



Finance Act 1965

1965 CHAPTER 25

PART IV

TAXATION OF COMPANIES AND OF COMPANY DISTRIBUTIONS.

Corporation tax.

49 General scheme of corporation tax.

- (1) Subject to any exceptions provided for by this Part of this Act, a company shall be chargeable to corporation tax on all its profits wherever arising.
- (2) A company shall be chargeable to corporation tax on profits accruing for its benefit under any trust, or arising under any partnership, in any case in which it would be so chargeable if the profits accrued to it directly; and a company shall be chargeable to corporation tax on profits arising in the winding up of the company, but shall not otherwise be chargeable to corporation tax on profits accruing to it in a fiduciary or representative capacity except as respects its own beneficial interest (if any) in those profits.
- (3) Corporation tax for any financial year shall be charged on profits arising in that year; but assessments to corporation tax shall be made on a company by reference to accounting periods, and the amount chargeable (after making all proper deductions) of the profits arising in an accounting period shall, where necessary, be apportioned between the financial years in which the accounting period falls.
- (4) Except as provided by this Part of this Act, corporation tax assessed for an accounting period shall be paid within nine months from the end of that period or, if it is later, within one month from the making of the assessment.
- (5) No assessment to corporation tax for the financial year 1964 or 1965 shall be made before the passing of an Act fixing the rate of tax for the year ; but in the financial year 1966 or any later year assessments for accounting periods falling wholly or partly in that year or (subject to subsection (6) below) in the preceding year may, notwithstanding that corporation tax has not at the time been charged for the year in

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question, charge tax for so much of the period as falls within that year according to the rate of tax last fixed, but any such charge shall be subject to later adjustment, if need be, by discharge or repayment of tax or by a further assessment if for that year corporation tax is not charged by an Act passed not later than 5th August next after the end of the year or is charged otherwise than as it has been assessed.

- (6) Where the Committee of Ways and Means of the House of Commons (being a Committee of the whole House) passes a Resolution for fixing the rate of corporation tax for the financial year 1966 or any later year, or for altering the tax for any such year, and the Resolution is agreed to by the House, then any assessment to tax afterwards made by virtue of subsection (5) above may be made in accordance with the Resolution; but no assessment made by virtue of that subsection more than one month after the end of any financial year shall charge tax for that year, unless a Resolution for charging corporation tax for that year has been so passed and agreed to, nor shall any assessment be made by virtue of any such Resolution more than four months after the date on which the Resolution is passed by the Committee of Ways and Means.
- (7) Corporation tax shall be under the care and management of the Commissioners of Inland Revenue (in this Part of this Act referred to as " the Board "), and the Board may do all such acts as may be deemed necessary and expedient for raising, collecting, receiving and accounting for the tax in the like manner as they are authorised to do with relation to any other duties under their care and management; and all enactments relating to the assessing, collecting, receiving and accounting for income tax (including enactments conferring or regulating a right of appeal), so far as they are consistent with the provisions of this Part of this Act, shall apply in like manner as nearly as may be in relation to corporation tax.

50 Companies not resident in U.K.

- (1) A company not resident in the United Kingdom shall not be within the charge to corporation tax unless it carries on a trade in the United Kingdom through a branch or agency but, if it does so, it shall, subject to any exceptions provided for by this Part of this Act, be chargeable to corporation tax on all its chargeable profits wherever arising.
- (2) For purposes of corporation tax the chargeable profits of a company not resident in the United Kingdom but carrying on a trade there through a branch or agency shall be—
- (a) any trading income arising directly or indirectly through or from the branch or agency, and any income from property or rights used by, or held by or for, the branch or agency (but so that this paragraph shall not include distributions received from companies resident in the United Kingdom); and
 - (b) such chargeable gains accruing on the disposal of assets situated in the United Kingdom as are by Part III of this Act made chargeable to capital gains tax in the case of an individual not resident or ordinarily resident in the United Kingdom.
- (3) Where, in the year 1966-67 or any later year of assessment, a company not resident in the United Kingdom receives any payment on which it bears income tax by deduction, and the payment forms part of, or is to be taken into account in computing, the company's income chargeable to corporation tax, the income tax thereon shall be set off against any corporation tax assessable on that income by an assessment made for the accounting period in which the payment falls to be taken into account for corporation tax ; and accordingly in respect of that payment the company shall not be entitled to a repayment of income tax before the assessment for that accounting period is finally determined and it appears that a repayment is due.

