



Income and Corporation Taxes Act 1970

1970 CHAPTER 10

PART XI

COMPANY TAXATION

CHAPTER I

MAIN PROVISIONS

General system of taxation

238 Charge to corporation tax

- (1) Corporation tax shall be charged on profits of companies, and the Corporation Tax Acts shall apply, for any financial year for which Parliament so determines and where an Act charges corporation tax for any financial year the Corporation Tax Acts apply, without any express provision, for that year accordingly.
- (2) The provisions of the Income Tax Acts relating to the charge of income tax other than surtax shall not apply to income of a company (not arising to it in a fiduciary or representative capacity) if—
 - (a) the company is resident in the United Kingdom, or
 - (b) the income is, in the case of a company not so resident, within the chargeable profits of the company as defined for the purposes of corporation tax by section 246(2) below.
- (3) A company shall not be chargeable to capital gains tax in respect of gains accruing to it so that it is chargeable in respect of them to corporation tax or would be so chargeable but for an exemption from corporation tax.
- (4) In this Part of this Act, except in so far as the context otherwise requires—
 - (a) " profits " means income and chargeable gains, and

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- (b) " trade " includes " vocation ", and includes also an office or employment or the occupation of woodlands in any context in which the expression is applied to that in the Income Tax Acts.

239 U.K. company distributions not chargeable to corporation tax

Except as otherwise provided by the Corporation Tax Acts, corporation tax shall not be chargeable on dividends and other distributions of a company resident in the United Kingdom, nor shall any such dividends or distributions be taken into account in computing income for corporation tax.

240 Income tax on distributions, etc., received by U.K company

- (1) Except as otherwise provided by the Corporation Tax Acts, a company resident in the United Kingdom shall not, in respect of distributions received in any year of assessment from another such company (in the Corporation Tax Acts referred to as the recipient's " franked investment income "), be entitled to repayment of income tax on any surplus in amount or value of that franked investment income over the aggregate amount or value of the distributions made by it in that year.
- (2) Where in any year of assessment a company has such a surplus of franked investment income, the surplus shall be carried forward to the following year and treated for purposes of this section (including any further application of this subsection) as an amount of franked investment income received in that year ; but where by virtue of this subsection income tax in respect of franked investment income received in any year of assessment becomes repayable in a later year, it shall be repaid at the rate for the year in which the income was received, and tax for an earlier year of assessment shall be repaid before tax for a later year.
- (3) Subsection (1) above shall not apply—
 - (a) to a company which is wholly exempt from corporation tax or is only not exempt in respect of trading income, or
 - (b) in respect of distributions in relation to which express exemption (otherwise than by section 239 above) is given, whether specifically or by virtue of a more general exemption from tax, under any provision of the Tax Acts.
- (4) No payment made by a company resident in the United Kingdom shall by virtue of this section or otherwise be treated for any purpose of the Income Tax Acts as paid out of profits or gains brought into charge to income tax ; nor shall any right or obligation under the Income Tax Acts to deduct income tax from any payment be affected by the fact that the recipient is a company not chargeable to income tax in respect of the payment.
- (5) Subject to the provisions of the Corporation Tax Acts, where a company resident in the United Kingdom receives any payment on which it bears income tax by deduction (not being franked investment income), the income tax thereon shall be set off against any corporation tax assessable on the company by an assessment made for the accounting period in which that payment falls to be taken into account for corporation tax (or would fall to be taken into account but for any exemption from corporation tax); and accordingly in respect of that payment the company, unless wholly exempt from corporation tax, shall not be entitled to a repayment of income tax before the assessment for that accounting period is finally determined and it appears that a repayment is due.

- (6) Schedule 9 to this Act shall have effect for the purpose of implementing the preceding subsections, and for regulating the time and manner in which companies resident in the United Kingdom are to account for and pay income tax in respect of distributions made by them, and in respect of payments from which tax is deductible other than distributions, or are to be repaid income tax in respect of distributions and payments received by them.
- (7) References in this section to distributions or payments received by a company apply to any received by another person on behalf of or in trust for the company, but not to any received by the company on behalf of or in trust for another person, and nothing in this section shall apply to distributions in respect of which the company making them is not liable (apart from any election for group income under section 256(1) below) to account for income tax under section 232(2) of this Act; and references to "franked investment income" shall be construed accordingly.

241 Claims for repayment of income tax deducted from receipts

Effect shall be given—

- (a) to section 238(2) above, and to that section as modified by section 240(5) above and by section 246(3) below, and
- (b) so far as the exemptions from income tax conferred by the Corporation Tax Acts call for repayment of tax, to those exemptions,

by means of a claim.

242 Explanation of income tax deductions to be annexed to dividend warrants, etc.

- (1) Every warrant or cheque or other order drawn or made, or purporting to be drawn or made, in payment of any dividend or interest distributed by any company, being a company within the meaning of the Companies Act 1948, or the Companies Act (Northern Ireland) 1960, or a company created by letters patent or by or in pursuance of an Act of Parliament, shall have annexed thereto or be accompanied by a statement in writing showing—
- (a) the gross amount which, after deduction of the income tax appropriate thereto, corresponds to the net amount actually paid, and
 - (b) the rate and the amount of income tax appropriate to such gross amount, and
 - (c) the net amount actually paid.
- (2) If a company fails to comply with the provisions of this section, the company shall, in respect of each offence, incur a penalty of £10:

Provided that the aggregate amount of any penalties imposed under this section on any company in respect of offences connected with any one distribution of dividends or interest shall not exceed £100.

