduction on account of tax was made before the sixth day of April, nineteen hundred and sixty, from the rent of premises let as mentioned in subsection (3) of this section and was such that it could have been lawfully made by a tenant other than an office or department of the Crown, that deduction shall be deemed to have been lawfully made, and, as regards the period to which the deduction related, tax shall not be chargeable under subsection (3) of this section on the person who suffered the deduction.

#### **40      Extension of payments treated as " small maintenance payments "**

(1) In section two hundred and five of the Act of 1952 (which defines for the purposes of Chapter VII of Part VII of that Act the payments, there called "small maintenance payments ", which under that Chapter are to be made without deduction of tax)—

(a) for paragraph (a) of subsection (1) (which specifies payments to or for the benefit of a woman for her maintenance) there shall be substituted the following, that is to say—

“(a) by one of the parties to a marriage (including a marriage which has been dissolved or annulled) to or for the benefit of the other party to that marriage for that other party's maintenance ; or”;

(b) in paragraph (b) of subsection (1) (which specifies payments to any person for the benefit of, or for the maintenance or education of, a person under the age specified in subsection (2) of that section, that is to say, the age of twenty-one years), for the words " the age specified in subsection (2) of this section " there shall be substituted the words " twenty-one years of age, not being such a payment as is mentioned in paragraph (a) of this subsection ";

(c) in subsection (3) (which specifies a maximum weekly rate of five pounds in the case of such payments as are mentioned in the said paragraph (a) and of thirty shillings in the case of such payments as are mentioned in the said paragraph (b)), for paragraphs (a) and (b) there shall be substituted the following, that is to say—

“(a) in the case of payments falling within paragraph (a) of that subsection, seven pounds ten shillings; and

(b) in the case of payments falling within paragraph (b) of that subsection, fifty shillings.”

(2) The foregoing subsection shall not affect payments falling due before the sixth day of April, nineteen hundred and sixty-one, under an order made before the thirty-first day of July, nineteen hundred and sixty:

Provided that where an order so made is varied or revived at any time after the said thirty-first day of July, that subsection shall apply in relation to payments falling due under the order after that time.

(3) Where a court makes an order in consequence of which payments falling due under a previous order which is not already a small maintenance order within the meaning of the said section two hundred and five will be treated as small maintenance payments within the meaning of that section by virtue of the proviso to the last foregoing subsection, the court shall furnish to the Commissioners of Inland Revenue, in such form as those Commissioners may prescribe, particulars of those orders, the names of the persons for the time being liable to make and entitled to those payments and, so far as known to the court, the addresses of those persons.

- (4) Subsection (2) of section two hundred and five of the Act of 1952 and section twenty-one of the Finance Act, 1957, shall cease to have effect, so however that the repeal thereof shall not affect payments in relation to which subsection (1) of this section is excluded by subsection (2) of this section.

#### **41 Retirement annuities: relief for premiums**

Subsection (3) of section twenty-three of the Finance Act, 1956 (which enables a premium for a retirement annuity paid after the end of a year of assessment but within the period beginning with the giving of notice of assessment for that year and ending six months after the assessment to qualify, in certain cases, for relief for that year) shall have effect, and be deemed always to have had effect, as if for the words from "beginning" to "ending" there were substituted the words "beginning with the end of that year and ending"; and an election for the purposes of the said subsection (3) relating to a premium paid after the end of a year of assessment and before the date of the notice of assessment for that year shall in no case be out of time if made before the end of February, nineteen hundred and sixty-one.

#### **42 Confirmation of double-taxation Agreement with the Republic of Ireland**

- (1) The Agreement made on the twenty-third day of June, nineteen hundred and sixty, between the Governments of the United Kingdom and the Republic of Ireland relating to the Agreements set out in the Eighteenth Schedule to the Act of 1952 (which first-mentioned Agreement is set out in the Fifth Schedule to this Act) is hereby confirmed, and, subject to the necessary steps being taken to give it the force of law in the Republic of Ireland, shall have effect accordingly.
- (2) In subsection (2) of section three hundred and forty-nine of the Act of 1952 for the words from "and by the Agreement" to "1959" there shall be substituted the words "and by the Agreements set out in the Seventh Schedule to the Finance Act, 1959, and the Fifth Schedule to the Finance Act, 1960".
- (3) For the purpose of carrying out any obligation of the Government of the United Kingdom under Article 2 of the Agreement set out in the said Fifth Schedule, Her Majesty may by Order in Council direct that any provisions of the Income Tax Acts specified in the Order (being provisions affecting in any way exemptions from income tax of persons resident in the United Kingdom) shall not affect, and be deemed not to have affected, exemptions from income tax which persons enjoy as not resident in the United Kingdom but resident in the Republic of Ireland.

#### **43 Interpretation of Part II**

- (1) For the purposes of this Part of this Act two or more companies shall be treated as associated companies if one has control of the other or others, or any person has control of both or all of them.
- (2) References in this Part of this Act to a company having control of another company shall be construed as references to its having control thereof either by itself or in conjunction with any person having control over the first mentioned company.
- (3) References in this Part of this Act to capital expenditure unallowed shall be construed as including references to the residue of capital expenditure; and Part X of the Act of 1952 shall with the necessary modifications have effect, in relation to assets of any

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description, for the construction of any such reference in this Part of this Act as it has effect in relation to assets of that description, for the construction of such a reference in the said Part X.

(4) In this Part of this Act—

- (a) " the Board of Referees " means the Board appointed for the purposes of section two hundred and eighty-seven of the Act of 1952 ;
- (b) " company " includes any body corporate ;
- (c) " control " has the same meaning as in Part X of the Act of 1952;
- (d) " dealing company " means a company dealing in securities, land or buildings and includes any company whose profits on the sale of securities, land or buildings are part of its trading profits ;
- (e) " investment company " means a company whose business consists mainly in the making of investments and the principal part of whose income is derived therefrom ;
- (f) " securities " includes shares, " shares ", except where the context otherwise requires, includes stock, and references to dividends include references to interest;
- (g) " tax advantage " means a relief or increased relief from, or repayment or increased repayment of, income tax, or the avoidance or reduction of an assessment to income tax or the avoidance of a possible assessment thereto, whether the avoidance or reduction is effected by receipts accruing in such a way that the recipient does not pay or bear tax on them, or by a deduction in computing profits or gains ;
- (h) " trading stock " has the same meaning as in section one hundred and forty-three of the Act of 1952 ;
- (i) " transaction in securities " includes transactions, of whatever description, relating to securities, and in particular—
  - (i) the purchase, sale or exchange of securities,
  - (ii) the issuing or securing the issue of, or applying or subscribing for, new securities,
  - (iii) the altering, or securing the alteration of, the rights attached to securities.

(5) References in this Part of this Act to work in progress at the discontinuance of a profession or vocation shall be construed as references to—

- (a) any services performed in the ordinary course of the profession or vocation, the performance of which was wholly or partly completed at the time of the discontinuance and for which it would be reasonable to expect that a charge would have been made on their completion if the profession or vocation had not been discontinued; and
- (b) any article produced, and any such material as is used, in the performance of any such services;

and references as aforesaid to the transfer of work in progress shall include references to the transfer of any benefits and rights which accrue or might be reasonably expected to accrue from the carrying out of the work.

## PART III

### INCOME TAX AND PROFITS TAX (PENALTIES AND ASSESSMENTS)

#### **44 New provisions as to penalties and recovery of tax in connection with incorrect returns, etc.**

- (1) Subject to subsection (2) of this section, the following provisions of this Part of this Act shall have effect in relation to any year of assessment, or, as the case may be, chargeable accounting period, whether ending before or after the commencement of this Act; and the provisions specified in Part II of the Eighth Schedule to this Act (which relate to penalties in connection with returns, statements, declarations, lists and claims and the duty to give certain notices) shall, to the extent specified in the third column of that Part, cease to have effect.
- (2) Nothing in this Part of this Act or the said Part II—
  - (a) shall affect any proceedings commenced before the commencement of this Act or the recovery of any penalty imposed in such proceedings ;
  - (b) shall apply in relation to anything done or omitted which is the subject of such proceedings or in respect of which any proceedings were compounded before the commencement of this Act.

#### **45 Notice of liability to tax**

- (1) Every person who is chargeable to income tax for any year of assessment and who has not delivered a statement of his profits or gains or his total income for that year in accordance with the provisions of the Income Tax Acts shall, not later than one year after the end of that year of assessment, give notice that he is so chargeable.
- (2) A notice under this section shall be given to the surveyor or, in the case of an individual who is not chargeable to income tax other than surtax, either to the surveyor or to the Special Commissioners.
- (3) If any person fails to give a notice which he is required to give under this section he shall be liable to a penalty not exceeding one hundred pounds.

#### **46 Penalties for failure to make certain returns, etc.**

- (1) Where any person—
  - (a) has been required, by a notice or precept served under or for the purposes of any of the provisions specified in the first or second column of the Sixth Schedule to this Act, to deliver any return, statement, declaration, list or other document, to furnish any particulars, to produce any document, or to make anything available for inspection, and he fails to comply with the notice or precept; or
  - (b) fails to furnish any information, give any certificate or produce any document or record in accordance with any of the provisions specified in the third column of that Schedule;he shall be liable, subject to subsection (5) of this section, to a penalty not exceeding, except in the case mentioned in subsection (2) of this section, fifty pounds and, if the failure continues after it has been declared by the court or Commissioners before

whom proceedings for the penalty have been commenced, to a further penalty not exceeding ten pounds for each day on which the failure so continues.

- (2) Where the said notice was served under or for the purposes of any of the provisions specified in the first column of the said Sixth Schedule (which relate to returns and statements concerning a person's own income) and the failure continues after the end of the year of assessment following that during which the notice was served, the first of the penalties mentioned in subsection (1) of this section shall be an amount not exceeding the aggregate of fifty pounds and the total amount of the tax with which the said person is charged (whether for one or for more than one year of assessment) in assessments—
  - (a) based wholly or partly on any income that ought to have been included in the return or statement required by the notice; and
  - (b) made after the end of the year next following the year of assessment in which the said notice was served.
- (3) Where in any year of assessment any amount was deducted from the said person's emoluments under section one hundred and fifty-seven (pay as you earn) of the Income Tax Act, 1952, and that amount exceeds the total amount (if any) charged in any assessments under Schedule E made on him for that year before the end of the year of assessment next following that in which the said notice was served, the amount of the excess shall be treated, for the purposes of subsection (2) of this section, as reducing the amount of the tax charged in assessments under Schedule E made on him for the first-mentioned year after the end of the said following year.
- (4) The reference in subsection (2) of this section to tax includes surtax, except that in relation to any statement required for the purposes of section one hundred and forty-four of the Income Tax Act, 1952 (which relates to partnerships) it does not include any tax not chargeable in the partnership name ; and in relation to a person's failure to deliver any other return or statement it does not include tax assessed in the name of a partnership on so much of the profits or gains assessed as falls to be included in the total income of any other person.
- (5) Except in the case mentioned in subsection (2) of this section, a person shall not be liable to any penalty incurred under this section for a failure to comply with any notice or precept, if the failure is remedied before proceedings for the recovery of the penalty are commenced.
- (6) Where a person is liable to more than one penalty of an amount determined under subsection (2) of this section, any assessment taken into account for the purposes of one of those penalties shall be left out of account for the purposes of the other or others.
- (7) The preceding provisions of this section shall have effect subject to the proviso to subsection (4) of section twenty and the proviso to subsection (1) of section twenty-seven of the Income Tax Act, 1952.

#### **47      Penalty for fraudulently or negligently making incorrect returns, etc.**

- (1) Where a person fraudulently or negligently—
  - (a) delivers any incorrect return or statement of a kind mentioned in any of the provisions specified in the first column of the Sixth Schedule to this Act; or
  - (b) makes any incorrect return, statement or declaration in connection with any claim for any allowance, deduction or relief; or

- (c) submits to the surveyor or any Commissioners any incorrect accounts in connection with the ascertainment of his liability to income tax;  
he shall be liable to a penalty not exceeding the aggregate of—
  - (i) fifty pounds ; and
  - (ii) the amount or, in the case of fraud, twice the amount of the difference specified in subsection (1) of section forty-eight of this Act.
- (2) Where a person fraudulently or negligently furnishes, gives, produces or makes any incorrect information, certificate, document, record or declaration of a kind mentioned in any of the provisions specified in the second or third column of the Sixth Schedule to this Act he shall be liable to a penalty not exceeding two hundred and fifty pounds, or, in the case of fraud, five hundred pounds.
- (3) Where any such return, statement, declaration or accounts as are mentioned in subsection (1) of this section were made or submitted by any person neither fraudulently nor negligently and it comes to his notice (or, if he has died, to the notice of his personal representatives) that they were incorrect, then, unless the error is remedied without unreasonable delay, the return, statement, declaration or accounts shall be treated for the purposes of this section as having been negligently made or submitted by him.