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- (4) Without prejudice to the general application of income tax procedure to corporation tax, the provisions of Part XVI of the Income Tax Act 1952 relating to the assessment and charge of income tax on persons not resident in the United Kingdom, so far as they are applicable to tax chargeable on a company, shall apply with any necessary adaptations in relation to corporation tax chargeable on companies not resident in the United Kingdom.

51 Basis of, and periods for, assessment.

- (1) Except as otherwise provided by this Part of this Act, corporation tax shall be assessed and charged for any accounting period of a company on the full amount of the profits arising in the period (whether or not received in or transmitted to the United Kingdom) without any other deduction than is authorised by this Act.
- (2) An accounting period of a company shall begin for purposes of corporation tax whenever—
- (a) the company, not then being within the charge to tax, comes within it, whether by the coming into force of any provision of this Part of this Act, or by the company becoming resident in the United Kingdom or acquiring a source of income, or otherwise; or
 - (b) an accounting period of the company ends without the company then ceasing to be within the charge to tax.
- (3) An accounting period of a company shall end for purposes of corporation tax on the first occurrence of any of the following:—
- (a) the expiration of twelve months from the beginning of the accounting period;
 - (b) an accounting date of the company or, if there is a period for which the company does not make up accounts, the end of that period ;
 - (c) the company beginning or ceasing to carry on any trade, or to be, in respect of a trade, within the charge to tax;
 - (d) the company beginning or ceasing to be resident in the United Kingdom;
 - (e) the company ceasing to be within the charge to tax.
- (4) For the purposes of this section a company resident in the United Kingdom, if not otherwise within the charge to corporation tax, shall be treated as coming within the charge to tax at the beginning of the year 1966-67 or at the time when it commences to carry on business, whichever is the later.
- (5) If a company carrying on more than one trade makes up accounts of any of them to different dates, and does not make up general accounts for the whole of the company's activities, subsection (3)(b) above shall apply with reference to the accounting date of such one of the trades as the Board may determine.
- (6) Notwithstanding anything in the foregoing subsections, where a company is wound up, an accounting period shall end and a new one begin with the commencement of the winding up, and thereafter an accounting period shall not end otherwise than by the expiration of twelve months from its beginning or by the completion of the winding up.

For this purpose a winding up is to be taken to commence on the passing by the company of a resolution for the winding up of the company, or on the presentation of a winding up petition if no such resolution has previously been passed and a winding up order is made on the petition, or on the doing of any other act for a like purpose in the case of a winding up otherwise than under the Companies Act 1948.

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- (7) Where it appears to the inspector that the beginning or end of any accounting period of a company is uncertain, he may make an assessment on the company for such period, not exceeding twelve months, as appears to him appropriate, and that period shall be treated for all purposes as an accounting period of the company unless either the inspector on further facts coming to his knowledge sees fit to revise it or on an appeal against the assessment in respect of some other matter the company shows the true accounting periods; and if on an appeal against an assessment made by virtue of this subsection the company shows the true accounting periods, the assessment appealed against shall, as regards the period to which it relates, have effect as an assessment or assessments for the true accounting periods, and there may be made such other assessments for any such periods or any of them as might have been made at the time when the assessment appealed against was made.

52 Allowance of charges on income.

- (1) In computing the corporation tax chargeable for any accounting period of a company any charges on income paid by the company in the accounting period (but not before the year 1966-67), so far as paid out of the company's profits brought into charge to corporation tax, shall be allowed as deductions against the total profits for the period as reduced by any other relief from tax.
- (2) Subject to the following subsections, " charges on income " means for the purposes of corporation tax payments of any description mentioned in subsection (3) below, not being dividends or other distributions of the company ; but no payment which is deductible in computing profits or any description of profits for purposes of corporation tax shall be treated as a charge on income.
- (3) The payments referred to in subsection (2) above are—
- (a) any yearly interest, annuity or other annual payment and any such other payments as are mentioned in section 169(3) of the Income Tax Act 1952, but not including sums falling within section 169(4) (rents, etc.); and
 - (b) any other interest payable in the United Kingdom on an advance from a bank carrying on a bona fide banking business in the United Kingdom, or from a person who in the opinion of the Board is bona fide carrying on business as a member of a stock exchange in the United Kingdom or bona fide carrying on the business of a discount house in the United Kingdom;
- and for the purposes of this section any interest payable by a company as mentioned in paragraph (b) above shall be treated as paid on its being debited to the company's account in the books of the person to whom it is payable.
- (4) No such payment made by a company as is mentioned in subsection (3) above shall be treated as a charge on income if—
- (a) the payment is charged to capital, or the payment is not ultimately borne by the company; or
 - (b) the payment is not made under a liability incurred for a valuable and sufficient consideration (and, in the case of a company not resident in the United Kingdom, incurred wholly and exclusively for the purposes of a trade carried on by it in the United Kingdom through a branch or agency), and is not a covenanted donation to charity.

