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SCHEDULES.

SCHEDULE 12

SUPPLEMENTARY PROVISIONS ABOUT TAX ON DISTRIBUTIONS, ETC.

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, 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.

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- 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).