#### **48 Provisions supplementary to section 47**

- (1) The difference referred to in paragraph (ii) of subsection (1) of section forty-seven of this Act is the difference between—
  - (a) the amount of tax payable for the relevant years of assessment by the said person (including any amount deducted at source and not repayable); and
  - (b) the amount which would have been the amount so payable if the return, statement, declaration or accounts as made or submitted by him had been correct.
- (2) The relevant years of assessment for the purposes of subsection (1) of this section are, in relation to anything delivered, made or submitted in any year of assessment, that, the next following, and any preceding year of assessment; and the references in that subsection to the amount of tax payable include surtax, except that, in relation to anything done in connection with a partnership, they do not include any tax not chargeable in the partnership name.
- (3) For the purposes of section forty-seven of this Act, any accounts submitted on behalf of any person shall be deemed to have been submitted by him unless he proves that they were submitted without his consent or connivance.

#### **49 Penalty for failure to give information affecting investment allowances**

In sub-paragraph (4) of paragraph 3 of the Second Schedule to the Finance Act, 1954 (which imposes a penalty equal to twenty pounds plus three times the amount of the investment allowance on a person failing to give information required under that paragraph) for the words " equal to twenty pounds plus three times" there shall be substituted the words " not exceeding fifty pounds plus ".

## **50      Assisting in making incorrect return, etc.**

Any person who assists in or induces the making or delivery for any purposes of income tax of any return, accounts, statement or declaration which he knows to be incorrect shall be liable to a penalty not exceeding five hundred pounds.

## **51      Time limit for recovery from taxpayer of tax lost through his fault**

- (1) Where, for the purpose of making good to the Crown a loss of tax wholly or partly attributable to the fraud, wilful default or neglect of any person, an assessment for any year (in this section referred to as " the normal year ") has been made on him not later than six years after the end of that year, assessments to tax for earlier years may, to the extent provided by the following provisions of this section, be made on him notwithstanding that, but for this section, they would be out of time.
- (2) No assessment under this section shall be made on any person except for the purpose of making good to the Crown a loss of tax attributable to his neglect.
- (3) An assessment under this section for any year ending not earlier than six years before the end of the normal year may be made at any time not later than the end of the year of assessment following that in which the tax covered by the assessment mentioned in subsection (1) of this section is finally determined.
- (4) An assessment under this section for any year ending earlier than six years before the end of the normal year may only be made with the leave of the General or Special Commissioners, given under the following provisions of this section.
- (5) Where an assessment for any year (in this section referred to as " the earlier year ") has been made on any person more than six years after the end of that year—
  - (a) under this section; or
  - (b) in the circumstances mentioned in subsection (6) of this section, under the proviso to subsection (1) of section forty-seven or the proviso to subsection (3) of section two hundred and twenty-nine of the Income Tax Act, 1952 (which relate to fraud or wilful default),

and it appears to the General or Special Commissioners, on an application made to them not later than the end of the year of assessment following that in which the tax covered by the assessment for the earlier year is finally determined, that there are reasonable grounds for believing that tax for a year ending not earlier than six years before the end of the earlier year was or may have been lost to the Crown owing to the neglect of that person, they may give leave for the making on him of an assessment under this section for that year.

- (6) The circumstances referred to in paragraph (b) of subsection (5) of this section are that the assessment for the earlier year was one of a number of assessments made on that person for the purpose mentioned in subsection (1) of this section and that of the years for which those assessments were made—
  - (a) the latest, apart from the normal year, ended not more than six years before the end of the normal year;
  - (b) the next, if any, ended not more than six years before the end of the said latest year;

and so on for any earlier years.

- (7) An application for leave under this section may be made by the surveyor or any person nominated for that purpose by the Commissioners of Inland Revenue, and on any such application the person to be assessed shall be entitled to appear and be heard.
- (8) In determining the amount of the tax to be charged for any year in any assessment made under this section effect shall be given, if the person to be assessed so requires, to any relief or allowance to which he would have been entitled for that year on a claim or application made within the time allowed by the Income Tax Acts.
- (9) Notwithstanding anything in the preceding provisions of this section, an assessment under this section for a year ending not earlier than six years before the end of the normal year or an application for leave under this section shall not be out of time if it is made before the sixth day of April, nineteen hundred and sixty-two.

## **52 Modification of s. 51 in relation to partnerships**

- (1) The following provisions of this section shall have effect where such an assessment as is mentioned in subsection (1) of section fifty-one of this Act was made on any person who at any time carried on a trade, profession or vocation in partnership with any other person (whether the assessment was made in respect of the profits or gains thereof or not).
- (2) In this section—
  - " the business " means the trade, profession or vocation mentioned in subsection (1) of this section;
  - " the normal year " has the same meaning as in section fifty-one of this Act;
  - " the person in default " means the person mentioned in subsection (1) of that section.
- (3) Subject to subsection (5) of this section, an assessment in respect of the profits or gains of the business may be made under the said section fifty-one not only on the person in default but on any person who carried on the business at any time in the year for which the assessment is made and either—
  - (a) then carried it on in partnership with the person in default or with a person who at any time in the normal year carried it on in partnership with the person in default; or
  - (b) at any time in the normal year carried on the business in partnership with the person in default;and may be made for the purpose of making good to the Crown a loss of tax attributable to the neglect of any person who carried on the business at any time in the year for which the assessment is made.
- (4) For the purpose of determining whether leave may be given for the making of such an assessment on two or more persons who carried on the business in partnership subsections (5) and (6) of the said section fifty-one shall have effect as if the neglect referred to therein were the neglect of any of those persons and as if the assessments referred to therein were assessments made on any one of those persons.
- (5) Where such an assessment is made on two or more persons who carried on the business in partnership and those persons include any person (in this subsection referred to as "the exempted partner ") who was not charged in any such assessment as is mentioned in subsection (1) of this section, the tax charged in the assessment—

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- (a) shall not include tax on so much of the profits or gains as would fall to be included in the exempted partner's total income; and
  - (b) shall not be recoverable from the exempted partner ;
- and where a person who was not charged as aforesaid carried on the business otherwise than in partnership no such assessment shall be made on him.

### **53 Time limit for recovery of tax lost through deceased person's fault**

For the purpose of making good to the Crown any loss of tax attributable to the fraud, wilful default or neglect of a person who has died, an assessment on his personal representatives to tax for any year of assessment ending not earlier than six years before his death may be made at any time before the end of the third year next following the year of assessment in which he died.

### **54 Time limit for certain penalty proceedings**

- (1) Where the amount of any penalty to which a person is liable under the Income Tax Acts is determined by reference to tax charged in an assessment for any year which is made not later than six years after the end of that year, proceedings for the recovery of the penalty shall not be out of time by reason that they are commenced after the time allowed by subsection (1) of section five hundred and one of the Income Tax Act, 1952, if they are commenced within three years from the final determination of the amount of that tax.
- (2) Where the said amount was finally determined before the sixth day of April, nineteen hundred and fifty-nine, the proceedings shall not be out of time if they are commenced before the sixth day of April, nineteen hundred and sixty-two.
- (3) In any proceedings for the recovery of a penalty which could not have been commenced but for this section any tax charged in an assessment made under section fifty-one or section fifty-three of this Act shall be left out of account in determining the amount of the penalty.

### **55 Time limit for summary proceedings, and increase of maximum fine in such proceedings**

- (1) Notwithstanding anything in the Magistrates' Courts Act, 1952, the Summary Jurisdiction (Scotland) Act, 1954, or the Summary Jurisdiction Acts (Northern Ireland), proceedings for an offence under any of the following enactments (which relate to false statements and false representations) that is to say,—
  - (a) section twenty-six of the Finance Act, 1946,
  - (b) section five hundred and five of the Income Tax Act, 1952; and
  - (c) section one of the Income Tax (Repayment of Post-War Credits) Act, 1959,
 may be commenced at any time within three years from the time when the offence was committed.
- (2) In relation to proceedings under the said section five hundred and five, subsection (3) of section twenty-seven of the Magistrates' Courts Act, 1952, and section forty of the Summary Jurisdiction (Scotland) Act, 1954, shall have effect as if for Part in the words " twenty-five pounds" there were substituted the words " one hundred pounds ".

## **56 Procedure for recovery of fines and penalties**

- (1) Except as otherwise provided in this section, no proceedings shall be commenced against any person for the recovery of any fine or penalty under the Income Tax Acts except by order of the Commissioners of Inland Revenue.
- (2) Any such proceedings which are not instituted (in England, Wales or Northern Ireland) under the Crown Proceedings Act, 1947, by and in the name of the Commissioners of Inland Revenue as an authorised department for the purposes of that Act shall be instituted in the name of an officer, or,—
  - (a) in England and Wales, in the name of the Attorney General;
  - (b) in Scotland, in the name of the Lord Advocate; and
  - (c) in Northern Ireland, in the name of the Attorney General for Northern Ireland.
- (3) Any such proceedings may, except as otherwise provided in the Income Tax Acts, be commenced either before the General or Special Commissioners, or—
  - (a) in England, Wales or Northern Ireland, in the High Court;
  - (b) in Scotland, in the Court of Session as the Court of Exchequer in Scotland ;and any proceedings commenced as mentioned in paragraph (a) of this subsection shall be deemed to be civil proceedings by the Crown within the meaning of Part II of the Crown Proceedings Act, 1947, or, as the case may be, that Part as for the time being in force in Northern Ireland.
- (4) The surveyor may, without an order of the Commissioners of Inland Revenue, commence before the General Commissioners (or, in Northern Ireland, the Special Commissioners) proceedings for a penalty incurred by any person under subsection (1) of section forty-six of this Act for a failure to deliver, furnish or produce anything to the surveyor; but in any proceedings so commenced the Commissioners shall not in any case award, in respect of the first of the penalties mentioned in the said subsection (1), a sum exceeding fifty pounds.
- (5) Where the person who has incurred any fine or penalty has died, any proceedings under this section which have been or could have been commenced against him may be continued or commenced against his personal representatives and any fine or penalty awarded in proceedings so continued or commenced shall be a debt due from and payable out of his estate; but nothing in this subsection shall extend the time for commencing proceedings against personal representatives.
- (6) Where any proceedings under this section are brought before any Commissioners, an appeal shall lie to the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland, from their decision—
  - (a) by any party, on a question of law; and
  - (b) by the defendant (or, in Scotland, the defender) against the amount of any fine or penalty awarded;and on any appeal under paragraph (b) of this subsection the court may either confirm the decision or reduce or increase the sum awarded.
- (7) Proceedings under this section before any Commissioners shall be by way of information in writing, made to them, and upon summons issued by them to the defendant (or defender) to appear before them at a time and place stated in the summons, and they shall hear and determine each case in a summary way; and any penalty awarded by them in such proceedings shall for all purposes be treated as if it were tax charged in an assessment and due and payable.

- (8) The Commissioners or the court before whom any proceedings for a penalty of a fixed amount are brought under this section may, if they think fit, give judgment for a less amount.
- (9) The Governor of Northern Ireland may, if he thinks fit, appoint some other person to act instead of the Attorney General for Northern Ireland in relation to any matters to which this section relates, and in that case the reference in this section to the Attorney General for Northern Ireland shall be construed as a reference to the person so appointed.

## **57 Recovery of tax repaid in consequence of fraud or negligence**

Where, in consequence of a person's fraud, wilful default or negligence, any tax has been repaid which ought not to have been repaid, the amount thereof may be charged under Case VI of Schedule D and recovered accordingly.

## **58 Interest on tax recovered to make good loss due to taxpayer's fault**

- (1) Where an assessment is made for the purpose of making good to the Crown a loss of tax wholly or partly attributable to the fraud, wilful default or neglect of any person, the tax charged by the assessment or, as the case may be, such part thereof as corresponds to the part so attributable, shall carry interest at the rate of three per cent. per annum from the date on which the tax ought to have been paid until payment.
- (2) For the purposes of this section, the date when tax charged for any year of assessment ought to have been paid shall be taken to be the first day of January in that year, except that in the case of one-half of any tax specified in subsection (2) of section seventy-two of the Income Tax Act, 1952, it shall be taken to be the following first day of July, and in the case of surtax it shall be taken to be the following first day of January.
- (3) Tax carrying interest under this section shall not carry interest under section four hundred and ninety-five of the Income Tax Act, 1952.
- (4) Subsection (4) of the said section four hundred and ninety-five and section four hundred and ninety-six of the Income Tax Act, 1952 (which provide for the recovery, and for the adjustment, in certain cases, of interest payable under the said section four hundred and ninety-five) shall apply in relation to interest payable under this section as they apply in relation to interest payable under that section.
- (5) A certificate by the General or Special Commissioners that the tax or a specified part of the tax charged by an assessment specified in the certificate carries interest under this section from a date so specified shall be sufficient evidence of that fact in proceedings for the recovery of that interest.
- (6) A certificate under subsection (5) of this section shall not be given except on the application of the surveyor or a person nominated for that purpose by the Commissioners of Inland Revenue, and on any such application the person charged by the assessment (or, if he has died, his personal representatives) shall be entitled to appear and be heard.
- (7) The Commissioners of Inland Revenue may at their discretion mitigate (whether before or after judgment) any interest due under this section and may stay or compound any proceedings for the recovery thereof.