In this subsection " covenanted donation to charity " means a payment under a disposition or covenant made by the company in favour of a body of persons or trust

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established for charitable purposes only, whereby the like annual payments (of which the donation is one) become payable for a period which may exceed six years and is not capable of earlier termination under any power exercisable without the consent of the persons for the time being entitled to the payments.

- (5) No such payment as is mentioned in subsection (3) (a) above made by a company to a person not resident in the United Kingdom shall be treated as a charge on income unless the company is so resident and either—
- (a) the company deducts income tax from the payment in accordance with section 170 of the Income Tax Act 1952, and accounts under this Part of this Act for the tax so deducted ; or
 - (b) the company is carrying on a trade and the payment is a payment of interest satisfying the conditions of section 138(1)(c) to (e) of the Income Tax Act 1952 (under which section certain interest payable overseas is deductible in computing trading profits for purposes of income tax) and the liability to pay the interest was incurred wholly or mainly for the purposes of activities of that trade carried on outside the United Kingdom; or
 - (c) the payment is one payable out of income brought into charge to tax under Case IV or V of Schedule D :

Provided that for purposes of paragraph (b) above the company shall be treated as carrying on any trade carried on by a subsidiary of it (both being bodies corporate), if the subsidiary also is resident in the United Kingdom; and for this purpose " subsidiary ", subject to subsection (6) below, has the meaning assigned to it for certain purposes of the profits tax by section 42 of the Finance Act 1938.

- (6) In determining for the purpose of subsection (5)(b) above whether one company is a subsidiary of another that other company shall be treated as not being the owner—
- (a) of any share capital which it owns directly in a body corporate if a profit on a sale of the shares would be treated as a trading receipt of its trade ; or
 - (b) of any share capital which it owns indirectly, and which is owned directly by a body corporate for which a profit on the sale of the shares would be a trading receipt; or
 - (c) of any share capital which it owns directly or indirectly in a body corporate not resident in the United Kingdom.
- (7) The deductions authorised by subsection (3)(a) above shall include five-sixths and no more of any payment made as an instalment, or part of an instalment, of an annuity within the meaning of the Tithe Acts 1936 and 1951; and subsection (4) (b) shall not apply to any such payment.

53 General rules for computation of income.

- (1) Except as otherwise provided by this Part of this Act, the amount of any income shall for purposes of corporation tax be computed in accordance with income tax principles, all questions as to the amounts which are or are not to be taken into account as income, or in computing income, or charged to tax as a person's income, or as to the time when any such amount is to be treated as arising, being determined in accordance with income tax law and practice as if accounting periods were years of assessment.
- (2) For the purposes of this section " income tax law " means, in relation to any accounting period, the law applying, for the year of assessment in which the period ends, to the charge on individuals of income tax other than surtax, except that—

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- (a) it includes also all such enactments of the Income Tax Acts applying for the year 1965-66 as make special provision for companies in relation to matters referred to in subsection (1) above ; and
 - (b) it does not include such of the enactments of the Income Tax Acts so applying as make special provision for individuals in relation to those matters.
- (3) Accordingly for purposes of corporation tax income shall be computed, and the assessment shall be made, under the like Schedules and Cases as apply for purposes of income tax, and in accordance with the rules applicable to those Schedules and Cases, but (subject to the provisions of this Part of this Act) the amounts so computed for the several sources of income, if more than one, together with any amount to be included in respect of chargeable gains shall be aggregated to arrive at the total profits.
- (4) Nothing in this section shall be taken to mean that income arising in any period is to be computed by reference to any other period (except in so far as this results from apportioning to different parts of a period income of the whole period).
- (5) Subject to the next following section and to any enactment applied by this section which expressly authorises such a deduction, no deduction shall be made in computing income from any source—
- (a) in respect of dividends or other distributions; nor
 - (b) in respect of any yearly interest, annuity or other annual payment or in respect of any such other payments as are mentioned in section 169(3) of the Income Tax Act 1952, but not including sums falling within section 169(4) (rents, etc.).
- (6) Without prejudice to the generality of subsection (1) above, any provision of the Income Tax Acts which confers an exemption from income tax, or which provides for a person to be charged to income tax on any amount (whether expressed to be income or not, and whether an actual amount or not), shall have the like effect for purposes of corporation tax, so far as is consistent with this Part of this Act.

