



Income and Corporation Taxes Act 1970

1970 CHAPTER 10

PART VIII

SCHEDULE E

CHAPTER I

THE CHARGE

The Schedule

181 Schedule E

(1) The Schedule referred to as Schedule E is as follows:—

“SCHEDULE E

1 Tax under this Schedule shall be charged in respect of any office or employment on emoluments therefrom which fall under one, or more than one, of the following Cases—

Case I: where the person holding the office or employment is resident and ordinarily resident in the United Kingdom, and does not perform the duties of the office or employment wholly outside the United Kingdom in the chargeable period (and the emoluments are not excepted as foreign emoluments), any emoluments for the chargeable period ;

Case II: where that person is not resident or, if resident, then not ordinarily resident in the United Kingdom (and the emoluments are not excepted as foreign emoluments), any emoluments for the chargeable period in respect of duties performed in the United Kingdom;

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Case III: where that person is resident in the United Kingdom (whether ordinarily resident there or not), any emoluments received in the United Kingdom in the chargeable period, being emoluments either for that period or for an earlier period in which he has been resident there, and any emoluments for that period received in the United Kingdom in an earlier period;

and tax shall not be chargeable in respect of emoluments of an office or employment under any other paragraph of this Schedule.

The emoluments excepted from Cases I and II as foreign emoluments are emoluments of a person not domiciled in the United Kingdom from an office or employment under or with any person, body of persons or partnership resident outside, and not resident in, the United Kingdom.

2 Tax under this Schedule shall be charged in respect of every annuity, pension or stipend payable by the Crown or out of the public revenue of the United Kingdom or of Northern Ireland, other than annuities charged under Schedule C

3 Tax under this Schedule shall also be charged in respect of any pension which is paid otherwise than by or on behalf of a person outside the United Kingdom.

4 Where—

(a) any pension or annuity is payable in the United Kingdom by or through any public department, officer or agent of the government of a territory to which this paragraph applies (but otherwise than out of the public revenue of the United Kingdom or the public revenue of Northern Ireland) to a person who has been employed in relevant service outside the United Kingdom in respect of that service, or

(b) any pension or annuity is so payable to the widow, child, relative or dependant of any such person as aforesaid,

and the person in receipt of the pension or annuity is chargeable to tax as a person resident in the United Kingdom, the pension or annuity shall be chargeable to tax under this Schedule.

The territories to which this paragraph applies are—

(i) any country forming part of Her Majesty's dominions,

(ii) any other country for the time being mentioned in section 1(3) of the British Nationality Act 1948, and

(iii) any territory under Her Majesty's protection,

and in this paragraph " relevant service " means the service of the Crown, or service under the government of a territory to which this paragraph applies.

5 The preceding provisions of this Schedule are without prejudice to any other provision of the Tax Acts directing tax to be charged under this Schedule, and tax so directed to be charged shall be charged accordingly."

(2) References in the Tax Acts to Cases I, II and III of Schedule E shall be taken as referring to the Cases under which tax is chargeable under paragraph 1 of that Schedule.

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Supplementary charging provisions

182 Voluntary pensions

- (1) Where—
 - (a) a person has ceased to hold any office or employment, and
 - (b) a pension or annual payment is paid to him, or to his widow or child, or to any relative or dependant of his, by the person under whom he held the office or by whom he was employed, or by the successors of that person, and
 - (c) that pension or annual payment is paid otherwise than by or on behalf of a person outside the United Kingdom,then, notwithstanding that the pension or payment is paid voluntarily, or is capable of being discontinued, it shall be deemed to be income for the purposes of assessment to tax, and shall be assessed and charged under Schedule E.
- (2) For the avoidance of doubt, it is hereby declared that the expressions " annuity" and " pension" in Schedule E include respectively an annuity and a pension which is paid voluntarily or is capable of being discontinued.

183 Offices and employments: scope of charge

- (1) Tax under Case I, II or III of Schedule E shall, except as hereinafter mentioned, be chargeable on the full amount of the emoluments falling under that Case, subject to such deductions only as may be authorised by the Tax Acts, and the expression "emoluments" shall include all salaries, fees, wages, perquisites and profits whatsoever.
- (2) Tax under Case III of Schedule E shall be chargeable whether or not tax is chargeable in respect of the same office or employment under Case I or II of that Schedule, but shall not be chargeable on any emoluments falling under the said Case I or II for the same or another chargeable period (or on any emoluments charged under Schedule E for a chargeable period earlier than the year 1956-57).

184 Offices and employments: place of performance, and meaning of emoluments received in United Kingdom

- (1) Where a person ordinarily performs the whole or part of the duties of his office or employment in the United Kingdom, then, for the purposes of Cases I and II of Schedule E his emoluments for any period of absence from the office or employment shall be treated as emoluments for duties performed in the United Kingdom, except in so far as it is shown that, but for that absence, they would have been emoluments for duties performed outside the United Kingdom.
- (2) Where an office or employment is in substance one the duties of which fall in the chargeable period to be performed outside the United Kingdom, then, for the purposes of Cases I and II of Schedule E, there shall be treated as so performed any duties performed in the United Kingdom the performance of which is merely incidental to the performance of the other duties outside the United Kingdom.
- (3) For the purposes of Cases I and II of Schedule E the following duties shall be treated as performed in the United Kingdom, namely—

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- (a) the duties of any office or employment under the Crown which is of a public nature and the emoluments of which are payable out of the public revenue of the United Kingdom or of Northern Ireland, and
 - (b) any duties which a person performs on a vessel engaged on a voyage not extending to a port outside the United Kingdom, or which a person resident in the United Kingdom performs on a vessel or aircraft engaged on a voyage or journey beginning or ending in the United Kingdom, or on a part beginning or ending in the United Kingdom of any other voyage or journey.
- (4) For the purposes of Case III of Schedule E, emoluments shall be treated as received in the United Kingdom if they are paid, used or enjoyed in, or in any manner or form transmitted or brought to, the United Kingdom, and subsections (4) to (7) of section 122 of this Act (under which income applied outside the United Kingdom in payment of debts is, in certain cases, treated for the purposes of Cases IV and V of Schedule D as received in the United Kingdom) shall apply for the purposes of this subsection as they apply for the purposes of subsection (3) of the said section 122.