**59 Power of General or Special Commissioners in relation to appeals and assessments**

- (1) Any penalty incurred by any person for a failure to comply with a precept under section fifty-four of the Income Tax Act, 1952, or incurred by any person under subsection (3) of section fifty-nine of that Act (which enables the General or Special Commissioners to summon witnesses) may be awarded summarily by them notwithstanding that no proceedings for its assessments, recovery have been commenced, and accordingly subsection (5) of section forty-six of this Act shall not apply to any penalty so awarded.
- (2) An appeal shall lie to the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland, from the award of any penalty under this section, and on any such appeal the court may either confirm or reverse the decision of the Commissioners or reduce or increase the sum awarded.
- (3) Any penalty awarded by virtue of this section shall for all purposes be treated as if it were tax charged in an assessment and due and payable.
- (4) In subsection (3) of the said section fifty-nine for the words " twenty pounds " there shall be substituted the words " fifty pounds ".

**60 Evidence of income for the purposes of Part III**

For the purposes of this Part of this Act, any assessment which can no longer be varied by any Commissioners on appeal or by the order of any court shall be sufficient evidence that the income in respect of which tax is charged in the assessment arose or was received as stated therein.

**61 Application of Part III to the profits tax**

The provisions of the Seventh Schedule to this Act shall have effect for the purpose of making with respect to the profits tax provision corresponding to the preceding provisions of this Part of this Act.

**62 Application of Part III to certain regulations made with concurrence of Commissioners of Inland Revenue**

In subsection (3) of section three of the National Insurance Act, 1959 (which imposes for a failure to comply with regulations made by virtue of that section the penalties provided by subsection (5) of section one hundred and fifty-seven of the Income Tax Act, 1952), for the words from the beginning to "this section " there shall be substituted the words " Sections forty-six and forty-seven of the Finance Act, 1960, shall apply in relation to regulations made by virtue of this section as they apply in relation to regulations made under section one hundred and fifty-seven of the Income Tax Act, 1952, " and for the words " so made " there shall be substituted the words " made by virtue of this section ".

**63 Interpretation of Part III**

- (1) In this Part of this Act—  
" assessment " includes additional assessment;

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" neglect " means negligence or a failure to give any notice, make any return, statement or declaration, or to produce or furnish any list, document or other information required by or under the Income Tax Acts ;

" the Summary Jurisdiction Acts (Northern Ireland) " means the Summary Jurisdiction (Ireland) Acts and any Act of the Parliament of Northern Ireland for the time being in force amending those Acts ;

and references to this Part of this Act include references to the Seventh Schedule to this Act.

- (2) For the purposes of this Part of this Act, a person shall be deemed not to have failed to do anything required to be done within a limited time if he did it within such further time, if any, as the Commissioners or officer concerned may have allowed; and where a person had a reasonable excuse for not doing anything required to be done he shall be deemed not to have failed to do it if he did it without unreasonable delay after the excuse had ceased.
- (3) For the purposes of this Part of this Act, an assessment made in the partnership name and the tax charged in such an assessment shall, according to the law in Scotland as well as according to the law elsewhere in the United Kingdom, be deemed to be respectively an assessment made on the partners and tax charged on and payable by them.
- (4) For the purposes of this Part of this Act, the amount of tax covered by any assessment shall not be deemed to be finally determined until that assessment can no longer be varied, whether by any Commissioners on appeal or by the order of any court.
- (5) The references in section forty-six of this Act to the amount of tax with which a person is charged for any year of assessment and to assessments made on him include, in the case of a person who has died, references to any amount with which his personal representatives are charged for that year and to assessments made on them.

## PART IV

### ESTATE DUTY

#### **64 Estate duty: graduation of charge on gifts, etc.**

- (1) Where, in the case of a person dying after the fourth day of April, nineteen hundred and sixty, any property is deemed to pass on the death by virtue of a gift or any other relevant disposition or event (estate duty being chargeable on the property apart from this section), and the death takes place in the third, fourth or last year of the five-year period, then subject to the provisions of this section the principal value of the property shall be reduced for estate duty purposes—
  - (a) by fifteen per cent. thereof, if the death takes place in the third year,
  - (b) by thirty per cent. thereof, if the death takes place in the fourth year,
  - (c) by sixty per cent. thereof, if the death takes place in the fifth year.

In this section " the five-year period " means the period of five years beginning with the relevant disposition or event.

- (2) In this section " relevant disposition or event " means—

- (a) any such disposition as is mentioned in paragraph (a) of subsection (2) of section thirty-eight of the Customs and Inland Revenue Act, 1881 (gifts inter vivos), including—
    - (i) any such payment or application of money or money's worth as is mentioned in subsection (2) of section thirty-one of the Finance Act, 1939 (discharge of debts etc. disallowable for estate duty valuation),
    - (ii) any such disposition in favour of a relative or company as under section forty-four of the Finance Act, 1940, is to be treated as a gift made by the deceased,
    - (iii) any such creation or extinguishment of a debt or other right as under section forty-five of the Finance Act, 1940, is to be deemed to have been a disposition of property, and
    - (iv) any such payment of a premium as under subsection (2) of section thirty-four of the Finance Act, 1959, is to be treated as a gift;
  - (b) any such disposition or determination of an interest as is mentioned in subsection (1) of section forty-three of the Finance Act, 1940 (disposition or determination of life interests);
  - (c) any such disposition of the personal interest of a tenant in tail as is mentioned in section forty-five of the Finance Act, 1950 (Parliamentary settled estates);
  - (d) any such purchase of an interest in settled property as is mentioned in paragraph (b) of subsection (1) of section twenty-eight of the Finance Act, 1958 (purchases of interests in expectancy).
- (3) Where, irrespective of the interval between the relevant disposition or event and the death, duty would be chargeable (apart from this section) by reason of a person's not being entirely excluded from possession and enjoyment of property and of any benefit to him by contract or otherwise, then:—
- (a) if he was not so excluded immediately before the death, subsection (1) of this section shall not apply ;
  - (b) if he was so excluded at any previous time and continued to be so excluded until the death (but duty would be chargeable as aforesaid by reason of that time not falling early enough before the death), subsection (1) of this section shall apply with the substitution for the reference to the five-year period of a reference to the period of five years beginning with that time.
- (4) Where—
- (a) under subsection (2) of section three of the Finance Act, 1894, a deduction from the value of the property falls to be made in respect of partial consideration, or
  - (b) under the provisions of subsection (1) of section forty-four of the Finance Act, 1940 (dispositions in favour of relatives) and of subsection (2) of section forty of the Finance Act, 1944 (relaxation of those provisions) one or more deductions fall to be made in the course of determining the amount on which estate duty is payable in accordance with those provisions, or
  - (c) by virtue of subsection (8) of section twenty-eight of the Finance Act, 1958, any debt incurred or encumbrance created for the purpose of or in consideration of the purchase of an interest in expectancy is allowable as a deduction for estate duty purposes,

subsection (1) of this section shall have effect subject to the modification that the reduction provided for by that subsection shall be applied after allowing for any such deduction.

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- (5) Notwithstanding the foregoing provisions of this section, in subsection (2) of section fifty-nine of the Finance (1909-10) Act, 1910 (exemption for small gifts inter vivos), section thirty-three of the Finance Act, 1949 (extension of exemption for certain small gifts inter vivos) and subsection (11) of section thirty-eight of the Finance Act, 1957 (marginal relief in respect of the exemption provided for by the said section thirty-three), references to the aggregate value or amount of any gifts shall be construed as references to the aggregate value or amount thereof apart from any reduction under this section.

## **65 Estate duty: graduation of charge where benefits from company surrendered**

- (1) Where, in the case of a person dying after the fourth day of April, nineteen hundred and sixty, such a surrender as is mentioned in subsection (1) of section forty-eight of the Finance Act, 1940 (under which a surrender of title to benefits from a company will not defeat a charge to estate duty under section forty-six of that Act) is made bona fide at a time before the beginning of the two years ending with the death, the amount of any benefits treated as accruing to the deceased from the company which are so treated by virtue only of the operation of the said section forty-eight in relation to that surrender shall be reduced—
- (a) by fifteen per cent. thereof if the said time fell during the first of the three years ending with the death,
  - (b) by thirty per cent. thereof if it fell during the first of the four years ending with the death, or
  - (c) by sixty per cent. thereof if it fell earlier.
- (2) Where subsection (2) of section fifty-one of the Finance Act, 1940 (under which where estate duty is payable in respect of shares" or debentures by virtue of which benefits accrued to the deceased, relief from duty under section forty-six of the Act is given by reference to the value of the shares or debentures) has effect as respects any shares or debentures by reason of any benefits being treated as accruing to the deceased, being benefits of which under the foregoing subsection the amount is reduced by any percentage, paragraphs (a) and (b) of the said subsection (2) shall so have effect as if for references to the value of the shares or debentures there were substituted references to their value reduced in the proportion which that percentage of the amount of the said benefits bears to the amount of all benefits accruing or treated as accruing to the deceased from the company by virtue of any interest that he at any time had in the shares or debentures or by virtue of a power's having at any time been exercisable by him or with his consent in relation thereto, and other references in the said section fifty-one shall be construed accordingly.

## **66 Valuation of assets of certain companies**

- (1) Subject to the provisions of this section, in the case of a person dying after the fourth day of April, nineteen hundred and sixty, the principal value of assets of a company which are used in, and in the case of land or buildings are occupied for the purposes of, a trade or business carried on by the company shall be estimated for the purposes of section fifty-five of the Finance Act, 1940 (valuation, by reference to assets, of shares and debentures of certain companies) on the footing that the sale by reference to which (in accordance with subsection (5) of section seven of the Finance Act, 1894) the value of the assets is to be estimated is a sale of the business where the assets are subject to an enforceable restriction that they are to be used or occupied only for the purposes of that business.

- (2) In the case of a company whose business consists wholly or mainly of one or more of the following, that is to say dealing in securities, stocks or shares, land or buildings or making or holding investments, subsection (1) of this section shall not apply to securities, stocks, shares, land or buildings belonging to the business at the time of the death.
- (3) Subsection (1) of this section shall not have effect so as to reduce the principal value of shares or debentures below whichever is the lower of—
- (a) the amount at which it would have been estimated in accordance with subsection (5) of section seven of the Finance Act, 1894,
  - (b) the amount at which it would have been estimated (under section fifty-five of the Finance Act, 1940) if this section had not been passed ;
- and in section twenty-eight of the Finance Act, 1954 (reduced rate of duty on certain business assets), in subsection (2), after the words " section fifty-five of the Finance Act, 1940 " there shall be inserted the words " or where paragraph (a) of subsection (3) of section sixty-six of the Finance Act, 1960, operates to determine the principal value of any such shares or debentures ".

## PART V

### MISCELLANEOUS

#### **67 Increase of rate of profits tax**

As from the beginning of April, nineteen hundred and sixty, the rate at which the profits tax is to be charged by virtue of subsection (1) of section twenty-five of the Finance Act, 1958, shall be increased from ten per cent. to twelve and a half per cent.

#### **68 Appeals against profits tax directions**

If, on an appeal to the Special Commissioners under subsection (7) of section thirty-two of the Finance Act, 1951 (directions to nullify transactions designed to avoid liability to the profits tax), the appellant or the Commissioners of Inland Revenue are dissatisfied with the determination of the Special Commissioners, they may require the appeal to be re-heard by such a tribunal as is specified in subsection (7) of section twenty-eight of this Act; and subsection (8) of that section shall apply for the purposes of this section as it applies for the purposes of the said subsection (7).

#### **69 Assimilation of authorised unit trust schemes to investment companies: (income tax)**

- (1) In respect of income arising to the trustees of an authorised unit trust scheme, the enactments relating to income tax (including the regulations made thereunder) shall have effect as if the trustees were a company, resident in the United Kingdom, whose business consists mainly in the making of investments and the principal part of whose income is derived therefrom, and as if the rights of the unit holders were shares of the company, and so much of the income arising as aforesaid as is available for payment to unit holders or for investment were dividends on such shares paid to them in proportion to their rights, the date of payment, in the case of income not paid to unit holders, being taken to be—

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- (a) the date or latest date provided by the terms of the scheme for any distribution in respect of the distribution period in question;
  - (b) if no date is so provided, the last day of the distribution period.
- (2) Without prejudice to the generality of the foregoing subsection—
- (a) sums periodically appropriated out of income arising as aforesaid for managers' remuneration shall be treated for the purposes of section four hundred and twenty-five of the Income Tax Act, 1952, as sums disbursed as expenses of management,
  - (b) the proportion of income attributable to any unit holder, being income not paid to unit holders but available for investment, shall be treated as an amount paid to the unit holder after such deduction of tax as is authorised by subsection (1) of section one hundred and eighty-four of the Income Tax Act, 1952;
  - (c) section one hundred and ninety-nine of that Act shall apply with any necessary modifications.