54 Miscellaneous special rules for computation of income.

- (1) For purposes of corporation tax, income tax law as applied by section 53 above shall have effect subject to the following subsections.
- (2) Where a company begins or ceases to carry on a trade, or to be within the charge to corporation tax in respect of a trade, the company's income shall be computed as if that were the commencement or, as the case may be, discontinuance of the trade, whether or not the trade is in fact commenced or discontinued:

Provided that where any provision of the Income Tax Acts is applied for corporation tax by this Part of this Act, this subsection shall not have effect for any purpose of that provision if under any enactment other than section 19 of the Finance Act 1953 a trade is not to be treated by virtue of that section as permanently discontinued for the corresponding income tax purpose.

- (3) In computing income from a trade neither section 53(5)(b) above nor section 137(f) of the Income Tax Act 1952 shall prevent the deduction of yearly interest payable in the United Kingdom on an advance from a bank carrying on a bona fide banking business in the United Kingdom; but section 138 of the Income Tax Act 1952 (under which certain interest payable overseas is deductible in computing trading profits) shall not apply for corporation tax.

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- (4) In computing a company's income for any accounting period from the letting of rights to work minerals in the United Kingdom there may be deducted any sums disbursed by the company wholly, exclusively and necessarily as expenses of management or supervision of those minerals in that period :

Provided that any enactments restricting the relief from income tax that might be given under section 181 of the Income Tax Act 1952 shall apply to restrict in like manner the deductions that may be made under this subsection.

- (5) In so far as a company's income for any accounting period is to be computed by reference to the annual value of woodlands, the income arising in a period of less than twelve months shall be computed by reference to a proportionate part of the annual value and, if the annual value is different in different parts of an accounting period, shall be separately computed for each of those parts.
- (6) Where a company is chargeable to corporation tax in respect of a trade under Case V of Schedule D, the income from the trade shall be computed in accordance with the rules applicable to Case I of Schedule D.
- (7) The amount of any income assessed under Case IV or V of Schedule D shall be treated as reduced (where such a deduction cannot be made under, and is not forbidden by, any provision of the Income Tax Acts applied by this Act) by any sum which has been paid in respect of income tax in the place where the income has arisen.
- (8) Cases IV and V of Schedule D shall for purposes of corporation tax extend to companies not resident in the United Kingdom, so far as those companies are chargeable to tax on income of descriptions which, in the case of companies resident in the United Kingdom, fall within those Cases (but without prejudice to any provision of the Income Tax Acts specially exempting non-residents from income tax on any particular description of income).

55 Computation of chargeable gains.

- (1) Subject to the provisions of this section, the amount to be included in respect of chargeable gains in a company's total profits for any accounting period shall be the total amount of chargeable gains accruing to the company in the accounting period after deducting any allowable losses accruing to the company in the period and, so far as they have not been allowed as a deduction from chargeable gains accruing in any previous accounting period, any allowable losses previously accruing to the company while it has been within the charge to corporation tax:

Provided that nothing in this subsection shall apply to gains or losses accruing before the year 1965-66.

- (2) Except as otherwise provided by this Part of this Act, the total amount of the chargeable gains to be so included shall for purposes of corporation tax be computed in accordance with the principles applying for capital gains tax, all questions as to the amounts which are or are not to be taken into account as chargeable gains or as allowable losses, or in computing gains or losses, or charged to tax as a person's gain, or as to the time when any such amount is to be treated as accruing, being determined in accordance with the provisions relating to capital gains tax as if accounting periods were years of assessment.
- (3) Subject to subsection (7) below, where the provisions of this Act relating to capital gains tax contain any reference to income tax or to the Income Tax Acts the reference

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shall, in relation to a company, be construed as a reference to corporation tax or to the Corporation Tax Acts, except where the reference is to income tax in respect of a hypothetical trade ; but—