185 Accommodation occupied by holder of office or employment

- (1) Where any premises in the United Kingdom are available to the occupier by reason of his or his wife's holding an office or employment, and—
- (a) he pays no rent for the premises, or
 - (b) the rent which he pays for them is less than the annual value of the premises, determined in accordance with section 531 of this Act,

the holder of the office or employment shall be treated for the purpose of tax under Schedule E as being in receipt (in addition to any other emoluments) of emoluments at an annual rate equal to the annual value of the premises, determined as aforesaid, reduced by the annual amount of any rent which he pays for them:

Provided that this section shall not apply if the rent is not less than might reasonably be expected to have been obtained at the time when the tenancy was granted, having regard to the terms of the tenancy, and, if at any subsequent time the landlord of the premises had the power (whether by terminating the tenancy or otherwise) to obtain a higher rent, the rent is not less than might reasonably be expected to have been obtained as aforesaid at that subsequent time.

- (2) Where the occupier of premises holds them under a tenancy from or by the leave of the person from whom he or his wife holds an office or employment, or any other person with whom that person is within the terms of section 533 of this Act, connected, the premises shall be conclusively presumed to be available to him by reason of his or his wife's holding the office or employment.
- (3) Subsection (1) above shall not apply in the case of premises provided by a local authority if the occupier proves that the terms on which he occupies are no more favourable than those on which similar premises provided by that authority are available to persons similarly circumstanced apart from the identity of the employer.
- (4) For the purposes of this section any person who under section 198(1) below would be a director of a body corporate shall be treated as holding an office from the body corporate.
- (5) This section shall apply to an occupier being a woman as it applies to an occupier being a man, with the substitution of " her husband " for " his wife ".

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- (6) In this section " terms of the tenancy " does not include any obligation imposed on the occupier or his wife in connection with his or her office or employment.

186 Directors and employees of companies granted rights to acquire shares

- (1) Where a person realises a gain by the exercise, or by the assignment or release, of a right to acquire shares in a body corporate obtained by that person as a director or employee of that or any other body corporate, he shall be chargeable to tax under Schedule E on an amount equal to the amount of his gain, as computed in accordance with this section.
- (2) Where tax may by virtue of this section become chargeable in respect of any gain which may be realised by the exercise of a right, tax shall not be chargeable under any other provision of the Tax Acts in respect of the receipt of the right.
- (3) Subject to subsection (8) below—
- (a) the gain realised by the exercise of any such right at any time shall be taken to be the difference between the amount that a person might reasonably expect to obtain from a sale in the open market at that time of the shares acquired and the amount or value of the consideration given whether for them or for the grant of the right, and
 - (b) the gain realised by the assignment or release of any such right shall be taken to be the difference between the amount or value of the consideration for the assignment or release and the amount or value of the consideration given for the grant of the right,

(a just apportionment being made of any entire consideration given for the grant of the right to acquire those shares and other shares or otherwise for the grant of the right to acquire those shares and for something besides):

Provided that neither the consideration given for the grant of the right nor any such entire consideration shall be taken to include the performance of any duties in or in connection with the office or employment by reason of which the right was granted, and no part of the amount or value of the consideration given for the grant shall be deducted more than once under this subsection.

- (4) Subject to subsection (5) below a person shall, in the case of a right granted by reason of his office or employment, be chargeable to tax under this section in respect of a gain realised by another person—
- (a) if the right was granted to that other person, or
 - (b) if the other person acquired the right otherwise than by or under an assignment made by way of a bargain at arm's length, or if the two are connected persons at the time when the gain is realised,

but in a case within paragraph (b) above the gain realised shall be treated as reduced by the amount of any gain realised by a previous holder on an assignment of the right.

- (5) A person shall not be chargeable to tax by virtue of subsection (4)(6) above in respect of any gain realised by another person if the first mentioned person was divested of the right by operation of law on his bankruptcy or otherwise, but the other person shall be chargeable to tax in respect of the gain under Case VI of Schedule D.
- (6) If a right to acquire shares in a body corporate is assigned or released in whole or in part for a consideration which consists of or comprises another right to acquire shares in that or any other body corporate, that other right shall not be treated as consideration

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for the assignment or release, but this section shall apply in relation to it as it applies in relation to the right assigned or released and as if the consideration for its acquisition did not include the value of the right assigned or released but did include the amount or value of the consideration given for the grant of the right assigned or released so far as that has not been offset by any valuable consideration for the assignment or release other than the consideration consisting of the other right.

- (7) If as a result of two or more transactions a person ceases to hold a right to acquire shares in a body corporate and he or a connected person comes to hold another right to acquire shares in that or any other body corporate (whether or not acquired from the person to whom the other right was assigned) and any of those transactions was effected under arrangements to which two or more persons holding rights in respect of which tax may be chargeable under this section were parties, those transactions shall be treated for the purposes of the last preceding subsection as a single transaction whereby the one right is assigned for a consideration which consists of or comprises the other right.

This subsection applies in relation to two or more transactions whether they involve an assignment preceding, coinciding with, or subsequent to, an acquisition.

