



# Income and Corporation Taxes Act 1970

## 1970 CHAPTER 10

### PART VI

#### SCHEDULE D

#### CHAPTER IV

##### TRADES, PROFESSIONS AND VOCATIONS: COMPUTATIONAL PROVISIONS

##### *General provisions*

#### **130 General rules as to deductions not allowable**

Subject to the provisions of the Tax Acts, in computing the amount of the profits or gains to be charged under Case I or Case II of Schedule D, no sum shall be deducted in respect of—

- (a) any disbursements or expenses, not being money wholly and exclusively laid out or expended for the purposes of the trade, profession or vocation,
- (b) any disbursements or expenses of maintenance of the parties, their families or establishments, or any sums expended for any other domestic or private purposes distinct from the purposes of the trade, profession or vocation,
- (c) the rent of any dwelling-house or domestic offices or any part thereof, except such part thereof as is used for the purposes of the trade or profession, and where any such part is so used, the sum so deducted shall not, unless in any particular case it appears that having regard to all the circumstances some greater sum ought to be deducted, exceed two-thirds of the rent bona fide paid for the said dwelling-house or offices,
- (d) any sum expended for repairs of premises occupied, or for the supply, repairs or alterations of any implements, utensils or articles employed, for the purposes of the trade, profession or vocation, beyond the sum actually expended for those purposes,
- (e) any loss not connected with or arising out of the trade, profession or vocation,

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- (f) any capital withdrawn from, or any sum employed or intended to be employed as capital in, the trade, profession or vocation, but so that this paragraph shall not be treated as disallowing the deduction of any interest,
- (g) any capital employed in improvements of premises occupied for the purposes of the trade, profession or vocation,
- (h) any interest which might have been made if any such sums as aforesaid had been laid out at interest,
- (i) any debts, except bad debts proved to be such, and doubtful debts to the extent that they are respectively estimated to be bad, and in the case of the bankruptcy or insolvency of a debtor the amount which may reasonably be expected to be received on any such debt shall be deemed to be the value thereof,
- (j) any average loss beyond the actual amount of loss after adjustment,
- (k) any sum recoverable under an insurance or contract of indemnity,
- (l) any annuity or other annual payment (other than interest) payable out of the profits or gains,
- (m) any interest paid to a person not resident in the United Kingdom if and so far as it is interest at more than a reasonable commercial rate,
- (n) any royalty or other sum paid in respect of the user of a patent, or
- (o) any rent, royalty or other payment which, by section 156 or 157 of this Act (mining etc. rents and royalties), is declared to be subject to deduction of tax under Part II of this Act as if it were a royalty or other sum paid in respect of the user of a patent.

### **131 Income tax: deduction of interest paid to non-residents**

- (1) In computing the profits or gains arising from a trade, profession or vocation, no sum shall be deducted in respect of any annual interest paid to a person not resident in the United Kingdom unless—
  - (a) the person making the payment has deducted income tax from the payment in accordance with section 54 of this Act, and accounts for the tax so deducted, or
  - (b) the conditions set out in subsection (2) below are satisfied.
- (2) The conditions referred to in subsection (1)(b) above are as follows—
  - (a) that the trade, profession or vocation is carried on by a person residing in the United Kingdom, and
  - (b) that the liability to pay the interest was incurred exclusively for the purposes of the trade, profession or vocation, and
  - (c) that either—
    - (i) the liability to pay the interest was incurred wholly or mainly for the purposes of activities of the trade, profession or vocation carried on outside the United Kingdom, or
    - (ii) the interest is payable in the currency of a territory outside the scheduled territories, and
  - (d) that, under the terms of the contract under which the interest is payable, the interest is to be paid, or may be required to be paid, outside the United Kingdom, and
  - (e) that the interest is in fact paid outside the United Kingdom.