- (a) nothing in this section shall be taken as applying for corporation tax the alternative method of charging capital gains tax by reference to a notional charge to income tax under Case VI of Schedule D; and
 - (b) in so far as the said provisions operate by reference to matters of any specified description, account shall for corporation tax be taken of matters of that description which are confined to companies, but not of any which are confined to individuals.
- (4) The provisions of this Act relating to capital gains tax in connection with the replacement of trade assets shall, in their application for corporation tax, have effect, with any necessary modifications, in relation to the discharge of the functions of a public authority as they have effect in relation to a trade.
- (5) For purposes of corporation tax the provisions of this Act relating to capital gains tax shall have effect subject to the provisions made in relation to groups of companies by Part I of Schedule 13 to this Act; and Part II of that Schedule shall have effect with reference to the collection from persons connected with a company of corporation tax chargeable on the company in respect of chargeable gains.
- (6) Part I of Schedule 13 to this Act, except in so far as it relates to recovery of tax, shall also have effect in relation to bodies from time to time established by or under any enactment for the carrying on of any industry or part of an industry, or of any undertaking, under national ownership or control as if they were companies within the meaning of the said Part I, and as if any such bodies charged with related functions (and in particular the Boards and Holding Company established under the Transport Act 1962) and subsidiaries of any of them formed a group, and as if also any two or more such bodies charged at different times with the same or related functions were members of a group:
- Provided that this subsection shall have effect subject to any enactment by virtue of which property, rights, liabilities or activities of one such body fall to be treated for corporation tax as those of another.
- (7) Part III of this Act as extended by this section shall not be affected in its operation by the fact that capital gains tax and corporation tax are distinct taxes but, so far as is consistent with this Part of this Act, shall apply in relation to capital gains tax and corporation tax on chargeable gains as if they were one tax, so that, in particular, a matter which in a case involving two individuals is relevant for both of them in relation to capital gains tax shall in a like case involving an individual and a company be relevant for him in relation to that tax and for it in relation to corporation tax.
- (8) In this Part of this Act " allowable loss " does not include for purposes of corporation tax in respect of chargeable gains a loss accruing to a company in such circumstances that if a gain accrued the company would be exempt from corporation tax in respect of it.

56 Deductions and additions in computation of profits for capital allowances and related charges.

- (1) In computing for purposes of corporation tax a company's profits for any accounting period there shall be made in accordance with this section all such deductions and

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additions as are required to give effect to the provisions of the Income Tax Acts which relate to allowances (including investment allowances) and charges in respect of capital expenditure, as those provisions are applied by this Part of this Act.

- (2) Allowances and charges which fall to be made for any accounting period in taxing a trade shall be given effect by treating the amount of any allowance as a trading expense of the trade in that period, and by treating the amount on which any such charge is to be made as a trading receipt of the trade in that period.
- (3) Allowances which are to be made for any accounting period by way of discharge or repayment of tax shall, as far as may be, be given effect by deducting the amount of the allowance from any income of the period, being income of the class against which the allowance is available or primarily available.
- (4) Balancing charges for any accounting period not falling to be made in taxing a trade shall, notwithstanding any provision for them to be made under Case VI of Schedule D, be given effect by treating the amount on which the charge is to be made as income of the same class as that against which the corresponding allowances are available or primarily available.
- (5) Where an allowance which is to be made for any accounting period by way of discharge or repayment of tax cannot be given full effect under subsection (3) above in that period by reason of a want or deficiency of income of the relevant class, then (so long as the company remains Within the charge to tax) the amount unallowed shall be carried forward to the succeeding accounting period, except in so far as effect is given to it under subsection (6) below; and the amount so carried forward shall be treated for purposes of this section, including any further application of this subsection, as the amount of a corresponding allowance for that period.
- (6) Where an allowance which is to be made for any accounting period by way of discharge or repayment of tax, and which is available primarily against income of a specified class cannot be given full effect under subsection (3) above in that period by reason of a want or deficiency of income of that class, the company may claim that effect shall be given to the allowance against the profits (of whatever description) of that accounting period and, if the company was then within the charge to tax, of preceding accounting periods ending within the time specified in subsection (7) below; and, subject to that subsection and to any relief for earlier allowances or for losses, the profits of any of those accounting periods shall then be treated as reduced by the amount unallowed under subsection (3) above, or by so much of that amount as cannot be given effect under this subsection against profits of a later accounting period.
- (7) The time referred to in subsection (6) above is a time equal in length to the accounting period for which the allowance falls to be made; but the amount or aggregate amount of the reduction which may be made under that subsection in the profits of an accounting period falling partly before that time shall not, with the amount of any reduction falling to be made therein under any corresponding provision of this Part of this Act relating to losses, exceed a part of those profits proportionate to the part of the period falling within that time.
- (8) This section shall not affect the manner of making allowances or charges falling to be made by virtue of section 72(2) (b) of the Finance Act 1960 (estate management expenditure), except in so far as it affects the operation of section 313 of the Income Tax Act, 1952; but in relation to allowances and charges falling to be made by virtue of section 72(2) (a) (business management expenditure), subsections (1) to (4) of this section shall apply as if any such allowances were to be made by way of discharge

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or repayment of tax and to be available against income of the business referred to in section 72(2)(a).