- (8) In the case of a right to acquire shares granted before 3rd May 1966—
- (a) the amount of the gain realised at any time by the exercise, or by the assignment or release, of the right shall not exceed the difference between the market value of those shares at that time and their market value on 3rd May 1966 (and no gain shall be treated as so realised unless the later value exceeds the earlier value), and
 - (b) subsection (2) above shall not affect tax chargeable under Case I of Schedule E in respect of the receipt of the right, but the amount, if any, on which tax is so chargeable shall be taken into account under subsection (3)(a) and (b) above in relation to the gain realised by the exercise, or by the assignment or release, of the right as if that amount formed part (in addition to any other amount) of the consideration for the grant of the right.
- (9) For the purposes of this section a right to acquire shares is obtained by a person as a director or employee of a body corporate—
- (a) if it is granted to him by reason of his office or employment as a director or employee of the body corporate who is chargeable to tax in respect of that office or employment under Case I of Schedule E, or
 - (b) if the right is assigned to him and was granted by reason of any such office or employment of his to some other person,
- and paragraph (a) above shall apply to a right granted by reason of a person's office or employment after he has ceased to hold it if it would apply to a right so granted in the last chargeable period in which he did hold it.
- (10) For the purposes of this section—
- (a) references to the release of a right include references to agreeing to the restriction of the exercise of the right,
 - (b) any question whether a person is connected with another shall be determined in accordance with section 533 of this Act,
 - (c) " director " and " employee " have the meanings given by section 224(1) of this Act, and
 - (d) in so far as the context permits, " shares " includes stock,

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and this section shall apply in relation to any securities (as defined in section 237(5) of this Act) issued by a body corporate as it applies to shares in that body corporate.

- (11) Where in any year of assessment a body corporate grants a right in respect of which tax may become chargeable under this section, or allots or transfers any shares in pursuance of such a right, or gives any consideration for the assignment or for the release in whole or in part of such a right, or receives written notice of the assignment of such a right, it shall deliver particulars thereof in writing to the inspector not later than thirty days after the end of that year.
- (12) If a gain chargeable to tax under subsection (1) or subsection (4) of this section is realised by the exercise of a right to acquire shares—
 - (a) paragraph 4(1)(a) of Schedule 6 to the Finance Act 1965 (computation of chargeable gains: allowable expenditure) shall apply as if a sum equal to the amount of the gain so chargeable to tax formed part of the consideration given by the person acquiring the shares for their acquisition by him, and
 - (b) without prejudice to section 162(5) above (Case VII of Schedule D: acquisition of assets taken into account as receipts for tax purposes), the amount of the gain or loss accruing to that person on the acquisition and disposal of any of the shares shall be computed for the purposes of the said Case VII as if the acquisition of the shares were for a consideration equal to their market value at the time when the right is exercised.

187 Payments on retirement or removal from office or employment

- (1) Subject to the provisions of this section and section 188 below, tax shall be charged under Schedule E in respect of any payment to which this section applies which is made to the holder or past holder of any office or employment, or to his executors or administrators, whether made by the person under whom he holds or held the office or employment or by any other person.
- (2) This section applies to any payment (not otherwise chargeable to tax) which is made, whether in pursuance of any legal obligation or not, either directly or indirectly in consideration or in consequence of, or otherwise in connection with, the termination of the holding of the office or employment or any change in its functions or emoluments, including any payment in commutation of annual or periodical payments (whether chargeable to tax or not) which would otherwise have been made as aforesaid.
- (3) For the purposes of this section and the said section 188. any payment made to the spouse or any relative or dependant of a person who holds or has held an office or employment, or made on behalf of or to the order of that person, shall be treated as made to that person, and any valuable consideration other than money shall be treated as a payment of money equal to the value of that consideration at the date when it is given.
- (4) Any payment which is chargeable to tax by virtue of this section shall be treated as income received on the following date, that is to say—
 - (a) in the case of a payment in commutation of annual or other periodical payments, the date on which the commutation is effected, and
 - (b) in the case of any other payment, the date of the termination or change in respect of which the payment is made,

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and shall be treated as emoluments of the holder or past holder of the office or employment assessable to tax under Schedule E ; and any such payment shall be treated for all the purposes of the Income Tax Acts as earned income.

- (5) In the case of the death of any person who, if he had not died, would have been chargeable to tax in respect of any such payment, the tax which would have been so chargeable shall be assessed and charged upon his executors or administrators and shall be a debt due from and payable out of his estate.
- (6) This section does not apply to any payment made in pursuance of an obligation incurred before 6th April 1960.
- (7) Where any payment chargeable to tax under this section is made to any person in any year of assessment, it shall be the duty of the person by whom it is made to deliver particulars thereof in writing to the inspector not later than thirty days after the end of that year.

188 Exemptions and reliefs in respect of tax under s. 187

- (1) Tax shall not be charged by virtue of section 187 above in respect of the following payments, that is to say—
 - (a) any payment made in connection with the termination of the holding of an office or employment by the death of the holder, or made on account of injury to or disability of the holder of an office or employment,
 - (b) any sum chargeable to surtax under section 34 of this Act (consideration for certain restrictive covenants),
 - (c) a benefit provided in pursuance of any such scheme or agreement as is referred to in section 220 of this Act (retirement benefits etc. for directors and employees of bodies corporate), where the holder of the office or employment was chargeable to tax in respect of sums paid, or treated as paid, with a view to the provision of the benefit,
 - (d) a benefit paid in pursuance of any such scheme or fund as is described in subsections (1) and (2) of section 221 of this Act (exemptions from charge to tax under the said section 220),
 - (e) any terminal grant, gratuity or other lump sum paid under any Royal Warrant, Queen's Order, or Order in Council relating to members of Her Majesty's forces, and any payment made in commutation of annual or other periodical payments authorised by any such Warrant or Order,
 - (f) a payment of benefit under any superannuation scheme administered by the government of an overseas territory within the Commonwealth, or of compensation for loss of career, interruption of service or disturbance made in connection with any change in the constitution of any such overseas territory to persons who, before the change, were employed in the public services of that territory,

and references in paragraph (f) above to an overseas territory, to the government of such a territory, and to employment in the public services of such a territory shall be construed as if they occurred in the Overseas Service Act 1958, and subsections (2) and (3) of section 7 of that Act (which relate to the construction of such references) shall apply accordingly.