## **70      Assimilation of authorised unit trust schemes to investment companies: (profits tax)**

- (1) For the purposes of the profits tax the holding of investments subject to the trusts of an authorised unit trust scheme shall in all cases be treated as a business carried on by the trustees; and—
- (a) income shall not be excluded from profits chargeable to the tax by reason only that the trustees are not beneficially entitled thereto;
  - (b) the holding of the investments subject to the trusts of any one scheme shall be treated as a separate business, and any notice given under section twenty-two of the Finance Act, 1937 (grouping of profits and losses of principal and subsidiary companies) shall not apply in relation to any such business ;
  - (c) the trustees shall be treated in relation to any such business as a body corporate ordinarily resident in the United Kingdom, irrespective of their actual residence.
- (2) So much of the income arising to the trustees of an authorised unit trust scheme as is received by unit holders shall be treated for profits tax purposes as if it were so received by way of dividend.

## **71      Supplementary provisions relating to ss. 69 and 70**

- (1) In the two foregoing sections " authorised unit trust scheme " means, as respects any year of assessment (for income tax purposes) or chargeable accounting period (for profits tax purposes), a unit trust scheme in the case of which an order of the Board of Trade under section seventeen of the Prevention of Fraud (Investments) Act, 1958, or of the Ministry of Commerce for Northern Ireland under section sixteen of the Prevention of Fraud (Investments) Act (Northern Ireland), 1940, is in force during the whole or some part of that year or accounting period, and " unit holder " means a person entitled to a share of the investments subject to the trusts of a unit trust scheme.
- (2) In ascertaining the amount available for distribution to unit holders in respect of any distribution period the trustees of an authorised unit trust may make such adjustments as may be reasonably required to allow for liabilities to and reliefs from tax where the amount of the liability or relief is not yet ascertained.

- (3) The two foregoing sections shall have effect, in relation to any unit trust scheme, from the beginning of the first distribution period of the scheme beginning after the fifth day of April, nineteen hundred and sixty.
- (4) In section sixty-nine of this Act and this section "distribution period" means a period over which income from the investments subject to the trusts is aggregated for the purpose of ascertaining the amount available for distribution to unit holders.

## **72 Capital allowances for certain business or estate management expenditure**

- (1) Subject to the provisions of this section, as respects the year 1960-61 and subsequent years of assessment Chapter II of Part X of the Income Tax Act, 1952, and such other provisions of the Income Tax Acts as relate to allowances (including investment allowances) under that Chapter and to charges thereunder shall apply with any necessary adaptations in relation to any such machinery or plant as is mentioned in subsection (2) of this section as they apply in relation to machinery or plant provided for use or used for the purposes of a trade; and in relation to any allowances and balancing charges which fall to be made by virtue of this section the Income Tax Acts shall apply (except as respects the time and manner of claiming or giving effect to the allowances or charges) as if they were to be made in charging the profits or gains of a trade:

Provided that no investment allowance shall be made by virtue of subsection (2) of section two hundred and seventy-nine of the Income Tax Act, 1952 (which relates to expenditure incurred for the purposes of a trade by a person about to carry it on), in respect of expenditure incurred before the year 1960-61.

- (2) The machinery or plant to which the said Chapter II is to apply by virtue of the foregoing subsection is—
  - (a) machinery or plant provided for use or used for the purposes of the management of—
    - (i) the business of any such company as is mentioned in section four hundred and twenty-five of the Income Tax Act, 1952 (which relates to certain life assurance companies and investment companies), or
    - (ii) the business of any body of persons to which that section is applied by section four hundred and thirty-eight of the Act (which relates to savings banks and certain industrial and provident societies); and
  - (b) machinery or plant provided for use or used by the owner of land or houses chargeable under Schedule A for the maintenance, repairs or management of the land or houses.
- (3) Allowances and balancing charges which by virtue of this section fall to be made to or on a person for any year of assessment shall be made, on his management expenses claim in respect of the business referred to in paragraph (a) of the last foregoing subsection, or his maintenance claim in respect of the land or houses referred to in paragraph (b) thereof, as the case may be, by adding the amount of any such allowances to the relevant expenditure and by deducting the amount on which any such charge is to be made from that expenditure (or from the sum of that expenditure and any addition made to it under this subsection):

Provided that—

- (a) any charge shall be made under Case VI of Schedule D if or in so far as a deduction cannot be made for it under this subsection (whether for the want

- of a management expenses claim or maintenance claim or for the want or insufficiency of the relevant expenditure) ; and
- (b) the net amount which under this subsection is added to or deducted from the relevant expenditure on a person's maintenance claim in respect of any land or houses shall, on any assessment in respect of the same property made by virtue of section one hundred and seventy-six of the Income Tax Act, 1952 (which relates to excess rents under certain short leases), be also added to or deducted from the corresponding amount referred to in paragraph (g) of subsection (1) of that section.
- (4) In relation to allowances and charges falling to be made for any year of assessment in accordance with this section,—
- (a) the basis period for the purposes of the said Chapter II is that year of assessment; and
- (b) " the relevant expenditure" in the last foregoing subsection—
- (i) in the case of allowances and charges to be made on a management expenses claim, means the sums disbursed as expenses of management of the business for that year ; and
- (ii) in the case of allowances and charges to be made on a maintenance claim, means the cost to the claimant of maintenance, repairs, insurance and management in respect of the land or houses for that year as determined under section one hundred and one of the Income Tax Act, 1952.
- (5) Where the allowances falling by virtue of this section to be made to a person on a maintenance claim for any year of assessment, other than investment allowances, exceed the increase due to those allowances in the following amounts, that is to say,—
- (a) the amount by which that person's total income for the year in question is reduced by the operation of the said section one hundred and one or paragraph (g) of subsection (1) of the said section one hundred and seventy-six; and
- (b) the amount which is to be treated under section three hundred and thirteen of the Income Tax Act, 1952 (which relates to cases where the assessment on agricultural land is too low for full relief to be given under section one hundred and one), as an allowance for that year falling to be made to that person by way of discharge or repayment of tax ;
- the excess shall be left out of account for the purpose of determining whether any, and if so what, balancing allowance or balancing charge falls to be made to or on him for any subsequent year of assessment, and for that purpose shall be deducted from the allowances (if more than one) rateably in proportion to their amounts or in such other manner as he may elect.
- Nothing in this subsection shall affect the operation of section two hundred and ninety-five of the Income Tax Act, 1952 (under Which annual allowances are deemed to have been made in certain cases for years in which they are not made), nor shall anything in that section affect the operation of this subsection.
- (6) No allowance, other than an investment allowance, and no balancing charge shall be made by virtue of this section for any year of assessment in respect of expenditure incurred by any person on machinery or plant, except in pursuance of an election made by him for that year of assessment; but an election for any year of assessment shall have effect as an election for that and all subsequent years of assessment.

- (7) An election under the last foregoing subsection shall be made in a management expenses claim or a maintenance claim, as the case may be, and may be made either for all machinery or plant provided for use or used for the purposes of the management of the relevant business, or for the maintenance, repairs or management of the relevant land or houses, as the case may be, or for any class of machinery or plant so provided or used; but an election for machinery or plant of any class shall not be made for any year of assessment after effect has been given without such an election to a management expenses or maintenance claim relating to that or a subsequent year of assessment in respect of the business or of the land or houses in question.
- (8) Corresponding allowances or charges in the case of the same machinery or plant shall not be made under the said Chapter II (whether for the same year of assessment or for different years) both on a management expenses or maintenance claim and in some other way; and, on any management expenses claim, maintenance claim or assessment under the said section one hundred and seventy-six, expenditure to which an election under this section applies shall not be taken into account otherwise than under the said Chapter II (except, on a management expenses claim, for the purpose of carrying forward a sum from a previous year of assessment in accordance with subsection (1A) of section four hundred and twenty-five of the Income Tax Act, 1952).
- (9) For the purposes of a claim by a company for the year 1960-61 or any subsequent year of assessment under subsection (5) of section two hundred and sixty-two of the Income Tax Act, 1952 (which provides that for the purposes of the charge of surtax under that section on an investment company's income other than estate or trading income there may be deducted any excess of certain expenditure on maintenance, repairs, insurance and management over the gross estate or trading income of the company), the cost of maintenance, repairs, insurance and management incurred by the company in the year, and the amount of its gross estate or trading income for the year, shall be computed in all respects as if this section had not been passed; and for the proviso to the said subsection (5) there shall, in relation to any such claim, be substituted—
- “Provided that the expenditure taken into account for the purpose of making any such reduction as aforesaid in a company's income shall, in computing the company's estate or trading income for any subsequent year, be treated as reduced rateably by the amount of the said reduction in the company's income”.
- (10) Where under the Second Schedule to the Finance Act, 1954, an investment allowance made by virtue of this section is withdrawn, or an initial allowance is substituted therefor, any tax which becomes chargeable by reason of the withdrawal or substitution, may, if not otherwise recovered, be assessed under Case VI of Schedule D and recovered accordingly, and any such assessment may be made at any time.
- (11) In this section—
- " management expenses claim " means a claim under section four hundred and twenty-five of the Income Tax Act, 1952;
- " maintenance claim " means a claim under section one hundred and one of that Act; and references to the purposes of the management of a business are to be taken as referring to those purposes expenditure on which would, apart from this section, be treated as expenses of management on a management expenses claim in respect of the business.
- (12) The Income Tax Acts shall have effect, and this section shall be construed, as if the foregoing provisions of this section were contained in the said Chapter II.

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- (13) The references in this section to the Income Tax Acts shall include subsection (12) of section sixteen of the Finance Act, 1954 (which provides for investment allowances for the purposes of the profits tax); but save as aforesaid this section shall not affect the profits tax.

**73 Visiting forces and staffs of allied headquarters (income tax and estate duty exemptions)**

- (1) The emoluments paid by the Government of any designated country to a member of a visiting force of that country, not being a citizen of the United Kingdom and colonies, shall be exempt from income tax and from estate duty in connection with his death.
- (2) Where any such member of a visiting force as is referred to in subsection (1) of this section dies while serving as a member of the force in the United Kingdom, any tangible movable property the presence of which in the United Kingdom at the time of his death is due solely to his presence in the United Kingdom while so serving shall be exempt from estate duty in connection with his death.
- (3) A period during which any such member of a visiting force as is referred to in subsection (1) of this section is in the United Kingdom by reason solely of his being such a member shall not be treated, for purposes either of income tax or of estate duty in connection with his death, as a period of residence in the United Kingdom, or as creating a change of his residence or domicile:

Provided that this subsection shall not affect the operation in the case of any person for any year of assessment of section two hundred and twenty-seven of the Income Tax Act, 1952 (which confines the personal reliefs under Part VIII of that Act to residents in the United Kingdom, with a limited exception for certain cases).

- (4) In the foregoing provisions of this section, references to a visiting force shall apply to a civilian component of a visiting force as they apply to the force itself, and those provisions shall be construed as one with Part I of the Visiting Forces Act, 1952, but so that for the purposes of this section references to a designated country shall be substituted in that Act for references to a country to which a provision of that Act applies.
- (5) For the purpose of conferring on persons attached to any designated allied headquarters the like benefits as are conferred by subsections (1) to (3) of this section on members of a visiting force or civilian component, any members of the armed forces of a designated country shall, while attached to any such headquarters, be deemed to constitute a visiting force of that country, and there shall be a corresponding extension of the class of persons who may be treated as members of a civilian component of such a visiting force.
- (6) In the case of persons of any category for the time being agreed between Her Majesty's Government in the United Kingdom and the other members of the North Atlantic Council—
- (a) employment by a designated allied headquarters shall be treated for the purposes of subsections (2) and (3) of this section as if it were service as a member of a visiting force of a designated country; and
  - (b) the emoluments paid by a designated allied headquarters to persons employed by such a headquarters shall be exempt from income tax, but this exemption shall cease to apply to citizens of the United Kingdom and colonies if it

becomes unnecessary that it should so apply for the purpose of giving effect to any agreement between parties to the North Atlantic Treaty.

(7) For the purposes of this section—

" allied headquarters " means any international military headquarters established under the North Atlantic Treaty;

" designated " means designated for the purpose in question by or under any Order in Council made for giving effect to any international agreement.

(8) Any Order in Council under this section may be varied or revoked by a subsequent Order in Council.

(9) Notwithstanding anything in the Government of Ireland Act, 1920, the Parliament of Northern Ireland shall, as respects estate duty payable under the laws of Northern Ireland, have power to make laws for purposes similar to the purposes of this section.

#### **74 Visiting forces and allied headquarters (stamp duty exemptions)**

(1) Subsections (2) to (4) of this section shall have effect with a view to conferring exemptions from stamp duty (corresponding to exemptions applicable in the case of Her Majesty's forces) in relation to any visiting force of a designated country, and in those subsections " a force " means any such visiting force as aforesaid.

(2) There shall be exempted from all stamp duties any contract, conveyance or other document made with a view to building or enlarging barracks or camps for a force, or to facilitating the training in the United Kingdom of a force, or to promoting the health or efficiency of a force.

(3) There shall be exempted from the duty under either heading " Bill of exchange " in the First Schedule to the Stamp Act, 1891, any bill for any pay or allowance of a force or for any other expenditure connected therewith, being a bill drawn upon and payable out of a public account of the country to which the force belongs.