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- (3) Where the trade, profession or vocation is carried on by a partnership, subsection (1)(b) above shall not apply to any interest which is payable to any of the partners, or is payable in respect of the share of any partner in the partnership capital.
- (4) Subsection (1)(b) above shall not apply where—
- (a) the trade, profession or vocation is carried on by a body of persons over whom the person entitled to the interest has control, or
  - (b) the person entitled to the interest is a body of persons over whom the person carrying on the trade, profession or vocation has control, or
  - (c) the person carrying on the trade, profession or vocation, and the person entitled to the interest are both bodies of persons, and some other person has control over both of them.
- In this subsection, the references to a body of persons include references to a partnership, and "control" has the meaning given by section 534 of this Act.
- (5) If interest paid under deduction of tax in accordance with section 54 of this Act is deductible in computing the profits or gains of a trade, profession or vocation, the amount so deductible shall be the gross amount.
- (6) In subsection (2)(c)(ii) above "the scheduled territories" means the territories specified in Schedule 1 to the Exchange Control Act 1947 as for the time being in force.
- (7) This section does not apply for the purposes of corporation tax.

### **132 Deduction of patent etc. fees and expenses**

Notwithstanding anything in section 130 above, in computing the profits or gains of a trade, there may be deducted as expenses any fees paid or expenses incurred—

- (a) in obtaining, for the purposes of the trade, the grant of a patent, an extension of the term of a patent, the registration of a design or trade mark, the extension of the period of copyright in a design, or the renewal of registration of a trade mark, or
- (b) in connection with a rejected or abandoned application for a patent made for the purposes of the trade.

### **133 Deduction of payments for technical education**

- (1) Notwithstanding anything in section 130 above, where a person carrying on a trade makes any payment to be used for the purposes of technical education related to that trade at any university or university college, or at any such technical college or other similar institution as may for the time being be approved for the purposes of this section by the Secretary of State for Education and Science, the payment may be deducted as an expense in computing the profits or gains of the trade for the purposes of tax.
- (2) For the purposes of this section, technical education shall be deemed to be related to a trade if, and only if, it is technical education of a kind specially requisite for persons employed in the class of trade to which that trade belongs.
- (3) In relation to technical colleges or other institutions in Scotland or Northern Ireland, this section shall have effect as if, for the reference to the Secretary of State for

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Education and Science, there were substituted a reference, in the case of Scotland, to the Secretary of State and, in the case of Northern Ireland, to the Ministry of Education for Northern Ireland.

### 134 Deductions where premiums etc. taxable

- (1) Where, in relation to any land used in connection with a trade, profession or vocation—
- (a) tax has become chargeable under section 80 (except subsection (6)), 81 or 82 of this Act on any amount (disregarding any reduction in that amount under section 83(1) of this Act), or
  - (b) tax would have become so chargeable on that amount but for the operation of the said section 80(6) or the said section 83(1), or but for any exemption from tax,

subsections (2) to (7) below shall have effect, in the cases there provided, for allowing deductions calculated by reference to that amount (hereinafter referred to as " the amount chargeable ") in computing the profits or gains of the trade, profession or vocation chargeable to tax under Case I or Case II of Schedule D ; and in those subsections " the relevant period " means—

- (i) where the amount chargeable arose under the said section 80, the period treated in computing that amount as being the duration of the lease,
  - (ii) where that amount arose under the said section 81, the period treated in computing the amount as being the duration of the lease remaining at the date of the assignment, and
  - (iii) where that amount arose under the said section 82, the period beginning with the sale and ending on the date fixed under the terms of the sale as the date of the reconveyance or grant, or, if that date is not fixed, ending with the earliest date at which the reconveyance or grant could take place in accordance with the terms of the sale.
- (2) Subject to subsections (3) to (7) below, where during any part of the relevant period the land in relation to which the amount chargeable arose is occupied by the person for the time being entitled to the lease, estate or interest as respects which it arose for the purposes of a trade, profession or vocation carried on by him, he shall be treated, in computing the profits or gains of the trade, profession or vocation chargeable as aforesaid, as paying in respect of that land rent for the period (in addition to any actual rent), becoming due from day to day, of an amount which bears to the amount chargeable the same proportion as that part of the relevant period bears to the whole.
- (3) As respects any period during which a part only of the land in relation to which the amount chargeable arose is occupied as mentioned in subsection (2) above, that subsection shall apply as if the whole were so occupied, but the amount chargeable shall be treated as reduced by so much thereof as, on a just apportionment, is attributable to the remainder of the land.
- (4) Where a person, although not in occupation of the said land or a part thereof, deals with his interest in the land or that part as property employed for the purposes of a trade, profession or vocation carried on by him, subsections (2) and (3) above shall apply as if the land or part were occupied by him for those purposes:

Provided that—

- (a) where section 83(1) of this Act has effect in relation to a lease granted out of that interest, subsection (3) of that section shall apply for modifying the

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- operation of subsections (2) and (3) above as it applies for modifying the operation of subsection (2) of that section, and
- (b) in computing profits or gains for any chargeable period, rent shall not by virtue of this subsection be treated as paid by a person for any period in respect of land in so far as rent treated under section 83(2) of this Act as paid by him for that period in respect of the land has in any previous chargeable period been deducted, or falls in that chargeable period to be deducted, under Part III of this Act.
- (5) Where, in respect of expenditure on the acquisition of his interest in the land in relation to which the amount chargeable arose, a person has become entitled to an allowance under section 60 of the Capital Allowances Act 1968 (mineral depletion) for any chargeable period, then—
- (a) if the allowance is in respect of the whole of the expenditure, no deduction shall be allowed him under this section for that or any subsequent chargeable period, or
- (b) if the allowance is in respect of part only of the expenditure, a deduction allowed him under this section for that or any subsequent chargeable period shall be the fraction
- $$\frac{A-B}{A}$$
- of the amount which apart from this subsection would fall to be deducted, where—
- A is the whole of the expenditure, and
- B is the said part of the expenditure.
- (6) Where the amount chargeable arose under section 80(2) of this Act by reason of an obligation which included the carrying out of work in respect of which any capital allowance has fallen or will fall to be made, this section shall apply as if the obligation had not included the carrying out of that work and the amount chargeable had been calculated accordingly.
- (7) Where the amount chargeable arose under section 82 of this Act and the reconveyance or grant in question takes place at a price different from that taken in calculating that amount, or on a date different from that taken in determining the relevant period, the preceding provisions of this section shall be deemed to have had effect (for all relevant chargeable periods) as they would have had effect if the actual price or date had been so taken, and such adjustment of liability to tax shall be made, by means of an assessment or otherwise, as may be necessary, and may be so made at any time at which it could be made if it related only to tax for the chargeable period in which the reconveyance or grant takes place.

### **135 Deduction for debts proving irrecoverable after event treated as discontinuance**

Where section 154 or 251(1) of this Act applies to treat a trade, profession or vocation as discontinued by reason of any event, then, in computing for tax purposes the profits or gains of the trade, profession or vocation in any period after the event 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 event (being debts the benefit of which was assigned to the persons carrying on the trade, profession or vocation after the event), in so far as the total amount proved to be irrecoverable in respect of those debts exceeds any deduction

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allowed in respect of them under section 130(f) above in a computation for any period before the event.

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

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 the 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.