- (2) Tax shall not be charged by virtue of section 187 above in respect of a payment in the case of which any of the following conditions is satisfied, that is to say—

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- (a) in any case, that on the relevant date the holder of the office or employment was domiciled elsewhere than in the United Kingdom, and that immediately before that date he held the office or employment under or with any person, body of persons or partnership then resident outside, and not resident in, the United Kingdom, or
- (b) in the case of a payment of compensation for loss of office—
 - (i) that the holder of the office or employment held it under a contract which did not require him to perform any of the duties of the office or employment in the United Kingdom, or
 - (ii) there being no express requirement in the contract as to the place of performance of those duties, that he did not perform any of them in the United Kingdom during the three years immediately preceding the relevant date, or
- (c) in the case of a payment in respect of an office or employment in which the holder's service included foreign service, not being a payment of compensation for loss of office, that the foreign service comprised either—
 - (i) in any case, three-quarters of the whole period of service down to the relevant date, or
 - (ii) where the period of service down to the relevant date exceeded ten years, the whole of the last ten years, or
 - (iii) where the period of service down to the relevant date exceeded twenty years, one-half of that period, including any ten of the last twenty years ;

and where an office or employment was in substance one the duties of which fell in any year to be performed outside the United Kingdom, there shall, for the purposes of paragraph (b) above, be treated as so performed any duties performed in the United Kingdom the performance of which was merely incidental to the performance of the other duties outside the United Kingdom.

- (3) Tax shall not be charged by virtue of section 187 above in respect of a payment of an amount not exceeding £5,000, and in the case of a payment which exceeds that amount shall be charged only in respect of the excess:

Provided that, where two or more payments in respect of which tax is chargeable by virtue of that section, or would be so chargeable apart from the preceding provisions of this subsection, are made to or in respect of the same person in respect of the same office or employment, or in respect of different offices or employments held under the same employer or under associated employers, this subsection shall apply as if those payments were a single payment of an amount equal to that aggregate amount; and the amount of any one payment chargeable to tax shall be ascertained as follows, that is to say—

- (a) where the payments are treated as income of different chargeable periods, the said sum of £5,000 shall be deducted from a payment treated as income of an earlier period before any payment treated as income of a later period, and
 - (b) subject as aforesaid, the said sum shall be deducted rateably from the payments according to their respective amounts.
- (4) The person chargeable to tax by virtue of section 187 above in respect of any payment may make a claim for such relief in respect of the payment as is applicable thereto under Schedule 8 to this Act.

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- (5) For the purposes of this section and the said Schedule 8 offices or employments in respect of which payments to which section 187 above applies are made shall be treated as held under associated employers if, on the date which is the relevant date in relation to any of those payments, one of those employers is under the control of the other or of a third person who controls or is under the control of the other on that or any other such date ("control" here having the meaning given by section 534 of this Act).
- (6) In this section "the relevant date", "payment of compensation for loss of office" and "foreign service" have the same meaning as in the said Schedule 8, and references to an employer or to a person controlling or controlled by an employer include references to his successors.

Reliefs

189 Relief for necessary expenses

- (1) If the holder of an office or employment is necessarily obliged to incur and defray out of the emoluments thereof the expenses of travelling in the performance of the duties of the office or employment, or of keeping and maintaining a horse to enable him to perform the same, or otherwise to expend money wholly, exclusively and necessarily in the performance of the said duties, there may be deducted from the emoluments to be assessed the expenses so necessarily incurred and defrayed.
- (2) Subject to subsection (3) below, where the emoluments for any duties do not fall within Case I or II of Schedule E, then in relation to those or any other emoluments of the office or employment, subsection (1) above and Chapter II of Part I of the Capital Allowances Act 1968 (capital allowances in respect of machinery and plant) shall apply as if the performance of those duties did not belong to that office or employment.
- (3) There may be deducted from any emoluments chargeable under Case III of Schedule E the amount of any expenses defrayed out of those emoluments, and of any other expenses defrayed in the United Kingdom in the chargeable period or in an earlier chargeable period in which the holder of the office or employment has been resident in the United Kingdom, being in either case expenses for which a deduction might have been made under subsection (1) above from emoluments of the office or employment if they had been chargeable under Case I of Schedule E for the chargeable period in which the expenses were incurred; but a deduction shall not be made twice, whether under this subsection or otherwise, in respect of the same expenses from emoluments of the office or employment.

190 Interest on loans to purchase machinery or plant

- (1) Subject to the provisions of this section, where the holder of an office or employment—
- (a) is under Chapter II of Part I of the Capital Allowances Act 1968 entitled to a capital allowance, or liable to a balancing charge, for any year of assessment in respect of machinery or plant belonging to him and in use for the purposes of the office or employment, and
 - (b) pays interest in that year on a loan to defray money applied as capital expenditure on the provision of that machinery or plant,
- there may be deducted from the emoluments to be assessed for that year the amount of the interest so paid.

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- (2) No relief shall be given under this section in respect of interest falling due and payable more than three years after the end of the year of assessment in which the debt was incurred, or in respect of interest at more than a reasonable commercial rate.
- (3) Where the machinery or plant is in use partly for the purposes of the office or employment and partly for other purposes, section 28 of the Capital Allowances Act 1968 (part-time use) shall apply in relation to relief under this section as it applies in relation to writing-down allowances.
- (4) Where credit is given for any money payable to defray any capital expenditure, that shall be treated for the purposes of this section as the making of a loan to defray that capital expenditure.
- (5) Section 63 of this Act (overdrafts) shall have effect as if this section were included in sections 57 to 61 of this Act.