(4) There shall be exempted from the duty under the heading " Receipt " in the First Schedule to the Stamp Act, 1891—

(a) any receipt given for or upon the payment of money to or for the use of the authorities of a force;

(b) any receipt given by any person in the service of the country to which a force belongs for money paid by way of imprest or advance for the service of the force, or in adjustment of an account of money paid for the service of the force, where he derives no personal benefit therefrom.

(5) Subsections (2) to (4) of this section shall have effect in relation to any designated allied headquarters as if—

(a) the headquarters were a, visiting force of a designated country;

(b) the members of that force consisted of such of the persons serving at or attached to the headquarters as are members of the armed forces of a designated country;

(c) the references to the country to which a force belongs included both any designated allied headquarters and, in relation to any such person as aforesaid, the country of whose armed forces he is a member.

(6) For the purposes of this section—

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*Status: This is the original version (as it was originally enacted).*

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- (a) " allied headquarters " means any international military headquarters established or to be established under the North Atlantic Treaty;
  - (b) " designated" means designated for the purpose in question by or under any Order in Council;
  - (c) " visiting force " means any body, contingent or detachment of a country's forces which is for the time being or is to be present in the United Kingdom on the invitation of Her Majesty's Government in the United Kingdom.
- (7) Any Order in Council under this section may be varied or revoked by a subsequent Order in Council.
- (8) Notwithstanding anything in the Government of Ireland Act, 1920, the Parliament of Northern Ireland shall, as respects stamp duties payable under the laws of Northern Ireland, have power to make laws for purposes similar to the purposes of this section.
- (9) This section shall be construed as one with the Stamp Act, 1891.

## **75 Relief from purchase tax on articles intended for galleries, museums, etc.**

Subject to such conditions as they may impose for the protection of the revenue, the Commissioners, upon an application in writing made to them in that behalf, may if they think fit remit purchase tax chargeable in respect of any article if they are satisfied that the purchase, importation or other act by virtue of which the tax is chargeable was made or done for the purpose of enabling the article to be used as an exhibit or specimen in a gallery, museum or similar institution, being an institution approved by the Treasury for the purposes of this section, and that the article is not intended for subsequent sale.

## **76 Relief from purchase tax on importation of certain goods**

- (1) If an importer into the United Kingdom of any goods to which this section applies makes application to be relieved of purchase tax payable on the importation of the goods, the Treasury, if in all the circumstances of the case, and having regard to the fact that purchase tax is payable on the like goods on chargeable transactions in the United Kingdom, they think fit so to do, may direct that purchase tax shall not be payable on the importation of the goods or, if it has been paid thereon, shall be repaid.
- (2) Any application under the foregoing subsection must be in writing and must, except in a case where the Commissioners otherwise allow, be made before the goods have been released from customs control.
- (3) In giving a direction under this section the Treasury may impose conditions (including conditions prohibiting or restricting the disposal of or dealing with the goods), and if any condition subject to which such a direction is given is not observed the importer shall become liable to pay the tax of which he was relieved by the direction; and the Commissioners may, if they see fit, require the importer to give security by bond or otherwise for the observance of the conditions and the payment of any tax becoming due by reason of any breach of the conditions or in accordance with the terms of any consent given under the conditions to a disposal of or dealing with the goods.
- (4) This section applies—
  - (a) to any goods as respects which it appears to the Treasury that relief from purchase tax on the importation thereof is necessary or expedient with a view

to conforming with an international agreement relating to matters other than commercial relations;

- (b) to any such articles as are mentioned in paragraph 2 of the Fourth Schedule to the Import Duties Act, 1958 (which relates to articles imported for examination or testing with a view to the manufacture in the United Kingdom of similar articles or goods made from or containing similar articles) or paragraph 3 of that Schedule (which relates to articles intended to be used for the advancement of science, learning or art or the promotion of sport, and not to be sold or used commercially);
- (c) to any goods as to which the Treasury are satisfied that it is intended to re-export them or goods incorporating them or manufactured or produced from them, that there are special reasons why, with a view to promoting the interests of the export trade or similar interests, purchase tax should not be charged on their importation and that it is in the national interest that it should not be.

## **77 Premium Savings Bonds**

- (1) The following provisions of this section shall have effect with respect to Premium Savings Bonds referred to in the prospectus dated the first day of November, nineteen hundred and fifty-six (hereinafter referred to as bonds of series A) and the second issue of Premium Savings Bonds (hereinafter referred to as bonds of series B).
- (2) If on or after the publication of a prospectus relating to the issue of bonds of series B the Treasury by notice published in the London, Edinburgh and Belfast Gazettes appoint a date for the purposes of this section, being a date not less than one month after the first publication of the notice, then as from that date any bond of series A in the case of which the sum repayable in respect of the bond has not been repaid before that date shall be deemed—
  - (a) to be a bond of series B ; and
  - (b) to have been purchased by, or, as the case may be, on behalf of, the person who was the holder of the bond of series A;and for the purposes of the arrangements for constituting the prize fund from which prizes are allotted to holders of bonds of series B and the allocation of the prizes that bond shall be deemed at any time to have been held as a bond of series B for the period elapsing between its purchase as a bond of series A and the said time.
- (3) The notice published by the Treasury in pursuance of the foregoing subsection shall contain such explanation as appears to the Treasury requisite of the effect of this section.
- (4) For the purposes of subsection (2) of this section the sum repayable in respect of a Premium Savings Bond shall be deemed to be repaid on the date on which a warrant for that sum, or for a sum which includes that sum, is posted to a person entitled to receive the repayment.

## **78 Exchequer advances to nationalised industries and undertakings**

- (1) The power conferred by section forty-two of the Finance Act, 1956, to make advances to certain bodies of sums which they would have power to borrow by the issue of stock shall be exercisable up till the end of August, nineteen hundred and sixty-three, subject to the limits for the time being prescribed by law on the amounts outstanding in respect of sums borrowed by those bodies and subject to the following limitations:—

- (a) the aggregate of the advances made under that section up to the end of August, nineteen hundred and sixty-one shall not exceed two thousand and fifty million pounds;
  - (b) no advances shall be made under that section during either of the subsequent two years unless provision has been made by order of the Treasury fixing a maximum amount for the aggregate of the advances to be made under the said section forty-two up to the end of that year.
- (2) An order under this section shall not have effect unless approved by a resolution of the Commons House of Parliament.
  - (3) Any power conferred by this section to make an order shall be exercisable by statutory instrument, and shall include power to vary or revoke an order.
  - (4) Subsection (3) of the said section forty-two (which fixes the maximum amounts of advances under the section and the period within which they may be made) shall cease to have effect.

## PART VI

### GENERAL

#### 79      **Short title, interpretation, construction, extent and repeal**

- (1) This Act may be cited as the Finance Act, 1960.
- (2) " The Act of 1952 " in Part I of this Act means the Customs and Excise Act, 1952, and in Part II of this Act means the Income Tax Act, 1952.
- (3) Parts I to V of this Act shall be construed as one with the enactments mentioned in the following paragraphs, that is to say—
  - (a) Part I with the Customs and Excise Act, 1952 ;
  - (b) Part II with the Income Tax Acts;
  - (c) Parts III and V, so far as they relate to income tax with the Income Tax Acts, and so far as they relate to the profits tax with Part III of the Finance Act, 1937, and the other enactments relating to that tax;
  - (d) Part IV, and Part V so far as it relates to estate duty, with Part I of the Finance Act, 1894;
  - (e) Part V, so far as it relates to purchase tax, with Part V of the Finance (No. 2) Act, 1940.
- (4) Any reference in this Act to any other enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended or applied by or under any other enactment, including this Act.
- (5) Save as otherwise expressly provided, such of the provisions of this Act as relate to matters in respect of which the Parliament of Northern Ireland has power to make laws shall not extend to Northern Ireland.
- (6) The enactments specified in the Eighth Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule, and the said repeals shall have effect—

- (a) in the case of the enactments specified in Part I of that Schedule, from the passing of this Act, subject, in the case of the enactments mentioned in subsection (4) of section forty of this Act, to the provisions of that subsection;
- (b) in the case of the enactments specified in Part II of that Schedule, subject to the provisions of section forty-four of this Act;
- (c) in the case of the enactments specified in Part III of that Schedule, from the fourth day of August, nineteen hundred and sixty;

but no repeal of any enactment specified in the said Part I shall affect any vehicle excise licence taken out before the passing of this Act or any tobacco dealer's licence granted before the beginning of October, nineteen hundred and sixty, or the effect as respects the sale of tobacco of any such excise licence as is mentioned in subsection (2) of section six of this Act which was granted as aforesaid.

## SCHEDULES

### FIRST SCHEDULE

Section 3.

#### APPLICATION OF PART IX OF ACT OF 1952 TO SPIRITS CONSIGNMENT NOTES

- 1 (1) Section two hundred and forty-one (general provisions as to permits and certificates) shall be amended as follows.
  - (2) After subsection (1) there shall be inserted the following subsection:—
 

“(1A) As respects goods in the case of which a requirement is imposed by the customs or excise Acts that a spirits consignment note shall be sent in connection with their removal, the Commissioners may make regulations requiring the keeping and production of such notes and copies thereof, and of stock books.”
  - (3) In the proviso to subsection (2) (penalty not to be incurred for failure to deliver up permit where lost or destroyed more than three months after issue) after the words "deliver up a permit" there shall be inserted the words " or keep or produce a spirits consignment note or copy of such a note ", after the words " the permit" there shall be inserted the words " or note ", and for the words " more than three months after the date of its issue " there shall be substituted the words " by accident ".
- 2 In section two hundred and forty-two (offences in connection with permits and certificates) in subsection (1) after the words " for the removal of any goods " there shall be inserted the words " or a spirits consignment note is required in connection with the removal of any goods " , after paragraph (a) there shall be inserted—
 

“(aa) sends out, or causes to be sent out, any such goods without the proper spirits consignment note being duly sent, or ", in paragraphs (c) to (e) after the word " permit" there shall be inserted the words " or spirits consignment note " , and in paragraph (e) after the word " with " there shall be inserted the words " or in connection with ".”.
- 3 In section two hundred and forty-three, in subsection (1), after the word " permit" in each place where it occurs there shall be inserted the words " or spirits consignment note ".

## SECOND SCHEDULE

Section 9.

### SUPPLEMENTARY PROVISIONS AS TO MARKING OF HEAVY OILS

#### PART I

##### REGULATIONS

The purposes for which regulations may be made by virtue of subsection (3) of section nine of this Act are the following:—

- (a) specifying the substances which are to be prescribed markers for the purposes of that section ;
- (b) providing that the presence of a marker shall be disregarded if the proportion in which it is present is less than that prescribed for the purposes of this paragraph ;
- (c) requiring as a condition of allowing rebate on any heavy oils, subject to any exceptions provided by or under the regulations, that there shall have been added to those oils, at such time, in such manner and in such proportions as may be prescribed, one or more prescribed markers, with a prescribed colouring substance (not being a prescribed marker), and that a declaration to that effect is furnished ;
- (d) prohibiting the addition to any heavy oils of any prescribed marker or prescribed colouring substance except in such circumstances as may be prescribed ;
- (e) prohibiting the removal from any heavy oils of any prescribed marker or prescribed colouring substance;
- (f) prohibiting the addition to heavy oils of any substance, not being a prescribed marker, which is calculated to impede the identification of a prescribed marker;
- (g) regulating the storage or movement of prescribed markers and of heavy oils in respect of which rebate has been allowed;
- (h) requiring any person who adds a prescribed marker to any heavy oils to keep in such manner and to preserve for such period as may be prescribed by the regulations such accounts and records in connection with his use of that marker as may be so prescribed, and requiring the production of the accounts and records;
- (i) authorising the entry and inspection of premises, other than private dwelling houses, and authorising, or requiring the giving of facilities for, the inspection of heavy oils found on any premises entered or of oils forming part of the fuel supply of any vehicle and the taking of samples of any oils inspected;
- (j) requiring, either generally or as respects any prescribed description of vehicle, that a vehicle constructed or adapted for use on roads and for which heavy oils can be used as fuel shall display the prescribed mark in the prescribed manner, and that the mark shall be kept unobscured and in such a state as to be easily distinguishable ;
- (k) requiring the production of books or documents relating to the sale, purchase, or disposal of heavy oils ;
- (l) requiring, in such circumstances or subject to such exceptions as may be prescribed, that any drum, storage tank, delivery pump or other container or outlet which contains any heavy oils in which a prescribed marker is present shall be marked in the prescribed manner to indicate that the oils are not to be used as road fuel;
- (m) requiring any person who sells any heavy oils in which a prescribed marker is present to deliver to the buyer a document containing a statement in the prescribed form to the effect that the oils are not to be used as road fuel ;

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- (n) prohibiting the sale for use as fuel for any vehicle, being a vehicle to which section two hundred of the Act of 1952 applies, of any heavy oils the colour of which would prevent any prescribed colouring substance from being readily visible if present therein ;
- (o) prohibiting the importation of heavy oils in which any prescribed marker, or any other substance which is calculated to impede the identification of a prescribed marker, is present;
- (p) prohibiting persons, in such circumstances as may be specified in the regulations, from selling heavy oils in respect of which rebate has been allowed and not repaid, except under and in accordance with licences granted by the Commissioners.