### **137 Valuation of trading stock on discontinuance of trade**

- (1) In computing for any tax purpose the profits or gains of a trade which has been discontinued, any trading stock belonging to the trade at the discontinuance shall be valued as follows—
  - (a) if the stock is sold or transferred for valuable consideration to a person who carries on, or intends to carry on, a trade in the United Kingdom, and the cost thereof may be deducted by the purchaser as an expense in computing for any such purpose the profits or gains of that trade, the value thereof shall be taken to be the amount realised on the sale or the value of the consideration given for the transfer, and
  - (b) if the stock does not fall to be valued under paragraph (a) above, its value shall be taken to be the amount which it would have realised if it had been sold in the open market at the discontinuance of the trade.
- (2) Any question arising under subsection (1)(a) above shall be determined as follows, for the purpose of computing as aforesaid the profits or gains of both the trades concerned—
  - (a) in a case where the same body of General Commissioners have jurisdiction with respect to both the trades concerned, the question shall be determined by those Commissioners unless all parties concerned agree that it shall be determined by the Special Commissioners,
  - (b) in any other case, the question shall be determined by the Special Commissioners, and
  - (c) the General or Special Commissioners shall determine the question in like manner as an appeal.
- (3) Where, by virtue of section 154 or 251(1) of this Act, a trade is treated as having been discontinued for the purpose of computing tax, it shall also be so treated for the purposes of this section ; but this section shall not apply in a case where a trade carried on by a single individual is discontinued by reason of his death.
- (4) For the purposes of this section, " trading stock ", in relation to any trade, means property of any description, whether real or personal, being either—
  - (a) property such as is sold in the ordinary course of the trade, or would be so sold if it were mature or if its manufacture, preparation or construction were complete, or
  - (b) materials such as are used in the manufacture, preparation or construction of any such property as is referred to in paragraph (a) above.

For the purposes of this section " trading stock ", in relation to a trade, includes also any services, article or material which would, if the trade were a profession or vocation,

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be treated as work in progress thereof for the purposes of section 138 below, and references to the sale or transfer of trading stock shall be construed accordingly.

### **138 Valuation of work in progress at discontinuance of profession or vocation**

- (1) Where, in computing for any 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, and
  - (b) if the work does not fall to be valued under paragraph (a) above, 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) Section 137(2) above shall apply to the determination of any question arising under subsection (1)(a) of this section as it applies to the determination of any question arising under subsection (1)(a) 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 inspector 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) above) 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 143 below as if it were a sum to which that section applies received after the discontinuance.
- (4) Subsections (1) to (3) above shall apply where a profession or vocation is treated under section 154 or 251(1) of this Act 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) References in this section 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 in this section 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.

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### *Special provisions*

#### **139 Treatment of farm animals etc.**

Schedule 6 to this Act shall have effect with respect to the treatment, in computing profits or gains for the purposes of Case I of Schedule D, of animals and other living creatures kept for the purposes of farming or of any other trade.

#### **140 Tied premises**

- (1) In computing for tax purposes the profits or gains or losses of a trade carried on by a lessor of tied premises—
  - (a) there shall be taken into account as a trading receipt any rent payable for the premises to him, and there shall be allowed as deduction any rent paid for the premises by him, but
  - (b) no deduction shall be allowed in respect of the premises either by reference to his being entitled to a rent for the premises which is less than the rent which might have been obtained (or less than their annual value or the rent payable by him for them) or in respect of the annual value of the premises.
- (2) For the purposes of this section, premises shall be deemed to be tied premises in relation to any lessor thereof, and in relation to any trade carried on by him, if, but only if, in the course of that trade, he is concerned (whether as principal or agent) in the supply of goods sold or used on the premises, and accordingly deals with the premises or his interest therein as property employed for the purposes of that trade; and in this section " the relevant trade ", in relation to any tied premises and to any lessor thereof, means any trade carried on by him in relation to which they are tied premises.
- (3) Where part only of premises in respect of which rent is paid by or payable to a lessor of the premises are tied premises in relation to him, the rent paid or payable for the tied premises shall for the purposes of this section be taken to be that part of the entire rent which, on a fair and just apportionment, is attributable to them.
- (4) Subject to subsection (5) below, a lessor of tied premises who is chargeable to tax for any chargeable period in respect of the profits or gains of the relevant trade shall not be liable for that period (or for the part of it during which he carries on the said trade) to any tax in respect of the premises under Schedule A.
- (5) Where, for any chargeable period or part of a chargeable period, a lessor of tied premises becomes entitled to any rent under a lease comprising the tied premises and other premises, but is by virtue of subsection (4) above relieved of liability to tax in respect of the tied premises under Schedule A, his liability in respect of the rent shall be computed in the first instance as it would be apart from this section, but his total liability (so computed) in respect thereof shall be reduced by the part which, on a fair and just apportionment, is attributable to the tied premises for the chargeable period or part thereof for which he is so relieved of liability in respect of them.
- (6) If the lessor of tied premises outside the United Kingdom is chargeable to tax for any chargeable period in respect of the profits or gains of the relevant trade, he shall not be liable for that period (or for the part of it during which he carries on the said trade) to tax under Case V of Schedule D in respect of any rent for the premises.
- (7) Where the person carrying on a trade is, in the case of any premises, entitled in equity to the interest of any lessor of those premises, then, in relation to that person, subsections