191 Expenses necessarily incurred, and defrayed from official emoluments

Where the Minister for the Civil Service is satisfied with respect to any class of persons in receipt of any salary, fees or emoluments payable out of the public revenue that such persons are obliged to lay out and expend money wholly, exclusively and necessarily in the performance of the duties in respect of which such salary, fees or emoluments are payable, the Minister for the Civil Service may fix such sum as in his opinion represents a fair equivalent of the average annual amount laid out and expended as aforesaid by persons of that class, and in charging income tax on the said salary, fees or emoluments there shall be deducted from the amount thereof the sums so fixed by the Minister for the Civil Service:

Provided that if any person would, but for the provisions of this section, be entitled to deduct a larger amount than the sum so fixed, that amount may be deducted instead of the sum so fixed.

192 Fees and subscriptions to professional bodies, learned societies etc.

- (1) Subject to the following provisions of this section, the following may be deducted from the emoluments of any office or employment to be assessed to tax, if defrayed out of those emoluments, that is to say—
 - (a) any fee or contribution mentioned in subsection (2) below, and
 - (b) any annual subscription paid to a body of persons approved for the purposes of this section by the Board.
- (2) The fees and contributions referred to in subsection (1)(a) above are—
 - (a) the fee payable in respect of the retention of a name in the Register of Architects,
 - (b) the fee payable in respect of the retention of a name in the dentists register or in a roll or record kept for a class of ancillary dental workers,
 - (c) the fee payable in respect of the retention of a name in either of the registers of ophthalmic opticians or in the register of dispensing opticians,
 - (d) the annual fee payable by a registered patent agent,
 - (e) the fee payable in respect of the retention of a name in the register of pharmaceutical chemists,

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- (f) the fee and contribution to the Compensation Fund or Guarantee Fund payable on the issue of a solicitor's practising certificate, and
 - (g) the annual fee payable by a registered veterinary surgeon or by a person registered in the Supplementary Veterinary Register.
- (3) The Board may, on the application of the body, approve for the purposes of this section any body of persons not of a mainly local character whose activities are carried on otherwise than for profit and are solely or mainly directed to all or any of the following objects—
- (a) the advancement or spreading of knowledge (whether generally or among persons belonging to the same or similar professions or occupying the same or similar positions),
 - (b) the maintenance or improvement of standards of conduct and competence among the members of any profession,
 - (c) the indemnification or protection of members of any profession against claims in respect of liabilities incurred by them in the exercise of their profession.
- (4) If the activities of a body approved for the purposes of this section are to a significant extent directed to objects other than those mentioned in subsection (3) above, the Board may determine that such specified part only of any annual subscription paid to the body may be deducted under this section as corresponds to the extent to which its activities are directed to objects mentioned in that subsection ; and in doing so the Board shall have regard to all relevant circumstances and, in particular, to the proportions of the body's expenditure attributable to the furtherance of objects so mentioned and other objects respectively.
- (5) A fee, contribution or subscription shall not be deducted under this section from the emoluments of any office or employment unless—
- (a) the fee is payable in respect of a registration (or retention of a name in a roll or record) or certificate which is a condition, or one of alternative conditions, of the performance of the duties of the office or employment or, as the case may be, the contribution is payable on the issue of such a certificate, or
 - (b) the subscription is paid to a body the activities of which, so far as they are directed to the objects mentioned in subsection (3) above, are relevant to the office or employment, that is to say, the performance of the duties of the office or employment is directly affected by the knowledge concerned or involves the exercise of the profession concerned.
- (6) Any approval given and any determination made under this section may be withdrawn, and any such determination varied, so as to take account of any change of circumstances; and where a body is approved for the purposes of this section in pursuance of an application made before the end of any year of assessment, a deduction may be made under this section in respect of a subscription paid to the body in that year, whether the approval is given before or after the end of the year.
- (7) Any body aggrieved by the failure of the Board to approve the body for the purposes of this section, or by their withdrawal of the approval, or by any determination made by them under this section or the variation of or refusal to withdraw or vary such a determination may, by notice in writing given to the Board within thirty days from the date on which the body is notified of their decision, require the matter to be determined by the Special Commissioners, and the Special Commissioners shall thereupon hear and determine the matter in like manner as an appeal.

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193 Travelling expenses due to war of 1939

If it is shown in the case of a person assessed to income tax under Schedule E in respect of any office or employment—

- (a) that his place of work or his residence has changed through circumstances connected with the war which began in the year 1939, and
- (b) that in consequence he is obliged to incur, and defray out of the salary, fees, wages, perquisites or profits or gains arising from the office or employment, additional expense in travelling between his residence and his work,

the additional expense so incurred and defrayed shall be allowed as a deduction from the salary, fees, wages, perquisites or profits or gains of the office or employment in computing the amount of the assessment, so, however, that not more than £10 shall be allowed in the case of any person in any year.

194 Expenditure and houses of ministers of religion

(1) For the purposes of section 185 of this Act, any premises an interest in which belongs to a charity or any ecclesiastical corporation, and in which (in right of that interest)—

- (a) the persons from time to time holding any full-time office as clergyman or minister of any religious denomination, or
- (b) any particular person holding such an office,

have or has a residence from which to perform the duties of the office, shall be treated as occupied otherwise than by the holder of the office, whether apart from this section they would be so treated for those purposes or not.

(2) Where a clergyman or minister of any religious denomination has such a residence as aforesaid in any premises, and has it in right of such an interest as aforesaid, then, for the purposes of income tax with which he may be chargeable under Schedule E, there shall be disregarded—

- (a) the making good to him, in consequence of his being the holder of his office, of statutory amounts payable in connection with the premises or statutory deductions falling to be made in connection therewith, except in so far as an amount or deduction is properly attributable to a part of the premises in respect of which he receives rent,
- (b) the payment on his behalf, except as aforesaid, of such a statutory amount, and
- (c) the value to him of any expenses incurred in connection with the provision in the premises of living accommodation for him, being expenses incurred in consequence of his being the holder of his office.