57 Deduction of management expenses of investment companies (including savings banks).

- (1) In computing for purposes of corporation tax the total profits for any accounting period of an investment company resident in the United Kingdom there shall be deducted any sums disbursed as expenses of management (including commissions) for that period, except any such expenses as are deductible in computing income for the purpose of Case VIII of Schedule D:

Provided that—

- (a) there shall be deducted from the amount treated as expenses of management the amount of any income derived from sources not charged to tax, other than franked investment income and group income; and
 - (b) any enactment restricting the relief from income tax that might be given under section 425 of the Income Tax Act 1952 shall apply to restrict in like manner the deductions that may be made under this subsection,
- (2) Where in any accounting period of an investment company the expenses of management deductible under subsection (1) above, together with any charges on income paid in the accounting period wholly and exclusively for purposes of the company's business, exceed the amount of the profits from which they are deductible, the excess shall be carried forward to the succeeding accounting period ; and the amount so carried forward shall be treated for purposes of this section, including any further application of this subsection, as if it had been disbursed as expenses of management for that accounting period.
- (3) For purposes of subsections (1) and (2) above, there shall be added to a company's expenses of management in any accounting period the amount of any allowances falling to be made to the company for that period by virtue of section 72 of the Finance Act 1960, in so far as effect cannot be given to them under section 56(3) of this Act.
- (4) For purposes of this section and of other provisions of this Act relating to expenses of management " investment company " means any company whose business consists wholly or mainly in the making of investments, and the principal part of whose income is derived therefrom, but includes any savings bank or other bank for savings.
- (5) Section 425 of the Income Tax Act 1952 (relief for expenses of management) shall not have effect for corporation tax, nor for income tax for any year of assessment after the year 1965-66, except in so far as section 425(6) is applied under this Part of this Act to the computation of any income.

Accordingly in section 72(2) of the Finance Act 1960 for sub-paragraphs (i) and (ii) of paragraph (a) there shall be substituted the words " the business of an investment company (as defined in section 57 of the Finance Act 1965) or of a company carrying on the business of life assurance ".

58 Relief for trading losses, other than terminal losses.

- (1) Where in any accounting period a company carrying on a trade incurs a loss in the trade, the company may claim to set the loss off for purposes of corporation tax against any trading income from the trade in succeeding accounting periods ; and (so long

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as the company continues to carry on the trade) its trading income from the trade in any succeeding accounting period shall then be treated as reduced by the amount of the loss, or by so much of that amount as cannot, on that claim or on a claim (if made) under subsection (2) below, be relieved against income or profits of an earlier accounting period.

- (2) Where in any accounting period a company carrying on a trade incurs a loss in the trade, then (subject to subsection (4) below) the company may claim to set the loss off for purposes of corporation tax against profits (of whatever description) of that accounting period and, if the company was then carrying on the trade and the claim so requires, of preceding accounting periods ending within the time specified in subsection (3) below; and, subject to that subsection and to any relief for an earlier loss, the profits of any of those periods shall then be treated as reduced by the amount of the loss, or by so much of that amount as cannot be relieved under this subsection against profits of a later accounting period.
- (3) The time referred to in subsection (2) above is a time equal in length to the accounting period in which the loss is incurred ; but the amount of the reduction which may be made under that subsection in the profits of an accounting period falling partly before that time shall not exceed a part of those profits proportionate to the part of the period falling within that time.
- (4) Subsection (2) above shall not apply to trades falling within Case V of Schedule D; and, except in so far as it represents an excess in respect of expenditure incurred before the year 1960-61 of capital allowances over balancing charges, a loss incurred in a trade in any accounting period shall not be relieved under that subsection, unless the trade is one carried on in the exercise of functions conferred by or under any enactment (including an enactment contained in a local or private Act), or it is shown that for that accounting period the trade was being carried on on a commercial basis and with a view to the realisation of gain in the trade or in any larger undertaking of which the trade formed part.
- (5) For purposes of subsection (4) above, the fact that a trade was being carried on at any time so as to afford a reasonable expectation of gain shall be conclusive evidence that it was then being carried on with a view to the realisation of gain; and where in an accounting period there is a change in the manner in which a trade is being carried on, it shall for those purposes be treated as having throughout the accounting period been carried on in the way in which it was being carried on by the end of that period.
- (6) The amount of a loss incurred in a trade in an accounting period shall be computed for purposes of this section in like manner as trading income from the trade in that period would have been computed.
- (7) For purposes of this section " trading income " means, in relation to any trade, the income which falls or would fall to be included in respect of the trade in the total profits of the company ; but where in an accounting period a company incurs a loss in a trade in respect of which it is within the charge to corporation tax under Case I or V of Schedule D, and in any later accounting period to which the loss or any part of it is carried forward under subsection (1) above relief in respect thereof cannot be given, or cannot wholly be given, because the amount of the trading income of the trade is insufficient, any interest or dividends on investments which would fall to be taken into account as trading receipts in computing that trading income but for the fact that they have been subjected to tax under other provisions shall be treated for purposes of subsection (1) above as if they were trading income of the trade.