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(1) to (3) above shall apply as if he were the lessor of the premises, and as if any rent payable to or paid by the lessor were payable to or paid by him ; and, in relation to the lessor of the premises, subsections (4) and (5) above (or, in the case of premises outside the United Kingdom, subsection (6) above) shall apply as they would apply to the person carrying on the trade if the lessor's interest in the premises and in any other relevant land were vested in him.

- (8) In this section " lease " includes an agreement for a lease if the term to be covered by the lease has begun, and any tenancy, but does not include a mortgage or heritable security, and " lessor " shall be construed accordingly, and includes the successors in title of a lessor.

#### **141 Cemeteries etc.: deduction of certain capital expenditure**

- (1) In computing the profits or gains or losses for any period of a trade which consists of or includes the carrying on of a cemetery, there shall be allowed as a deduction—
- (a) any capital expenditure incurred by the person engaged in carrying on the trade in providing any land in the cemetery sold during that period for the purpose of interments, and
  - (b) the appropriate fraction of the residue at the end of that period of the capital expenditure defined in subsection (2) below.
- (2) The said expenditure is capital expenditure incurred for the purposes of the trade in question by the person engaged in carrying it on, being—
- (a) expenditure on any building or structure other than a dwelling-house, being a building or structure in the cemetery likely to have little or no value when the cemetery is full, and
  - (b) expenditure incurred in providing land taken up by any such building or structure, and any other land in the cemetery not suitable or adaptable for use for interments and likely to have little or no value when the cemetery is full:

Provided that it does not include expenditure incurred on buildings or structures which have been destroyed before the beginning of the first period to which subsection (1) above applies in the case of the trade, and only includes that fraction of other expenditure incurred before that time which is equal to the number of grave-spaces which at that time were or could have been made available in the cemetery for sale divided by that number plus the number already sold.

- (3) For the purposes of this section—
- (a) the residue of any expenditure at the end of a period is the amount incurred before that time which remains after deducting—
    - (i) any amount allowed in respect of that expenditure under subsection (1)(b) above in computing the profits or gains or losses of the trade for any previous period, and
    - (ii) if, after the beginning of the first period to which subsection (1) above applies in the case of the trade and before the end of the period mentioned at the beginning of this subsection, any asset representing that expenditure is sold or destroyed, the net proceeds of sale or, as the case may be, any insurance money or other compensation of any description received by the person carrying on the trade in respect of the destruction and any money received by him for the remains of the asset, and