(3) In assessing the income tax chargeable (whether under Schedule E or any other Schedule) upon a clergyman or minister of any religious denomination, the following deductions may be made from any profits, fees, or emoluments of his profession or vocation—

- (a) any sums of money paid or expenses incurred by him wholly, exclusively and necessarily in the performance of his duty as a clergyman or minister,
- (b) such part of the rent (not exceeding one-quarter) as the inspector by whom the assessment is made may allow, paid by him in respect of a dwelling-house any part of which is used mainly and substantially for the purposes of his duty as such clergyman or minister, and
- (c) in respect of expenses borne by him in the maintenance, repairs, insurance or management of any premises in which, in right of such an interest

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as is mentioned in subsection (1) above, he has such a residence as is therein mentioned, such part of the expenses as, together with any deduction allowable in respect of such expenses under paragraph (a) above, is equal to one-quarter of the amount of the expenses.

On an appeal to the General Commissioners or the Special Commissioners, the Commissioners shall have jurisdiction to review the inspector's decision under paragraph (b) above.

- (4) In this section, "statutory amount" and "statutory deduction" mean an amount paid and a deduction made in pursuance of any provision contained in or having the force of an Act.

CHAPTER II

EXPENSES ALLOWANCES TO DIRECTORS AND OTHERS

195 Expenses allowances, etc.

- (1) Subject to the provisions of this Chapter, any sum paid in respect of expenses by a body corporate to any of its directors, or to any person employed by it in an employment to which this Chapter applies, shall, if not otherwise chargeable to tax as income of that director or employee, be treated for the purposes of section 183 above as a perquisite of the office or employment of that director or employee and included in the emoluments thereof assessable to tax accordingly:

Provided that nothing in this subsection shall prevent a claim for a deduction being made under section 189 above in respect of any money expended wholly, exclusively and necessarily in performing the duties of the office or employment, or under section 192 above in respect of any such fee, contribution or subscription as is mentioned in that section.

- (2) In this section, and, in relation to any director or person employed in an employment to which this Chapter applies, in so much of section 15 of the Taxes Management Act 1970 as requires employers in certain cases to give particulars of payments to directors and employees in respect of expenses, any reference to a sum paid in respect of expenses includes a reference to any sum put by a body corporate at the disposal of a director or employee and paid away by him.

196 Benefits in kind to be taken into account

- (1) Subject to the following provisions of this Chapter, where a body corporate incurs expense in or in connection with the provision, for any of its directors or for any person employed by it in an employment to which this Chapter applies, of living or other accommodation, of entertainment, of domestic or other services or of other benefits or facilities of whatsoever nature, and, apart from this section, the expense would not be chargeable to tax as income of the director or employee, section 195 above, and section 15 of the Taxes Management Act 1970, shall have effect in relation to so much of the said expense as is not made good to the body corporate by the director or employee as if the expense had been incurred by the director or employee and the amount thereof had been refunded to him by the body corporate by means of a payment in respect of expenses:

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Provided that, where in the case of any premises any amount falls under section 185(1) of this Act to be treated as a person's emoluments, then, if this subsection applies to expense incurred in the provision of accommodation for him in the premises, the expense shall be treated for the purposes of this section as reduced by that amount (or, if that amount is greater than the expense, shall be treated as not having been incurred).

- (2) The provisions of subsection (1) above shall not apply to expense incurred by the body corporate in or in connection with the provision for a director or employee, in any of its business premises, of any accommodation, supplies or services provided for the director or employee himself and used by him solely in performing the duties of his office or employment.
- (3) The provisions of subsection (1) above shall not apply to expense incurred by the body corporate in or in connection with the provision of living accommodation for an employee in part of any of its business premises which include living accommodation if the employee is, for the purpose of enabling him properly to perform his duties, required by the terms of his employment to reside in the accommodation and either—
 - (a) the accommodation is provided in accordance with a practice which since before 30th July 1928 has commonly prevailed in trades of the class in question as respects employees of the class in question, or
 - (b) it is necessary, in the case of trades of the class in question, that employees of the class in question should reside on premises of the class in question:

Provided that this subsection shall not apply where the employee is a director of the body corporate in question or of any other body corporate over which that body corporate has control or which has control over that body corporate or which is under the control of a person who also has control over that body corporate.

- (4) The provisions of subsection (1) above shall not apply to expense incurred by the body corporate in or in connection with the provision of meals in any canteen in which meals are provided for the staff generally.
- (5) The provisions of subsection (1) above shall not apply to expense incurred by the body corporate in or in connection with the provision for a director or employee himself, or for his spouse, children or dependants, of any pension, annuity, lump sum, gratuity or other like benefit to be given on his death or retirement.
- (6) Any reference in this section to expense incurred in or in connection with any matter includes a reference to a proper proportion of any expense incurred partly in or in connection with that matter.

197 Valuation of benefits in kind

- (1) Any expense incurred by a body corporate in the acquisition or production of an asset which remains its own property shall be left out of account for the purposes of section 196 above.
- (2) Where the making of any such provision as is mentioned in subsection (1) of the said section 196 takes the form of a transfer of the property in any asset of the body corporate, and, since the acquisition or production thereof by the body corporate, the asset has been used or has depreciated, the body corporate shall be deemed to have incurred in the making of the said provision expense equal to the value of the asset at the time of the transfer.

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- (3) Where an asset which continues to belong to the body corporate is used wholly or partly in the making of any such provision as is mentioned in subsection (1) of the said section 196, the body corporate shall be deemed for the purposes of that section to incur (in addition to any other expense incurred by it in connection with the asset, not being expense to which subsection (1) of this section applies) annual expense in connection therewith of an amount equal to the annual value of the use of the asset:

Provided that, where any sum by way of rent or hire is payable by the body corporate in respect of the asset—

- (a) if the annual amount of the rent or hire is equal to or greater than the annual value of the use of the asset, this subsection shall not apply, and
- (b) if the annual amount of the rent or hire is less than the annual value of the use of the asset, the rent or hire shall be left out of account for the purposes of the said section 196.

