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SCHEDULES.

SCHEDULE 12

Sections 48, 71 and 85.

SUPPLEMENTARY PROVISIONS ABOUT TAX ON DISTRIBUTIONS, ETC.

PART I

Procedure etc. for payments by and repayments to companies.

- 1 (1) Any income tax for which a company resident in the United Kingdom is liable to account in respect of distributions made by it in any year of assessment after the year 1965-66, or in respect of any payments made by it in any such year other than distributions, shall in accordance with paragraph 2 below be accounted for and paid during or on the expiration of the year, subject to such set off as is available to the company under paragraph 3 below against income tax on franked investment income or on payments received subject to deduction of tax other than franked investment income.
- (2) If it appears after the end of any such year of assessment either—
- (a) that in respect of distributions made by the company in the year the company is liable to account for income tax to an amount greater than the income tax (if any) borne by it on franked investment income received in the year and on any surplus of franked investment income carried forward to the year ; or
 - (b) that in respect of payments made by the company in the year other than distributions the company is liable to account for income tax to an amount greater than the income tax (if any) borne by it by deduction on payments received in the year other than franked investment income ;
- and the amount paid by and not repaid to the company in respect of the year in accordance with sub-paragraph (1) above is less than the amount of the excess referred to in paragraph (a) or (b) of this sub-paragraph, the company shall be liable to pay the difference between the two last-mentioned amounts.
- (3) The amount which a company is liable to pay for any year of assessment under sub-paragraph (2) above, if or in so far as it is not agreed between the company and the inspector or is not paid in pursuance of such an agreement, shall be recovered by means of an assessment made on the company.
- (4) Nothing in this Part of this Schedule shall apply to income tax for which a company is liable to account under section 157 (pay as you earn) of the Income Tax Act 1952 ; but in section 27(1) of the Finance Act 1960 (payments for interest on securities sold cum dividend) the reference to section 170(2) of the Income Tax Act 1952 shall include a reference to this Part of this Schedule.
- 2 (1) A company shall from time to time make to the collector returns of all distributions and payments made by it to which paragraph 1 above applies, and shall in any such return specify any amount of dividends included therein which has been paid under

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deduction of tax notwithstanding that an election under section 48(3) of this Act was in force in relation thereto.

- (2) A return under this paragraph of distributions and payments made in any month shall be made within fourteen days from the end of the month, except that a return for the first five months of the year 1966-67 shall be made within fourteen days of the end of those five months; and any claim under paragraph 3 below shall be made at the like times.

In this sub-paragraph " month " means a month of a year of assessment, that is to say, a month beginning with the sixth day of a month of the calendar year.

- (3) Subject to sub-paragraph (5) below, income tax in respect of any payment required to be included in a return under this paragraph shall be due at the time by which the return is to be made, and income tax so due shall be payable by the company without the making of any assessment.
- (4) Income tax in respect of distributions included in a return, not being payments, shall be assessed on the company; and if it appears to the inspector that there are distributions (of whatever description) which ought to have been and have not been included in a return, or if the inspector is dissatisfied with any return, he may make an assessment on the company to the best of his judgment.
- (5) Where a company is liable to pay income tax in respect of any payment if, but only if, it amounts to or involves a distribution, and it is not in the circumstances apparent whether or how far it does so, then—
- (a) particulars of the payment shall be included in the return under this paragraph ; but
 - (b) sub-paragraph (3) above shall not apply to the payment and income tax in respect of it shall be assessed as in the case of distributions other than payments.

- 3 (1) Where in the year 1966-67 or any later year of assessment a company resident in the United Kingdom receives franked investment income, or receives any payment on which it bears income tax by deduction, the company may claim to have the income tax thereon brought into account under this paragraph.
- (2) If on the making of any such claim it is shown by the required evidence that income tax has been or will be paid in respect of any franked investment income or payment included in the claim, that tax shall be set against any income tax which the company has paid or is liable to pay in respect of distributions or other payments included in returns made under paragraph 2 above for the same year of assessment, and (where necessary) income tax paid by the company before the claim is allowed shall be repaid accordingly.
- (3) Where, on a claim made under this paragraph for any year of assessment, account would be taken of distributions made by the company in the year, and the company has a surplus of franked investment income carried forward to that year (and not already dealt with under this paragraph), the claim shall so state and the income tax on the surplus shall under sub-paragraph (2) above be set against income tax on distributions made by the company (but not against income tax on other payments).
- (4) Section 9 of the Income Tax Management Act 1964 shall apply to a claim under this paragraph.