In this Part of this Schedule "prescribed" means prescribed by such regulations as aforesaid; and references in this Part of this Schedule to the use of oils as fuel for a vehicle shall be construed in accordance with subsection (1) of section seven of the Finance Act, 1959.

## PART II

### SAMPLING

- 1      The person taking a sample—
  - (a) if he takes it from a motor vehicle, shall if practicable do so in the presence of the owner or person for the time being in charge of the vehicle ;
  - (b) if he takes the sample on any premises but not from a motor vehicle, shall if practicable take it in the presence of the occupier or person for the time being in charge of those premises.
- 2      (1) The result of an analysis of a sample shall not be admissible on behalf of the prosecution in any proceedings in respect of an offence under section two hundred or two hundred and eight of the Act of 1952 (which respectively impose restrictions on the use and mixing of heavy oils in respect of which rebate has been allowed and not repaid) or under any regulations made under section one hundred and ninety-eight of that Act unless the analysis was made by an authorised analyst and the requirements of the foregoing paragraph (where applicable) and of the following provisions of this paragraph have been complied with.
  - (2) The person taking a sample must at the time have divided it into three parts (including the part to be analysed), marked and sealed or fastened up each part, and—
    - (a) delivered one part to the owner or person in charge of the vehicle or, as the case may be, the occupier or person in charge of the premises, if he requires it; and
    - (b) retained one part for future comparison.
  - (3) Where it was not practicable to comply with the relevant requirements of paragraph 1 of this Schedule, the person taking the sample must have served notice on the owner or person in charge of the vehicle or, as the case may be, the occupier of the premises informing him that the sample has been taken and that one part of it is available for delivery to him, if he requires it, at such time and place as may be specified in the notice.
- 3      In any such proceedings as are mentioned in sub-paragraph (1) of the foregoing paragraph a certificate purporting to be signed by an authorised analyst and certifying the presence of any substance in any such sample of heavy oils as may be specified in the certificate shall be evidence, and in Scotland sufficient evidence, of the facts therein stated:

Provided that (without prejudice to the admissibility of the evidence of the analyst, which shall be sufficient in Scotland as well as in England) such a certificate shall not be admissible as evidence—

- (a) unless a copy thereof has, not less than seven days before the hearing, been served on the person charged with the offence; or
- (b) if that person, not less than three days before the hearing or within such further time as the court may in special circumstances allow, serves notice on the prosecutor requiring the attendance at the hearing of the person by whom the analysis was made.

- 4
- (1) Any notice required or authorised to be given under this Schedule shall be in writing.
  - (2) Any such notice shall be deemed, unless the contrary is shown, to have been received by a person if it is shown to have been left for him at his last-known residence or place of business in the United Kingdom.
  - (3) Any such notice may be given by post, and the letter containing the notice may be sent to the last-known residence or place of business in the United Kingdom of the person to whom it is directed.
  - (4) Any such notice given to the secretary or clerk of a company or body of persons (incorporated or unincorporated) on behalf of the company or body shall be deemed to have been given to the company or body ; and for the purpose of the foregoing provisions of this paragraph any such company or body of persons having an office in the United Kingdom shall be treated as resident at that office or, if it has more than one, at the registered or principal office.
  - (5) Where any such notice is to be given to any person as the occupier of any land, and it is not practicable after reasonable inquiry to ascertain—
    - (a) what is the name of any person being the occupier thereof, or
    - (b) whether or not there is a person being the occupier thereof,the notice may be addressed to the person concerned by any sufficient description of the capacity in which it is given to him.
  - (6) In any case to which the foregoing sub-paragraph applies, and in any other case where it is not practicable after reasonable inquiry to ascertain an address in the United Kingdom for the service of a notice to be given to a person as being the occupier of any land, the notice shall be deemed to have been received by the person concerned on being left for him on the land, either in the hands of a responsible person or conspicuously affixed to some building or object on the land.
  - (7) The foregoing provisions of this paragraph (other than sub-paragraph (1)) shall not affect the validity of any notice duly given otherwise than in accordance with those provisions.

- 5
- In this Part of this Schedule the expression " authorised analyst" means the Government Chemist or a person acting under his direction, the Government Chemist for Northern Ireland or a person acting under his direction, any chemist authorised by the Treasury to make analyses for the purposes of this Schedule, or any other person appointed under section eighty-nine of the Food and Drugs Act, 1955, section twenty-seven of the Food and Drugs (Scotland) Act, 1956, or section thirty-one of the Food and Drugs Act (Northern Ireland), 1958, as a public analyst or deputy public analyst.

*Status: This is the original version (as it was originally enacted).*

- 6 References in this Part of this Schedule to the taking of a sample or to a sample shall be construed respectively as references to the taking of a sample in pursuance of regulations made by virtue of section nine of this Act and to a sample so taken.

## THIRD SCHEDULE

Section 19.

### RELIEF FOR NATIONAL INSURANCE CONTRIBUTIONS

#### PART I

##### DESCRIPTIONS OF CONTRIBUTORS AND AMOUNTS FOR RELIEF

<i>Description of contributor</i>	<i>Amount for relief</i> £
1. Employed persons over the age of eighteen	15
2. Employed persons under the age of eighteen—	
(a) boys	8
(b) girls	6
3. Self-employed persons over the age of eighteen—	
(a) men	20
(b) women	16
4. Self-employed persons under the age of eighteen—	
(a) boys	12
(b) girls	9
5. Non-employed persons over the age of eighteen—	
(a) men	19
(b) women	15
6. Non-employed persons under the age of eighteen—	
(a) boys	11
(b) girls	9

## PART II

### APPLICATION OF PART I TO SPECIAL CASES

- 1 The amounts specified in the second column of Part I of this Schedule relate to a claim for a single description for a whole year of assessment, and shall be reduced proportionately where the claimant proves that he is a contributor of any particular description for part only of a year.
- 2 In relation to a contributor being a married woman or widow who as such is by virtue of regulations under the National Insurance Act not required to pay contributions under subsection (2) of section two of that Act, paragraph 1 of Part I of this Schedule shall have effect with the substitution of £5 for £15 in the second column and paragraph 2 thereof shall have effect with the substitution of £5 for £6.

## FOURTH SCHEDULE

Section 38.

### RELIEFS IN RESPECT OF TAX UNDER SECTION THIRTY-SEVEN

#### *Preliminary*

- 1 Relief shall be allowed in accordance with the following provisions of this Schedule in respect of tax chargeable by virtue of section thirty-seven of this Act, where a claim is duly made in accordance with subsection (4) of section thirty-eight of this Act.
- 2 A person shall not be entitled to relief under this Schedule in so far as such relief, together with any relief allowed under Part VIII of the Act of 1952, would reduce the amount of income on which he is chargeable at the standard rate below the amount tax on which he is entitled to charge against any other person, or to deduct, retain or satisfy out of any payment which he is liable to make to any other person.

#### *Relief by reduction of sums chargeable*

- 3 In computing the charge to tax in respect of a payment chargeable to tax under section thirty-seven of this Act, not being a payment of compensation for loss of office, there shall be deducted from the payment a sum equal to the amount (if any) by which the standard capital superannuation benefit for the office or employment in respect of which the payment is made exceeds five thousand pounds.
- 4 In this Schedule "the standard capital superannuation benefit", in relation to an office or employment, means a sum arrived at as follows, that is to say—
  - (a) there shall be ascertained the average for one year of the holder's emoluments of the office or employment for the last three years of his service before the relevant date (or for the whole period of his service if less than three years);
  - (b) one-twentieth of the amount ascertained at (a) shall be multiplied for the whole number of complete years of the service of the holder in the office or employment; and
  - (c) there shall be deducted from the product at (b) a sum equal to the amount, or, as the case may be, to the value at the relevant date, of any lump sum (not chargeable to tax) received or receivable by the holder in respect of

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the office or employment in pursuance of any such scheme or fund as is referred to in paragraph (d) of subsection (1) of section thirty-eight of this Act:

Provided that no account shall be taken for the purposes of this paragraph of the service of any person as an officer or employee of a body corporate at any time while he was a controlling director (as defined by section three hundred and ninety of the Act of 1952) of that body.

- 5 Where tax is chargeable under section thirty-seven of this Act in respect of two or more payments to which paragraph 3 of this Schedule applies, being payments made to or in respect of the same person in respect of the same office or employment or in respect of different offices or employments held under the same employer or under associated employers, then—

- (a) the said paragraph 3 shall apply as if those payments were a single payment of an amount equal to their aggregate amount and, where they are made in respect of different offices or employments, as if the standard capital superannuation benefit were an amount equal to the sum of the standard capital superannuation benefits for those offices or employments ;
- (b) where the payments are treated as income of different years of assessment, the relief to be granted under that paragraph in respect of a payment chargeable for any year of assessment shall be the amount by which the relief computed in accordance with the foregoing provision in respect of that payment and any payments chargeable for previous years of assessment exceeds the relief in respect of the last-mentioned payments ;

and where the standard capital superannuation benefit for an office or employment in respect of which two or more of the payments are made is not the same in relation to each of those payments, it shall be treated for the purposes of this paragraph as equal to the higher or highest of those benefits.

- 6 In computing the charge to tax in respect of a payment chargeable to tax under section thirty-seven of this Act, being a payment made in respect of an office or employment in which the service of the holder includes foreign service and not being a payment of compensation for loss of office, there shall be deducted from the payment (in addition to any deduction allowed under the foregoing provisions of this Schedule) a sum which bears to the amount which would be chargeable to tax apart from this paragraph the same proportion as the length of the foreign service bears to the length of the service before the relevant date.

#### *Relief by reduction of tax*

- 7 In the case of any payment in respect of which tax is chargeable under section thirty-seven of this Act, the following relief shall be allowed by way of deduction from the tax chargeable by virtue of that section, that is to say, there shall be ascertained—

- (a) the amount of tax which would be chargeable apart from this paragraph in respect of the income of the holder or past holder of the office or employment for the year of assessment of which the payment is treated as income ;
- (b) the amount of tax which would be so chargeable if the payment had not been made;
- (c) the difference between the respective amounts of tax which would be so chargeable on the assumptions—

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(i) that the appropriate fraction only of the payment (after deducting any relief applicable thereto under the foregoing provisions of this Schedule) had been made ; and

(ii) that no part of the payment had been made ;

and disregarding, in each case, any other emoluments of the office or employment;

and the amount to be deducted shall be the difference between the amount ascertained at (a) and the sum of the amount ascertained at (b) and the appropriate multiple of the difference ascertained at (c).

8 Where the income of the holder or past holder of the office or employment for the year of assessment of which the payment is treated as income includes income, tax on which he is entitled to charge against any other person, or to deduct, retain or satisfy out of any payment which he is liable to make to any other person, the amounts referred to in sub-paragraphs (a) to (c) of paragraph 7 of this Schedule shall be calculated as if that tax were not chargeable in respect of that income.

9 In this Schedule " the appropriate fraction" and " the appropriate multiple ", in relation to any payment, mean respectively—

(a) where the payment is not a payment of compensation for loss of office, one-sixth and six ;

(b) where the payment is a payment of compensation for loss of office, one divided by the relevant number of years of unexpired service, and that number of years ;

and for the purposes of this paragraph " the relevant number of years of unexpired service" means the number of complete years taken into account in calculating the amount of the payment, being years for which the holder of the office or employment would have been entitled (otherwise than by virtue of arrangements made in contemplation of his retirement or removal or of any relevant change in the functions or emoluments of the office or employment) to retain the office or employment or its full emoluments, and where the period taken into account as aforesaid is less than one complete year or exceeds an exact number of years, it shall be treated for the purposes of this paragraph as one complete year or as the next higher number of complete years, as the case may be.

10 Where tax is chargeable under section thirty-seven of this Act in respect of two or more payments to or in respect of the same person in respect of the same office or employment and is so chargeable for the same year of assessment, those payments shall be treated for the purposes of paragraph 7 of this Schedule as a single payment of an amount equal to their aggregate amount:

Provided that where the appropriate fraction and appropriate multiple are not the same for each of the payments, the calculations of relief under the said paragraph 7 shall be made separately in relation to each payment or payments having a different appropriate fraction and multiple, and in any such calculation—

(a) any payment for which the appropriate multiple is lower shall be left out of account for all the purposes of the said paragraph 7; and

(b) in ascertaining the difference at (c) of that paragraph it shall be assumed that the appropriate fraction only of any payment for which the appropriate multiple is higher had been made ;

and the relief to be allowed shall be the sum of the reliefs so calculated in respect of the payments respectively.

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- 11 Where tax is chargeable under section thirty-seven of this Act in respect of two or more payments to or in respect of the same person in respect of different offices or employments, and is so chargeable for the same year of assessment, paragraphs 7 to 10 of this Schedule shall apply as if those payments were made in respect of the same office or employment and as if any emoluments of any of those offices or employments were emoluments of the same office or employment.

*Supplemental*

- 12 Any reference in the foregoing provisions of this Schedule to a payment in respect of which tax is chargeable under section thirty-seven of this Act is a reference to so much of that payment as is chargeable to tax after deduction of the relief applicable thereto under subsection (3) of section thirty-eight of this Act.