In the case of an asset being land, the annual value of the use of the asset shall be taken for the purposes of this subsection to be the annual value of the land determined in accordance with section 531 of this Act.

198 Meaning of " director ", " employment ", and " employment to which this Chapter applies "

- (1) In this Chapter " director " means—
- (a) in relation to a body corporate the affairs whereof are managed by a board of directors or similar body, a member of that board or similar body,
 - (b) in relation to a body corporate the affairs whereof are managed by a single director or similar person, that director or person,
 - (c) in relation to a body corporate the affairs whereof are managed by the members themselves, a member of the body corporate,

and includes any person in accordance with whose directions or instructions the directors of the body corporate, defined in accordance with the preceding provisions of this subsection, are accustomed to act:

Provided that a person shall not, within the meaning of this subsection, be deemed to be a person in accordance with whose directions or instructions the directors of a body corporate are accustomed to act by reason only that the said directors act on advice given by him in a professional capacity.

- (2) In this Chapter "employment" means an employment such that any emoluments thereof would fall to be assessed under Schedule E, and references to persons employed by, or employees of, a body corporate include any person who takes part in the management of the affairs of the body corporate and is not a director thereof.
- (3) Subject to the proviso to this subsection and to subsections (4) and (5) below the employments to which this Chapter applies are employments the emoluments of which, calculated on the basis that they are employments to which this Chapter applies, and without any deduction being made under section 189 of this Act in respect of money expended in performing the duties thereof, or under section 192 of this Act in respect of any fee, contribution or subscription, are at the rate of £2,000 a year or more:

Provided that—

- (a) where a person is employed in several employments by the same body corporate, and the total of the emoluments of those employments, calculated

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- as aforesaid, is at the rate of £2,000 a year or more, all those employments shall be treated as employments to which this Chapter applies, and
- (b) where a person is a director of a body corporate, all employments in which he is employed by the body corporate shall be treated as employments to which this Chapter applies.
- (4) All the directors of, and persons employed by, a body corporate over which another body corporate has control, shall be treated for the purposes of the proviso to subsection (3) above (but not for any other purpose) as if they were directors of, or, as the case may be, as if the employment were an employment by, that other body corporate.
- (5) Notwithstanding anything in the preceding provisions of this section, no employment of a person by a body corporate at a school or other educational establishment carried on by that body corporate shall be an employment to which this Chapter applies, or be taken into account in determining whether any other employment is an employment to which this Chapter applies.

199 Saving for certain payments and expenses

If a body corporate furnishes to the inspector a statement of the cases and the circumstances in which payments of a particular nature are made, or things of a particular nature are provided, for any of its directors or employees, and the inspector is satisfied that no additional tax would fall to be paid if this Chapter were to apply in relation to payments made or things provided by the body corporate in accordance with the statement, he shall notify the body corporate accordingly and, where such a notification is given, this Chapter shall not apply in relation to payments made or things provided by the body corporate in accordance with the statement:

Provided that the inspector may, if in his opinion there is reason so to do, by notice in writing served on the body corporate revoke any such notification, either as from the date of the making of the notification or as from such later date as may be specified in the notice, and thereupon all such tax shall become chargeable, and all such returns shall be made by the body corporate and by the directors or employees in question, as would have been chargeable or would have had to be made in the first instance if the notification had never been given or, as the case may be, if it had ceased to have effect on the specified date.

200 Additional information

Where, for the purposes of a return under section 15 of the Taxes Management Act 1970 (payments to directors and other employees), a body corporate apportions expenses incurred partly in or in connection with a particular matter and partly in or in connection with other matters, the return shall contain a statement that the sum included in the return is the result of such an apportionment, and the body corporate, if required so to do by notice from the inspector, shall prepare and deliver to the inspector, within the time limited by the notice, a return containing full particulars as to the amount apportioned and the manner in which and the grounds on which the apportionment has been made.

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201 Charities and non-trading bodies

This Chapter shall not apply in relation to any body corporate established for charitable purposes only, or to any other body corporate unless it carries on a trade or its functions consist wholly or mainly in the holding of investments or other property, or, except in relation to persons employed by it in an employment to which this Chapter applies wholly or mainly for the purposes of a trade carried on by it, to any local authority.

202 Interpretation

- (1) In this Chapter " business premises ", in relation to a body corporate, includes all premises occupied by that body for the purposes of any trade carried on by it:

Provided that, except where the reference is expressly to premises which include living accommodation, the said expression does not include so much of any such premises as aforesaid as is used wholly or mainly as living accommodation for any of the directors of the body corporate or for any persons employed by the body corporate in any employment to which this Chapter applies.

- (2) Any reference in this Chapter to anything provided for a director or employee shall, unless the reference is expressly to something provided for the director or employee himself, be construed as including a reference to anything provided for the spouse, family, servants, dependants or guests of that director or employee, and the reference in the proviso to subsection (1) above to living accommodation for directors or employees shall be construed accordingly.
- (3) In this Chapter " control ", in relation to a body corporate, has the meaning given by section 534 of this Act.

203 Unincorporated bodies and partnerships

- (1) The provisions of this Chapter shall apply in relation to unincorporated societies and other bodies as they apply in relation to bodies corporate, and, in connection with those provisions, the definition of " control " in section 534 of this Act shall, with the necessary adaptations, also so apply.
- (2) The said provisions shall apply in relation to any partnership carrying on any trade, profession or vocation as they would apply in relation to a body corporate carrying on a trade if so much thereof as relates to directors of the body corporate or persons taking part in the management of the affairs of the body corporate were omitted:

Provided that—

- (a) " control " has, in relation to a partnership, the meaning assigned to it by section 534 of this Act in relation to a partnership, and
- (b) where such a partnership as aforesaid has control over a body corporate to which this Chapter applies—
- (i) any employment of any director of the body corporate by the partnership shall be an employment to which this Chapter applies, and
 - (ii) all the employments of any person who is employed both by the partnership and by the body corporate (being employments by the partnership or the body corporate) shall, for the purpose of seeing whether those employments or any of them are employments to which this Chapter applies, be treated as if they were employments by the body corporate.