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- (b) the appropriate fraction of the residue of any expenditure at the end of any period is that represented by the number of grave-spaces in the cemetery sold in the period divided by that number added to the number of grave-spaces which at the end of the period are or could be made available in the cemetery for sale.
- (4) Where, in any chargeable period, there is a change in the persons engaged in carrying on a trade which consists of or includes the carrying on of a cemetery, any allowance to be made under this section to the persons carrying on the trade after the change shall, whether or not it is to be assumed for other purposes that the trade was discontinued and a new trade set up and commenced, be computed as if they had at all times been engaged in carrying on the trade, as if everything done to or by any of their predecessors in carrying on the trade had been done to or by them, and without regard to the price paid on any sale on the occasion of any such change.
  - (5) No expenditure shall be taken into account both under paragraph (a) and paragraph (b) of subsection (1) above, whether for the same or different periods.
  - (6) This section shall apply in relation to a trade which consists of or includes the carrying on of a crematorium and, in connection therewith, the maintenance of memorial garden plots, as it applies in relation to a trade which consists of or includes the carrying on of a cemetery, but subject to the modifications that—
    - (a) references to the cemetery or land in the cemetery shall be taken as references to the land which is devoted wholly to memorial garden plots, and
    - (b) references to grave-spaces shall be taken as references to memorial garden plots, and
    - (c) references to the sale or use of land for interments shall be taken as references to its sale or use for memorial garden plots.
  - (7) In this section references to the sale of land include references to the sale of a right of interment in land, and to the appropriation of part of a memorial garden in return for a dedication fee or similar payment, and references to capital expenditure incurred in providing land shall be taken as references to the cost of purchase and to any capital expenditure incurred in levelling or draining it or otherwise rendering it suitable for the purposes of a cemetery or memorial garden.
  - (8) Section 84 of the Capital Allowances Act 1968 (which relates to expenditure which is reimbursed to a person carrying on a trade) shall apply for the purposes of this section as it applies for the purposes of Part I of that Act.

**142 Dealers in land: purchase and sale of woodlands, and special rules where premiums etc. taxable**

- (1) In computing for tax purposes the profits or gains of a trade of dealing in land, there shall be disregarded—
  - (a) so much of the cost of woodlands in the United Kingdom purchased in the course of the trade as is attributable to trees or saleable underwood growing on the land, and
  - (b) where any amount has been disregarded under paragraph (a) above and, on a subsequent sale of the woodlands in the course of the trade, all or any of the trees or underwood to which the amount disregarded was attributable are still growing on the land, so much of the price for the land as is equal to the amount so disregarded in respect thereof.

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Provided that this section shall not apply where the purchase was made under a contract entered into before 1st May 1963.

- (2) In computing the profits or gains of a trade of dealing in land, any trading receipt falling within subsection (1), (3) or (4) of section 80 of this Act shall be treated as reduced by the amount on which tax is chargeable by virtue of that section.
- (3) In a case falling within subsection (6) of the said section 80—
- (a) if no claim is made under that subsection, subsection (2) above shall have effect as if it provided that so much only of any instalment falling within subsection (1), (3) or (4) of the said section 80 shall be treated as a trading receipt as exceeds the fraction of
- $$\frac{A}{B}$$
- the amount on which tax is chargeable by virtue of that section, where—
- A is the amount of the instalment, and
- B is the amount of the sum of which it is an instalment;
- (b) if a claim is made, subsection (2) above shall not apply, but no part of any instalment shall be treated as a trading receipt:

Provided that where a claim is made under the said subsection (6), and the instalments to which it relates are reduced for the purposes of that subsection by virtue of paragraph 1(2) of Schedule 4 to this Act (allowances for betterment levy), paragraph (b) above shall apply only to such part of each instalment as is taxed under the said subsection (6).

- (4) In computing the profits or gains of a trade of dealing in land, any trading receipts falling within section 81 or 82 of this Act shall be treated as reduced by the amount on which tax is chargeable by virtue of that section, but where, on a claim being made under subsection (2)(b) of the said section 82, the amount on which tax was chargeable by virtue of that section is treated as reduced, this subsection shall be deemed to have applied to the amount as reduced, and any such adjustment of liability to tax shall be made (for all relevant chargeable periods) whether by means of an assessment or otherwise, as may be necessary, and may be so made at any time at which it could be made if it related only to tax for the chargeable period in which the said claim is made.