- 13 In this Schedule " payment of compensation for loss of office " means a payment made—

- (a) in pursuance of an order of a court in proceedings for wrongful dismissal or otherwise for breach of a contract of employment, or by way of settlement of such proceedings or of a claim in respect of which such proceedings could have been brought; or
- (b) by way of compensation for the extinguishment of any right the infringement of which would be actionable in such proceedings ;

and any question whether, and to what extent, a payment is or is not a payment of compensation for loss of office shall be determined according to all the circumstances and not (or not exclusively) by reference to the terms on which it is expressed to be made.

- 14 Any reference in this Schedule to the emoluments of an office or employment is a reference to those emoluments exclusive of any payment chargeable to tax under section thirty-seven of this Act; and in calculating for any purpose of this Schedule the amount of such emoluments—

- (a) there shall be included any balancing charge to which the holder of the office or employment is liable under section two hundred and ninety-two of the Act of 1952 ;
- (b) there shall be deducted any allowances under Chapter II of Part X of that Act, and any allowances for expenses under paragraph 7 of the Ninth Schedule to that Act, to which he is entitled ;

and any such charges or allowances as aforesaid for a year of assessment shall, for the purpose of ascertaining the amount of the emoluments for any year of service, be treated as accruing from day to day, and shall be apportioned in respect of time accordingly.

- 15 In this Schedule " the relevant date " means, in relation to a payment not being a payment in commutation of annual or other periodical payments, the date of the termination or change in respect of which it is made and, in relation to a payment in commutation of annual or other periodical payments, the date of the termination or change in respect of which those payments would have been made.

- 16 In this Schedule " foreign service ", in relation to an office or employment, means service such that tax was not chargeable in respect of the emoluments of the office or employment—

- (a) in the case of the year 1956-57 or any subsequent year, under Case I of Schedule E ;

- (b) in the case of any preceding year of assessment, under Schedule E.
- 17 Any reference in this Schedule to the amount of tax to which a person is or would be chargeable is a reference to the amount of tax to which he is or would be chargeable either by assessment or by deduction.

## FIFTH SCHEDULE

Section 42.

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED  
KINGDOM AND THE GOVERNMENT OF THE REPUBLIC OF  
IRELAND WITH RESPECT TO CERTAIN EXEMPTIONS FROM TAX

The Government of the United Kingdom and the Government of the Republic of Ireland,

Considering the Agreement of the 14th April, 1926, between the British Government and the Government of the Irish Free State in pursuance of which exemptions from tax are conferred on persons resident in one only of the countries from tax under the law of the other,

Considering that legislation may be enacted in either country to maintain the proper incidence of liability to income tax and to prevent the obtaining of undue tax advantages,

Considering that such legislation may be insufficiently effective unless, as well as applying to persons resident in the country where it is enacted, it applies also to persons not so resident but resident in the other of the two countries and accordingly affects exemptions from tax conferred in pursuance of the said Agreement of 1926,

Recognising that the legislation which was the subject of the Agreement of the 4th April, 1959, made between the two Governments affected the said exemptions in particular ways, and desiring to supplement that Agreement by a more general Agreement,

Desiring to declare that save as provided by this Agreement the continuance in force of the said Agreement of 1926 shall not be affected by the enactment of such legislation,

Have agreed as follows :—

*Article 1*

Legislation enacted in either country at any time after the date of this Agreement and affecting in any way exemptions from income tax of that country of persons resident in that country shall, except as otherwise provided by the legislation and subject to the next following Article of this Agreement, have the like effect on exemptions from that tax which persons enjoy as not resident in that country but resident in the other of the two countries, and the enactment of such legislation shall not affect the continuance in force of the said Agreement of 1926, as amended by Agreements of the 25th April, 1928, the 21st July, 1947, and the 4th April, 1959, and this Agreement.

*Article 2*

If the Government of either country represents that any provisions of legislation enacted in the other country, being provisions falling within Article 1 of this Agreement, are nevertheless not within the intention of the Agreement, the two Governments shall consult and if they agree that Article 1 ought not to apply the Government of the country in which the legislation was enacted shall take the necessary steps to secure that the said provisions shall not affect, or be deemed

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to have affected, exemptions from the income tax of that country which persons enjoy as not resident therein but resident in the other country.

### *Article 3*

This Agreement shall become effective on the exchange of notes confirming that the necessary steps have been taken to give it the force of law in the United Kingdom and the Republic of Ireland, and thereafter shall remain effective only so long as it has the force of law in both countries.

Dated this 23rd day of June, 1960.

For the Government of the United Kingdom	For the Government of the Republic of Ireland
D. HEATHCOAT AMORY	SEAMAS O RIAIN

## SIXTH SCHEDULE

Sections 46 and 47.

### PROVISIONS REFERRED TO IN SECTIONS FORTY-SIX AND FORTY-SEVEN

The Income Tax Act, 1952	The Income Tax Act, 1952	The Income Tax Act, 1952
section 19	section 22	section 88 (2)
section 20	section 23	89 (1)
section 21	24	section H6 (2)
section 144	section 26	section 170 (2)
section 231	27	section 242 (4)
section 355 (2)	29	section 390 (5) (a)
section 356 (2)	section 31	
section 358 (4)	section 54	Schedule 8, Part III, paragraph 1
	section 81 (1)	
	section 91 (a)	
	section 91 (b)	
	section 203 (6)	Regulations under section 157 of the Income Tax Act, 1952.
	section 232	
	section 233 (1)	
	section 234 (1)	
	section 237 (1)	Regulations under section 34 of the Finance Act, 1957.

The Income Tax Act, 1952	The Income Tax Act, 1952	The Income Tax Act, 1952
	section 237 (2)	
	section 250 (1)	
	section 250 (4)	
	section 250 (5)	This Act, section 37 (7)
	section 264 (1)	
	section 390 (5) (b)	
	section 402	
	section 410 (1)	
	section 414 (1)	
	section 416 (5)	
	section 422 (4)	
	Schedule 20,	
	paragraph 9	
	This Act, section 29	

## SEVENTH SCHEDULE

Section 61.

### APPLICATION OF PART III TO THE PROFITS TAX

- 1 (1) Where a person has been required by a notice served under paragraph 1 of Part III of the Fifth Schedule to the Finance Act, 1937, to make any return or furnish any particulars and fails to comply with the notice, he shall be liable, subject to paragraph 3 of this Schedule, to a penalty not exceeding, except in the case mentioned in paragraph 2 of this Schedule, fifty pounds and, if the failure continues after it has been declared by the court or Commissioners before whom proceedings for the penalty have been commenced, to a further penalty not exceeding ten pounds for each day on which the failure so continues.
- (2) In paragraph 4 of the said Part III, for the words " any of the foregoing provisions " there shall be substituted the words " the provisions of paragraph 3 " , and the words from " and, in a case " to the end of the paragraph shall be omitted.
- 2 Where any such failure continues after the expiration of one year from the service of the notice, the first of the penalties mentioned in paragraph 1 of this Schedule shall be an amount not exceeding the aggregate of fifty pounds and the total amount of the tax with which the said person is charged, in assessments made after the expiration of one year from the service of the notice, on the profits of the trade or business in question arising during any chargeable accounting period which is or includes the period or any part of the period to which the return or the particulars ought to have related.
- 3 Except in the case mentioned in paragraph 2 of this Schedule, a person shall not be liable to any penalty incurred under paragraph 1 of this Schedule if his failure is remedied before proceedings for the recovery of the penalty are commenced.

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- 4 (1) Where a person fraudulently or negligently delivers any incorrect return or particulars of a kind mentioned in paragraph 1 of Part III of the Fifth Schedule to the Finance Act, 1937, or makes any incorrect statement or declaration in connection with any application for relief, he shall be liable to a penalty not exceeding the aggregate of—
- (a) fifty pounds, and
  - (b) the amount or, in the case of fraud, twice the amount of the difference specified in paragraph 5 of this Schedule.
- (2) Where any such return, particulars, statement or declaration were delivered or made by any person neither fraudulently nor negligently and it comes to his notice that they were incorrect then, unless the error is remedied without unreasonable delay, the return, particulars, statement or declaration shall be treated for the purposes of this paragraph as having been negligently delivered or made by him.
- 5 The difference referred to in paragraph 4 of this Schedule is the difference between—
- (a) the total amount of tax chargeable in assessments for any chargeable accounting period which is or includes the period or any part of the period to which the return, particulars, statement or declaration relate; and
  - (b) the amount which would have been the amount so chargeable if the return, particulars, statement or declaration as delivered or made by him had been correct.
- 6 Any person who assists in or induces the making or delivery for any purposes of the profits tax of any return, statement, declaration or particulars which he knows to be incorrect shall be liable to a penalty not exceeding five hundred pounds.
- 7 (1) Whenever any assessment to income tax for any year of assessment has been made on any person by virtue of section fifty-one of this Act which is based wholly or partly on the profits of a trade or business carried on by him, an assessment to the profits tax may, subject to sub-paragraph (2) of this paragraph, be made on him for any chargeable accounting period ending after the beginning of the period during which those profits arose.
- (2) Without prejudice to any power exercisable under section twenty-seven of the Finance Act, 1958, an assessment under this paragraph may be made only before the expiration of two years from the final determination of the tax covered by the said assessment to income tax, and only for the purpose of making good to the Crown a loss of tax attributable to the said person's neglect.
- (3) In determining the amount of the tax to be charged for any chargeable accounting period in any assessment made under this paragraph effect shall be given, if the person to be assessed so requires, to any deduction or relief to which he would have been entitled for that period on an application made within the time allowed by the enactments relating to the profits tax.
- 8 (1) Where the amount of any penalty to which a person is liable under the enactments relating to the profits tax is determined by reference to tax charged in an assessment for any chargeable accounting period which is made not later than six years after the end of that period, proceedings for the recovery of the penalty shall not be out of time by reason that they are commenced after the time allowed by the Eighth Schedule to the Finance Act, 1943, if they are commenced within three years after the final determination of the amount of that tax.

- (2) Where the said amount was finally determined before the sixth day of April, nineteen hundred and fifty-nine, the proceedings shall not be out of time if they are commenced before the sixth day of April, nineteen hundred and sixty-two.
  - (3) In any proceedings for the recovery of a penalty which could not have been commenced but for this paragraph any tax charged in an assessment made under paragraph 7 of this Schedule shall be left out of account in determining the amount of the penalty.
- 9
- (1) Except as otherwise provided in this paragraph, no proceedings shall be commenced against any person for the recovery of any fine or penalty under the enactments relating to the profits tax except by order of the Commissioners of Inland Revenue.
  - (2) Any such proceedings which are not instituted (in England, Wales or Northern Ireland) under the Crown Proceedings Act, 1947, by and in the name of the Commissioners of Inland Revenue as an authorised department for the purposes of that Act shall be instituted in the name of an officer or,
    - (a) in England and Wales, in the name of the Attorney General;
    - (b) in Scotland, in the name of the Lord Advocate ; and
    - (c) in Northern Ireland, in the name of the Attorney General for Northern Ireland.
  - (3) Any such proceedings may, except as otherwise provided in the enactments relating to the profits tax, be commenced either before the General or Special Commissioners, or—
    - (a) in England, Wales or Northern Ireland, in the High Court;
    - (b) in Scotland, in the Court of Session as the Court of Exchequer in Scotland ;and any proceedings commenced as mentioned in paragraph (a) of this sub-paragraph shall be deemed to be civil proceedings by the Crown within the meaning of Part II of the Crown Proceedings Act, 1947, or, as the case may be, that Part as for the time being in force in Northern Ireland.
  - (4) The surveyor may, without an order of the Commissioners of Inland Revenue, commence before the General Commissioners (or, in Northern Ireland, the Special Commissioners) proceedings for a penalty incurred under paragraph 1 of this Schedule; but in any proceedings so commenced the Commissioners shall not in any case award, in respect of the first of the penalties mentioned in that paragraph, a sum exceeding fifty pounds.
  - (5) Where any proceedings under this paragraph are brought before any Commissioners, an appeal shall lie to the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland, from their decision—
    - (a) by any party, on a question of law ; and
    - (b) by the defendant (or, in Scotland, the defender) against the amount of any fine or penalty awarded ;and on any appeal under paragraph (b) of this sub-paragraph the court may either confirm the decision or reduce or increase the sum awarded.
  - (6) Proceedings under this paragraph before any Commissioners shall be by way of information in writing, made to them, and upon summons issued by them to the defendant (or defender) to appear before them at a time and place stated in the summons, and they shall hear and determine each case in a summary way ; and any

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penalty awarded by them in such proceedings shall for all purposes be treated as if it were tax charged in an assessment and due and payable.