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- 4 Income tax set against other tax under paragraph 3 above shall be treated as paid or repaid, as the case may be, and the same tax shall not be taken into account both under this Part of this Schedule and under section 48(6) of this Act; but for purposes of section 48(6) any amount paid by a company by virtue of paragraph 1(2)(d) above shall be treated as if it were income tax borne by deduction on a payment not being franked investment income, and as if that payment had been received at the end of the year of assessment for which the said amount is paid, and the said amount shall be set off against corporation tax or repayable accordingly.
- 5 (1) Income tax assessed on a company under this Schedule shall, subject to any appeal against the assessment, be due within fourteen days after the issue of the notice of assessment (unless due earlier under paragraph 2(3) above); and where the amount of any tax payable in accordance with paragraph 1(2) above is agreed between the company and the inspector, it shall be due within fourteen days after it is so agreed.
- (2) Sections 63 and 66 of the Income Tax Act 1952 (which make special provision for Schedule D in relation to appeals and to the correction of mistakes) shall apply to any assessment made by virtue of this Schedule as if it were an assessment under Schedule D, and section 13 of the Income Tax Management Act 1964 shall have effect accordingly.
- (3) Section 495 of the Income Tax Act 1952 (interest on overdue income tax) shall apply in relation to income tax assessable in accordance with this Schedule as it applies to income tax charged by an assessment under Schedule D, except that subsection (2) and paragraph (a) of subsection (3) (remission of interest on tax less than three months overdue and on assessments for less than one thousand pounds) shall not apply.
- (4) Nothing in the foregoing provisions of this Schedule shall be taken to prejudice any powers conferred by the Income Tax Acts for the recovery of income tax by means of an assessment or otherwise.
- (5) Subject to the foregoing provisions of this Schedule the Board may by statutory instrument make regulations with respect to the procedure to be adopted for giving effect to section 48 of this Act, and as to the information and evidence to be furnished by a company in or in connection with any return or claim made for purposes thereof.

PART II

Payments received from subsidiary or jointly owned company.

- 6 (1) An election (that is to say in this Part of this Schedule, an election under section 48(3) of this Act) shall be made by notice in writing to the inspector, and the notice shall set out the facts necessary to show that the companies are entitled to make the election.
- (2) An election shall not have effect in relation to dividends paid less than three months after the giving of the notice and before the inspector is satisfied that the election is validly made, and has so notified the companies concerned; but shall be of no effect if within those three months the inspector notifies the companies concerned that the validity of the election is not established to his satisfaction:

Provided that the companies shall have the like right of appeal against any decision that the validity of the election is not established as the company paying the dividends would have if it were an assessment made on that company under Schedule D,

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and the enactments relating to an appeal against such an assessment (including any enactment relating to the statement of a case for the opinion of the High Court) shall apply accordingly.

- (3) An election shall cease to be in force if at any time the companies cease to be entitled to make the election, and on that happening each company shall forthwith notify the inspector.
- (4) Either of the companies making an election may at any time give the inspector notice in writing revoking the election; and any such notice shall have effect from the time it is given.
- 7 (1) Section 48(3) of this Act shall not apply to dividends received by a company on any investments, if a profit on the sale of those investments would be treated as a trading receipt of that company.
- (2) Section 48(3) shall not apply to dividends paid by a company to another unless both are bodies corporate.
- 8 Where a company purports by virtue of an election to pay any dividends without deduction of income tax, and income tax ought to have been deducted, then the company receiving the dividends shall be treated for purposes of sections 47 and 48 of this Act as if that tax had been deducted and been repaid to it under Part I of this Schedule, and the amount of that tax may be recovered from it accordingly by adjustment of the payments and repayments under Part I or otherwise.
- 9 (1) For purposes of section 48(3) of this Act a body corporate shall be deemed to be a subsidiary of another body corporate if and so long as more than one half of its ordinary share capital is owned by that other body corporate, whether directly or through another body corporate or other bodies corporate, or partly directly and partly through another body corporate or other bodies corporate.
- (2) In determining under this paragraph whether one body corporate is a subsidiary of another, that other shall be treated as not being the owner—
- (a) of any share capital which it owns directly or indirectly in a body corporate not resident in the United Kingdom ; 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.
- 10 References to ownership and to ordinary share capital in section 48(3) of this Act and in this Part of this Schedule shall be construed in accordance with section 42(3) of the Finance Act 1938; and, except in so far as paragraph 9(2) above provides otherwise, section 42(2) of that Act, together with Part I of Schedule 4, shall apply for purposes of paragraph 9 above as they applied for purposes of that section.
- 11 This Part of this Schedule shall apply for purposes of section 48(7) of this Act, with the necessary adaptations of references to dividends, as it applies for purposes of section 48(3).