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- (8) Where in an accounting period the charges on income paid by a company—
- (a) exceed the amount of the profits against which they are deductible; and
 - (b) include payments made wholly and exclusively for the purposes of a trade carried on by the company ;

then, up to the amount of that excess or of those payments, whichever is the less, the charges on income so paid shall in computing a loss for purposes of subsection (1) above be deductible as if they were trading expenses of the trade.

- (9) In this section references to a company carrying on a trade refer to the company carrying it on so as to be within the charge to corporation tax in respect of it.

59 Relief for terminal loss in a trade.

- (1) Where a company ceasing to carry on a trade has in an accounting period falling wholly or partly within the previous twelve months incurred a loss in the trade, the company may claim to set the loss off for purposes of corporation tax against trading income from the trade in accounting periods falling wholly or partly within the three years preceding those twelve months (or within any less period throughout which the company has carried on the trade); and, subject to the following subsections and to any relief for earlier losses, the trading income of any of those periods shall be then treated as reduced by the amount of the loss, or by so much of that amount as cannot be relieved under this subsection against income of a later accounting period:

Provided that relief shall not be given under this subsection in respect of any loss in so far as the loss has been or can be otherwise taken into account so as to reduce or relieve any charge to tax.

- (2) Where a loss is incurred in an accounting period falling partly outside the twelve months mentioned in subsection (1) above, relief shall be given under that subsection in respect of a part only of that loss proportionate to the part of the period falling within those twelve months ; and the amount of the reduction which may be made under that subsection in the trading income of an accounting period falling partly outside the three years there mentioned shall not exceed a part of that income proportionate to the part of the period falling within those three years.

- (3) A claim for relief under this section may require that capital allowances in respect of the trade, being allowances which fall to be made to the company by way of discharge or repayment of tax and to be so made for an accounting period falling wholly or partly within the twelve months ending when the company ceases to carry on the trade, shall (so far as they cannot be otherwise taken into account so as to reduce or relieve any charge to corporation tax) be added to the loss incurred by the company in that accounting period or, if the company has not incurred a loss in the period, shall be treated as a loss so incurred:

Provided that the allowances for any period shall not be treated as including amounts carried forward from an earlier period.

- (4) Section 58(6) to (9) above shall apply for purposes of this section as they apply for purposes of section 58(1); and relief shall not be given under this section in respect of a loss incurred in a trade so as to interfere with any relief under section 52 above in respect of payments made wholly and exclusively for purposes of that trade.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

60 Losses in transactions from which income would be chargeable under Schedule D Case VI.

- (1) Subject to subsection (2) below, where in any accounting period a company incurs a loss in a transaction in respect of which the company is within the charge to corporation tax under Case VI of Schedule D, the company may claim to set the loss off against the amount of any income arising from transactions in respect of which the company is assessed to corporation tax under that Case for the same or any subsequent accounting period; and the company's income in any accounting period from such transactions shall then be treated as reduced by the amount of the loss, or by so much of that amount as cannot be relieved under this section against income of an earlier accounting period.
- (2) This section shall not apply to a loss incurred in a transaction falling within section 22, 23 or 24 of the Finance Act 1963 (treatment of premiums as rent, etc.).

61 Company reconstructions without change of ownership.

- (1) Where, on a company (" the predecessor ") ceasing to carry on a trade, another company (" the successor ") begins to carry it on, and—
 - (a) on or at any time within two years after that event the trade or an interest amounting to not less than a three-fourths share in it belongs to the same persons as the trade or such an interest belonged to at some time within a year before that event; and
 - (b) the trade is not, within the period taken for the comparison under paragraph (a) above, carried on otherwise than by a company which is within the charge to tax in respect of it;

then this Part of this Act shall have effect subject to subsections (2) to (6) below. In paragraphs (a) and (b) above references to the trade shall apply also to any other trade of which the activities comprise the activities of the first mentioned trade.