- (7) The Governor of Northern Ireland may, if he thinks fit, appoint some other person to act instead of the Attorney General for Northern Ireland in relation to any matters to which this paragraph relates, and in that case the reference in this paragraph to the Attorney General for Northern Ireland shall be construed as a reference to the person so appointed.
- 10    (1) Where an assessment to the profits tax is made for the purpose of making good to the Crown a loss of tax wholly or partly attributable to the fraud, wilful default or neglect of any person, the tax charged by the assessment, or as the case may be, such part thereof as corresponds to the part so attributable, shall carry interest at the rate of three per cent. per annum from the expiration of one year after the end of the chargeable accounting period until payment.
- (2) Tax carrying interest under this paragraph shall not carry interest under section eight of the Finance (No. 2) Act, 1947.
- (3) Subsections (4) and (6) of the said section eight (which provide for the adjustment, in certain cases, and the recovery of interest payable under that section) shall apply in relation to interest payable under this paragraph as they apply in relation to interest payable under that section.
- (4) A certificate by the General or Special Commissioners that the tax or a specified part of the tax charged by an assessment specified in the certificate carries interest under this paragraph from a date so specified shall be sufficient evidence of that fact in proceedings for the recovery of that interest.
- (5) A certificate under sub-paragraph (4) of this paragraph shall not be given except on the application of the surveyor or a person nominated for that purpose by the Commissioners of Inland Revenue, and on any such application the person charged by the assessment shall be entitled to appear and be heard.
- (6) The Commissioners of Inland Revenue may in their discretion mitigate (whether before or after judgment) any interest due under this paragraph and may stay or compound any proceedings for the recovery thereof.
- 11        For the purposes of this Schedule, any assessment which can no longer be varied by any Commissioners on appeal or by the order of any court shall be sufficient evidence that the profits in respect of which tax is charged in the assessment arose as stated therein.

## EIGHTH SCHEDULE

Section 79.

### ENACTMENTS REPEALED

#### PART I

##### *Enactments repealed from passing of Act*

Session and Chapter	Short title	Extent of repeal
12, 13 & 14 Geo. 6. c. 89.	The Vehicles (Excise) Act, 1949.	In section twenty-seven, in the definition of "hackney carriage", the words from "provided that" to "or more".
15 & 16 Geo. 6 & 1 Eliz. 2. c. 10.	The Income Tax Act, 1952.	In section two hundred and five, subsection (2).
15 & 16 Geo. 6. & 1 Eliz. 2. c. 44.	The Customs and Excise Act, 1952.	In subsection (1) of section one hundred and fifty-two and in subsection (1) of section one hundred and fifty-three, the words from "and any such licence " to the end.  In section one hundred and eighty-seven, subsection (6).
4 & 5 Eliz. 2. c. 54.	The Finance Act, 1956.	In section forty-two, subsection (3).
5 & 6 Eliz. 2. c. 49.	The Finance Act, 1957.	Section twenty-one.
6 & 7 Eliz. 2. c. 6.	The Import Duties Act, 1958.	In section six, in subsection (4), the words from " of Customs " to " Commissioners' )".
6 & 7 Eliz. 2. c. 9.	The Entertainments Duty Act, 1958.	The whole Act.
6 & 7 Eliz. 2. c. 56.	The Finance Act, 1958.	Sections three and thirty-six.
7 & 8 Eliz. 2. c. 58.	The Finance Act, 1959.	Section six.  In section twenty-nine, in subsection (2), the words from the beginning to " 1959; and ".  Section thirty-six.

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## PART II

### *Repeals consequential on Part III of Act*

Session and Chapter	Short title	Extent of repeal
53 & 54 Vict. c. 21.	The Inland Revenue Regulation Act, 1890.	Sections twenty-one and twenty-two and subsection (2) of section thirty-five, so far as they relate to income tax and the profits tax.
1 Edw. 8 & 1 Geo. 6. c. 54.	The Finance Act, 1937.	In the Fifth Schedule, in paragraph 4 of Part III, the words from " and, in a case " to the end of the paragraph.
6 & 7 Geo. 6. c. 28.	The Finance Act, 1943	In the Eighth Schedule, sections one hundred and seven and one hundred and forty of the Income Tax Act, 1918, as set out with adaptations, except in their application to the excess profits tax and the excess profits levy.
15 & 16 Geo. 6 & 1 Eliz. 2. c. 10.	The Income Tax Act, 1952.	<p>Section eighteen.</p> <p>In section nineteen, the words " true and correct".</p> <p>In section twenty, in subsection (1), the words " true and correct ".</p> <p>In section twenty-two, in paragraph (a) of subsection (1), the words " true and correct ".</p> <p>In section twenty-four, in subsection (1), the words " true and correct ".</p> <p>In section twenty-five, subsections (3) to (6).</p> <p>In section twenty-six, subsection (2).</p> <p>In section twenty-nine, in subsection (5), the words from " and paragraph 4 " to the end of the subsection.</p> <p>Section thirty.</p>

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Session and Chapter	Short title	Extent of repeal
		In section thirty-one, in subsection (1), the words from " and, if a person " to " continues ".
		In section thirty-nine, subsection (3).
		In section forty-six, in subsection (2), paragraphs (b) and (c).
		Section forty-eight.
		Section forty-nine.
		In section fifty-four, subsection (3).
		Section fifty-five.
		In section eighty-one, subsection (3).
		Section ninety.
		In section ninety-one, paragraph (c).
		In section one hundred and two, subsections (3) and (4).
		In section one hundred and sixteen, in subsection (2), the words from " and if any such occupier" to the end of the subsection.
		In section one hundred and forty-four, in subsection (2), the words from "under the penalty" to the end of the subsection.
		In section one hundred and fifty-seven, subsection (5).
		In section one hundred and seventy, in subsection (3), the words from " and if " to the end of the subsection.
		In section two hundred and three, in subsection (6), the words from " and, if that person " to the end of the subsection.

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Session and Chapter	Short title	Extent of repeal
		Section two hundred and thirty.
		In section two hundred and thirty-one, in subsection (4), the words from " and if any person " to the end of the subsection.
		In section two hundred and thirty-two, subsection (2).
		In section two hundred and thirty-three, subsection (4).
		In section two hundred and thirty-four, subsection (3).
		Section two hundred and thirty-five.
		In section two hundred and thirty-seven, subsection (6).
		In section two hundred and forty-two, in subsection (4), the words from " and subsections (3) to (5) " to the end of the subsection.
		In section two hundred and fifty, subsection (2), in subsection (4) the words from " and if any person" to the end of the subsection, and in subsection (5) the words from " and if" to " continues ".
		In section two hundred and sixty-four, subsection (2).
		In section three hundred and forty-one, subsection (4).
		In section three hundred and fifty-five, in subsection (1), the words " and the penalties for failure to deliver a statement of profits or gains ", and, in subsection (2), the words from " and the provisions " to the end of the subsection.
		In section three hundred and fifty-six, in paragraph (a) of subsection (1), the words "

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Session and Chapter	Short title	Extent of repeal
		and the penalties for failure to make a return ".
		In section three hundred and fifty-eight, in subsection (5), the words from " and the provisions " to the end of the subsection.
		In section three hundred and ninety, in subsection (5), the words following paragraph (b).
		In section four hundred and two, the words from " and if " to the end of the section.
		In section four hundred and ten, in subsection (1), the words from " and if" to the end of the subsection, and, in subsection (2), the words preceding " if any ".
		In section four hundred and fourteen, in subsection (1), the words from " and if" to the end of the subsection, and in subsection (2), the words preceding " if any ".
		In section four hundred and sixteen, in subsection (5), the words following paragraph (b).
		In section four hundred and twenty-two, in subsection (4), the words from " and if" to the end of the subsection.
		In section four hundred and forty-one, in subsection (4), the words from " and if " to the end of the subsection.
		Section four hundred and ninety-nine.
		In section five hundred, subsection (2).
		Section five hundred and two.

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Session and Chapter	Short title	Extent of repeal
		In the Sixth Schedule, paragraph 4.
		In the Eighth Schedule, in Part III, paragraph 6.
		In the Twentieth Schedule, in paragraph 9, the words from " and the provisions " to the end of the paragraph.
5 & 6 Eliz. 2. c. 49.	The Finance Act, 1957	In section thirty-four, subsection (2).
6 & 7 Eliz. 2. c. 56.	The Finance Act, 1958	Section twenty-four.

### PART III

#### *Enactments repealed from 4th August, 1960*

Session and Chapter	Short title	Extent of repeal
25 & 26 Vict. c. 22.	The Revenue Act, 1862.	Section one. Schedule (C).
39 & 40 Vict. c. 35.	The Customs Tariff Act, 1876.	Section one. In the Schedule, the entry relating to playing cards.
8 Edw. 7. c. 16.	The Finance Act, 1908.	Section four.
12, 13 & 14 Geo. 6. c. 47.	The Finance Act, 1949.	In section eight, in subsection (2), the words from the first " every " to " manufacturer of ".
15 & 16 Geo. 6 & 1 Eliz. 2. c. 44.	The Customs and Excise Act, 1952.	In section one hundred and eight, subsections (1) to (3). In section two hundred and twenty-one, in subsection (3), paragraph (a). In section two hundred and twenty-two, in paragraph (a) of subsection (1), the words " but incomplete ". Sections two hundred and twenty-three and two hundred and twenty-four. In sections two hundred and forty-one to two hundred and forty-three, the words

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Session and Chapter	Short title	Extent of repeal
		"or certificate " wherever they occur; in section two hundred and forty-one, in subsection (1), paragraph (c); in section two hundred and forty-two, in subsection (1), in paragraph (d), the words from " or the form " to " or not ".

#### TABLE OF STATUTES REFERRED TO IN THIS ACT

Short Title	Session and Chapter
Revenue Act, 1862	25 & 26 Vict. c. 22.
Customs Tariff Act, 1876	39 & 40 Vict. c. 35.
Customs and Inland Revenue Act, 1881	44 & 45 Vict. c. 12.
Stamp Act, 1891	54 & 55 Vict. c. 39.
Finance Act, 1894	57 & 58 Vict. c. 30.
Finance (1909-10) Act, 1910	10 Edw. 7 & 1 Geo. 5. c. 8.
Government of Ireland Act, 1920	10 & 11 Geo. 5. c. 67.
Finance Act, 1925	15 & 16 Geo. 5. c. 36.
Finance Act, 1928	18 & 19 Geo. 5. c. 17.
Finance Act, 1937	1 Edw. 8 & 1 Geo. 6. c. 54.
Hire Purchase Act, 1938	1 & 2 Geo. 6. c. 53.
Finance Act, 1939	2 & 3 Geo. 6. c. 41.
Finance Act, 1940	3 & 4 Geo. 6. c. 29.
Finance (No. 2) Act, 1940	3 & 4 Geo. 6. c. 48.
Finance Act, 1943	6 & 7 Geo. 6. c. 28.
Finance Act, 1944	7 & 8 Geo. 6. c. 23.
Finance Act, 1946	9 & 10 Geo. 6. c. 64.
National Insurance Act, 1946	9 & 10 Geo. 6. c. 67.
Crown Proceedings Act, 1947	10 & 11 Geo. 6. c. 44.
Finance (No. 2) Act, 1947	11 & 12 Geo. 6. c. 9.
Finance Act, 1949	12, 13 & 14 Geo. 6. c. 47.
Vehicles (Excise) Act, 1949	12, 13 & 14 Geo. 6. c. 89.
Finance Act, 1950	14 Geo. 6. c. 15.
Finance Act, 1951	14 & 15 Geo. 6. c. 43.
Income Tax Act, 1952	15 & 16 Geo. 6. & 1 Eliz. 2. c. 10.

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Short Title	Session and Chapter
Customs and Excise Act, 1952	15 & 16 Geo. 6. & 1 Eliz. 2. c. 44.
Magistrates Courts Act, 1952	15 & 16 Geo. 6. & 1 Eliz. 2. c. 55.
Visiting Forces Act, 1952	15 & 16 Geo. 6. & 1 Eliz. 2. c. 67.
Finance Act, 1953	1 & 2 Eliz. 2. c. 34.
Finance Act, 1954	2 & 3 Eliz. 2. c. 44.
Summary Jurisdiction (Scotland) Act, 1954	2 & 3 Eliz. 2. c. 48.
Food and Drugs Act, 1955	4 & 5 Eliz. 2. c. 16.
Finance (No. 2) Act, 1955	4 & 5 Eliz. 2. c. 17.
Food and Drugs (Scotland) Act, 1956	4 & 5 Eliz. 2. c. 30.
Finance Act, 1956	4 & 5 Eliz. 2. c. 54.
Road Traffic Act, 1956	4 & 5 Eliz. 2. c. 67.
Finance Act, 1957	5 & 6 Eliz. 2. c. 49.
Import Duties Act, 1958	6 & 7 Eliz. 2. c. 6.
Entertainments Duty Act, 1958	6 & 7 Eliz. 2. c. 9.
Overseas Service Act, 1958	6 & 7 Eliz. 2. c. 14.
Prevention of Fraud (Investments) Act, 1958	6 & 7 Eliz. 2. c. 45.
Finance Act, 1958	6 & 7 Eliz. 2. c. 56.
Income Tax (Repayment of Post War Credits) Act, 1959	7 & 8 Eliz. 2. c. 28.
National Insurance Act, 1959	7 & 8 Eliz. 2. c. 47.
Finance Act, 1959	7 & 8 Eliz. 2. c. 58.