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SCHEDULES.

SCHEDULE 17

SUPPLEMENTARY PROVISIONS ABOUT DIVIDEND STRIPPING.

Relation of distribution to profits.

- 5 (1) Subject to paragraph 7 below, the question how far a distribution made in respect of a holding of any class is to be treated as made out of profits arising to the company since the time when the holding was acquired shall be determined by taking the profits arising to the company since that time and seeing what proportion of that distribution and the distributions made with it on other holdings of the same class can be met out of those profits, after allowing for previous distributions made since that time on holdings of that class and for distributions made or not yet made on holdings not of that class (including any such holdings as are described in paragraph 2(3) above); and for this purpose there shall be treated as included in any distribution or part of a distribution the income tax thereon for which the company is liable to account under this Act.
- (2) The allowance to be made under sub-paragraph (1) above for previous distributions made since the time there referred to on holdings of the same class is the amount which, in the case of those distributions, is treated under that sub-paragraph as made out of the profits arising to the company since that time.
- (3) The allowance to be made under sub-paragraph (1) above for distributions on holdings not of the class in question shall be such amount, whether fixed or proportionate to the amount of the profits, as ought justly and reasonably to be set aside for making such distributions, having regard to the respective rights comprised in or attaching to holdings in the company, and on the assumption that the total amount available for distributions by the company over any period will be proportionately greater or less than the profits taken into account under sub-paragraph (1) above, according as that period is longer or shorter than the period so taken into account; and regard may be had to the fact (if it is so) that distributions for which allowance is to be made under this sub-paragraph have been treated for purposes of the principal section as paid wholly or partly out of profits arising before the period so taken into account.
- 6 (1) For purposes of paragraph 5 above, the profits arising to a company in the period between a person's acquisition of a holding and the making of a distribution on the holding shall be arrived at by ascertaining in accordance with the following sub-paragraphs the profits or loss for any accounting period wholly or partly comprised in that period and, where necessary, by the division and aggregation or apportionment of the profits or losses so ascertained.
- (2) Except as provided by sub-paragraph (3) below, the profits for any accounting period shall be ascertained according to the rules applicable under Part IV of this Act to the computation for corporation tax of the total profits of the company (losses of any

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description except those related to chargeable gains being deducted from profits of any description), except that—

- (a) franked investment income and group income shall be included ; and
- (b) no regard shall be had—
 - (i) to any investment allowances, initial allowances or balancing charges, to any scientific research allowance in respect of expenditure incurred after 5th November 1962 or to so much of any writing down allowance made at a rate determined under section 38 or 39 of the Finance Act 1963 (free depreciation in development districts) or under section 14 of this Act as exceeds an allowance at a yearly rate of fifteen per cent. of the relevant amount of expenditure; or
 - (ii) to any deduction falling to be made in respect of losses, allowances or expenses of management of any other period, except any deduction falling to be made against chargeable gains in respect of losses incurred before the accounting period; or
 - (iii) to any restriction on the deduction that may be made for directors' remuneration ;
- (c) there shall be deducted—
 - (i) any charges on income; and
 - (ii) the corporation tax payable by the company in respect of the accounting period and any surtax paid by it in that period under section 249 of the Income Tax Act 1952 as applied by the provisions of Part IV of this Act about close companies.

This sub-paragraph shall apply for ascertaining a loss sustained by a company in an accounting period as it applies for ascertaining the profits of a company for an accounting period.

- (3) Where a company has a holding in another body corporate resident in the United Kingdom, and—
 - (a) that holding was acquired by it before the recipient acquired his holding in the company ; and
 - (b) on the assumption that the company's holding and any other relevant holdings in the body corporate were acquired when the recipient acquired his holding in the company, the company's holding in the body corporate would be treated for purposes of the principal section as amounting to, or being an ingredient in a holding amounting to, ten per cent. of all holdings of the same class in the body corporate;

then any distribution made to the company in respect of that holding shall be brought into account under sub-paragraph (2) above only to the extent to which it would, on the said assumption, be treated under this Schedule as made out of profits arising to the body corporate since the time when the holding was acquired:

Provided that this sub-paragraph shall not apply to a distribution which, on the said assumption, would fall within subsection (8) of the principal section.