- (2) The trade shall not be treated as permanently discontinued nor a new trade as set up and commenced for the purpose of the allowances and charges provided for by section 56 of this Act; but there shall be made to or on the successor in accordance with that section all such allowances and charges as would, if the predecessor had continued to carry on the trade, have fallen to be made to or on it, and the amount of any such allowance or charge shall be computed as if the successor had been carrying on the trade since the predecessor began to do so and as if everything done to or by the predecessor had been done to or by the successor (but so that no sale or transfer which on the transfer of the trade is made to the successor by the predecessor of any assets in use for the purpose of the trade shall be treated as giving rise to any such allowance or charge).
- (3) The predecessor shall not be entitled to relief under section 59 of this Act, except as provided by subsection (6) below; and, subject to any claim made by the predecessor under section 58(2) of this Act, the successor shall be entitled to relief under section 58(1), as for a loss sustained by the successor in carrying on the trade, for any amount for which the predecessor would have been entitled to claim relief if it had continued to carry on the trade.
- (4) Any securities (within the meaning of section 23 of the Finance Act 1959) which at the time when the predecessor ceases to carry on the trade form part of the trading stock belonging to the trade shall be treated for purposes of that section as having been sold at that time in the open market by the predecessor and as having been purchased at that time in the open market by the successor.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (5) For purposes of Schedule 8 to the Finance Act 1963 (transitional allowances for annual value of trade premises) any occupation of land for the purposes of the trade by the predecessor shall be treated as having been the occupation of the successor.
- (6) On the successor ceasing to carry on the trade—
- (a) if the successor does so within four years of succeeding to it, any relief which might be given to the successor under section 59 of this Act on its ceasing to carry on the trade may, so far as it cannot be given to the successor, be given to the predecessor as if the predecessor had incurred the loss (including any amount treated as a loss under section 59(3)); and
 - (b) if the successor ceases to carry on the trade within one year of succeeding to it, relief may be given to the predecessor under section 59 of this Act in respect of any loss incurred by it (or amount treated as such a loss under section 59(3));
- but for the purposes of section 59 of this Act, as it applies by virtue of this subsection to the giving of relief to the predecessor, the predecessor shall be treated as ceasing to carry on the trade when the successor does so.
- (7) Where the successor ceases to carry on the trade within the period taken for the comparison under subsection (1)(o) above and, on its doing so a third company begins to carry on the trade, then no relief shall be given to the predecessor by virtue of subsection (6) above by reference to that event, but subject to that subsections (2) to (6) above shall apply both in relation to that event (together with the new predecessor and successor) and to the earlier event (together with the original predecessor and successor), but so that—
- (a) in relation to the earlier event " successor " shall include the successor at either event; and
 - (b) in relation to the later event " predecessor " shall include the predecessor at either event;
- and if the conditions of this subsection are thereafter again satisfied, it shall apply again in like manner.
- (8) Where, on a company ceasing to carry on a trade, another company begins to carry on the activities of the trade as part of its trade, then that part of the trade carried on by the successor shall be treated for the purposes of this section as a separate trade, if the effect of so treating it is that subsection (1) or (7) has effect on that event in relation to that separate trade; and where, on a company ceasing to carry on part of a trade, another company begins to carry on the activities of that part as its trade or part of its trade, the predecessor shall for purposes of this section be treated as having carried on that part of its trade as a separate trade if the effect of so treating it is that subsection (1) or (7) above has effect on that event in relation to that separate trade.

Where under this subsection any activities of a company's trade fall, on the company ceasing or beginning to carry them on, to be treated as a separate trade, the accounting periods of the company shall be adjusted accordingly, and any necessary apportionment shall be made of receipts, expenses, allowances or charges.

- (9) Section 17(4) to (7) of the Finance Act 1954 (which state the persons a trade is to be treated as belonging to) shall apply for the purposes of this section, with the substitution for the reference in subsection (4)(c) to the conditions there mentioned being satisfied of a reference to subsection (1) or (7) of this section having effect in relation to an event; but that section (together with section 15 of the Finance Act 1964) shall cease to have effect for any other purpose, except as respects any relevant change occurring before the year 1966-67.