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- (3) Subsection (2) above shall apply in relation to individuals as it applies in relation to partnerships:

Provided that nothing in this subsection shall be construed as requiring an individual to be treated in any circumstances as under the control of another person.

CHAPTER III

ASSESSMENT, COLLECTION, RECOVERY AND APPEALS

204 Pay as you earn

- (1) On the making of any payment of, or on account of, any income assessable to income tax under Schedule E, income tax shall, subject to and in accordance with regulations made by the Board under this section, be deducted or repaid by the person making the payment, notwithstanding that when the payment is made no assessment has been made in respect of the income and notwithstanding that the income is in whole or in part income for some year of assessment other than the year during which the payment is made.
- (2) The Board shall make regulations with respect to the assessment, charge, collection and recovery of income tax in respect of all income assessable thereto under Schedule E, and those regulations may, in particular, include provision—
- (a) for requiring any person making any payment of, or on account of, any such income, when he makes the payment, to make a deduction or repayment of income tax calculated by reference to tax tables prepared by the Board, and for rendering persons who are required to make any such deduction or repayment accountable to, or, as the case may be, entitled to repayment from, the Board,
 - (b) for the production to and inspection by persons authorised by the Board of wages sheets and other documents and records for the purpose of satisfying themselves that income tax has been and is being deducted, repaid and accounted for in accordance with the regulations,
 - (c) for the collection and recovery, whether by deduction from any such income paid in any later year or otherwise, of income tax in respect of any such income which has not been deducted or otherwise recovered during the year,
 - (d) for the assessment and charge of income tax by the inspector in respect of income to which this section applies, and
 - (e) for appeals with respect to matters arising under the regulations which would not otherwise be the subject of an appeal,

and any such regulations shall have effect notwithstanding anything in the Income Tax Acts:

Provided that—

- (i) the deductions of income tax required to be made under paragraph (d) above may be required to be made at the standard rate in such cases or classes of cases as may be provided for by the regulations, and
 - (ii) the regulations shall not affect any right of appeal to the General or Special Commissioners which a person would have apart from the regulations.
- (3) The said tax tables shall be constructed with a view to securing that, so far as possible—

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- (a) the total income tax payable in respect of any income assessable under Schedule E for any year of assessment is deducted from such income paid during that year, and
- (b) the income tax deductible or repayable on the occasion of any payment of, or on account of, any such income is such that the total net income tax deducted since the beginning of the year of assessment bears to the total income tax payable for the year the same proportion that the part of the year which ends with the date of the payment bears to the whole year.

In this subsection references to the total income tax payable for the year shall be construed as references to the total income tax, other than surtax, estimated to be payable for the year in respect of the income in question, subject to a provisional deduction for allowances and reliefs, and subject also, if necessary, to an adjustment for amounts overpaid or remaining unpaid on account of income tax in respect of income assessable under Schedule E for any previous year.

For the purpose of estimating the total income tax payable as aforesaid, it may be assumed in relation to any payment of, or on account of, income assessable under Schedule E that the income paid in the part of the year of assessment which ends with the making of the payment will bear to the income for the whole of that year the same proportion as that part of the year bears to the whole year.

- (4) The powers conferred by this section to make regulations shall be exercisable by statutory instrument, and all regulations under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.

205 Formal assessments to be unnecessary in certain cases

- (1) Subject to the provisions of this section, no assessment under Schedule E need be made on a person in respect of income of his assessable to income tax under that Schedule for any year of assessment if the total net tax deducted in the year in question from that income is the same as it would have been if all the relevant circumstances had been known to all parties throughout the year, and deductions and repayments had throughout the year been made accordingly, and had been so made by reference to cumulative tax tables.

In this subsection—

- (a) "cumulative tax tables" means tax tables prepared under section 204 above which are so framed as to require the tax which is to be deducted or repaid on the occasion of each payment made in the year to be ascertained by reference to a total of emoluments paid in the year up to the time of making that payment, and
 - (b) references to the total net tax deducted shall be construed as references to the total income tax deducted during the year by virtue of regulations made under the said section 204, less any income tax repaid by virtue of any such regulations.
- (2) Nothing in this section shall be construed as preventing an assessment being made on a person in respect of his income assessable under Schedule E, and, without prejudice to the generality of the preceding provisions of this subsection, an assessment shall be made in respect of the income of a person so assessable for any year of assessment if the person assessable requires an assessment to be made by notice in writing given to the inspector within five years from the end of the year of assessment.

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206 Additional provision for certain Schedule E assessments

Where an assessment to income tax under Schedule E is made as respects income which—

- (a) has been taken into account in the making of deductions or repayments of tax under section 204 above, and
- (b) was received not less than twelve months before the beginning of the year of assessment in which the assessment is made,

then, if the assessment is made after the expiration of the period of twelve months immediately following the year of assessment for which it is made, it shall be made in accordance with the practice generally prevailing at the expiration of that period.

207 Disputes as to domicile or ordinary residence

Where a dispute arises under paragraph 1 of Schedule E whether a person is or has been ordinarily resident or domiciled in the United Kingdom or under section 188 above as to the domicile of any person, the question shall be referred to and determined by the Board; but any person who is aggrieved by their decision on the question may, by notice in writing to that effect given to them within three months from the date on which notice of the decision is given to him, make an application to have the question heard and determined by the Special Commissioners, and where an application is so made, the Special Commissioners shall hear and determine the question in like manner as an appeal.