Corporation tax

243 General scheme of corporation tax

- (1) Subject to any exceptions provided for by the Corporation Tax Acts, a company shall be chargeable to corporation tax on all its profits wherever arising.

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- (2) A company shall be chargeable to corporation tax on profits accruing for its benefit under any trust, or arising under any partnership, in any case in which it would be so chargeable if the profits accrued to it directly; and a company shall be chargeable to corporation tax on profits arising in the winding up of the company, but shall not otherwise be chargeable to corporation tax on profits accruing to it in a fiduciary or representative capacity except as respects its own beneficial interest (if any) in those profits.
- (3) Corporation tax for any financial year shall be charged on profits arising in that year; but assessments to corporation tax shall be made on a company by reference to accounting periods, and the amount chargeable (after making all proper deductions) of the profits arising in an accounting period shall, where necessary, be apportioned between the financial years in which the accounting period falls.
- (4) Except as provided by section 244 below and section 344 of this Act (special provisions for building societies), corporation tax assessed for an accounting period shall be paid within nine months from the end of that period or, if it is later, within one month from the making of the assessment.
- (5) In any financial year assessments for accounting periods falling wholly or partly in that year or (subject to subsection (6) below) in the preceding year may, notwithstanding that corporation tax has not at the time been charged for the year in question, charge tax for so much of the period as falls within that year according to the rate of tax last fixed, but any such charge shall be subject to later adjustment, if need be, by discharge or repayment of tax or by a further assessment if for that year corporation tax is not charged by an Act passed not later than 5th August next after the end of the year or is charged otherwise than as it has been assessed.
- (6) Where the House of Commons passes a Resolution for fixing the rate of corporation tax for any financial year, or for altering the tax for any financial year, then any assessment to tax afterwards made by virtue of subsection (5) above may be made in accordance with the Resolution; but no assessment made by virtue of that subsection later than 5th May next after the end of any financial year shall charge tax for that year, unless a Resolution for charging corporation tax for that year has been so passed, nor shall any assessment be made by virtue of any such Resolution later than the prescribed period from the date on which the Resolution is passed.
- (7) In subsection (6) above " the prescribed period " means—
 - (a) as respects a Resolution passed in March or April in any year, a period beginning with the passing of the Resolution and ending with 5th August in the same calendar year,
 - (b) as respects any other Resolution, four months after the date on which the Resolution is passed.

244 Time for payment of corporation tax: companies trading before financial year 1965

- (1) Where, in respect of a trade chargeable under Case I or II of Schedule D, a company was within the charge to income tax from a time before the financial year 1965, then (so long as the company continues to be within the charge to corporation tax in respect of that trade) section 243(4) above shall not apply to the company, but corporation tax assessed on the company (or on some person in its place) for any accounting period, whether or not in respect of the trade, shall be paid within the like interval from the

end of the accounting period as there was between the end of the basis period of the trade for the year 1965-66 and 1st January 1966 or, if it is later, within one month from the making of the assessment:

Provided that this subsection shall not apply unless the said interval is longer than nine months.

- (2) Where subsection (1) above applies to a company having distinct trades which had different basis periods for the year 1965-66, that one of the basis periods which ended earliest shall be taken.
- (3) References in this section to the basis period for the year 1965-66 are, in relation to any source of income, references to the period on the income of which the income tax (if any) chargeable for that year fell to be finally computed in respect of the source or, where by virtue of any provision of the Income Tax Acts the income of any other period was to be taken to be the income of the said period, that other period.

245 Tax on company in liquidation

- (1) In this section references to a company's final year are references to the financial year in which the affairs of the company are completely wound up, and references to a company's penultimate year are references to the last financial year preceding its final year.
- (2) Corporation tax shall be charged on the profits of the company arising in the winding-up in its final year at a rate which, subject to subsection (3) below, shall be the rate of corporation tax fixed for the penultimate year.
- (3) If the affairs of the company are completely wound up before an Act is passed fixing the rate of corporation tax for its penultimate year, corporation tax shall be charged on the company's profits arising in the winding-up in its final year, and if the winding-up commenced before the final year, on the company's profits arising at any time in its penultimate year, at the rate of corporation tax fixed by the budget resolution for the penultimate year (and without regard to the rate fixed by any subsequent Act); and any assessment made by virtue of section 243(5) above shall be subject to any such adjustment, by discharge or repayment of tax or by a further assessment, as may be required to give effect to this subsection.
- (4) An assessment on the company's profits for an accounting period which falls after the commencement of the winding-up shall not be invalid because made before the end of the accounting period.
- (5) In making an assessment after the commencement of the winding-up of the company but before the date when its affairs are completely wound up, the inspector may, with the concurrence of the liquidator, act on an assumption as to when that date will fall, so far as it governs section 247(7) below.
- (6) The assumption of the wrong date shall not alter the company's final and penultimate year, and if the right date is later an accounting period shall end on the date assumed, and a new accounting period shall begin and the said section 247(7) shall thereafter apply as if that new accounting period began with the commencement of the winding-up.
- (7) In this paragraph "budget resolution" means a resolution of the House of Commons for fixing the rate of corporation tax for the financial year in question, and if there is more than one such resolution, means the first of them.

246 Companies not resident in United Kingdom

- (1) A company not resident in the United Kingdom shall not be within the charge to corporation tax unless it carries on a trade in the United Kingdom through a branch or agency but, if it does so, it shall, subject to any exceptions provided for by the Corporation Tax Acts, be chargeable to corporation tax on all its chargeable profits wherever arising.
- (2) For purposes of corporation tax the chargeable profits of a company not resident in the United Kingdom but carrying on a trade there through a branch or agency shall be—
 - (a) any trading income arising directly or indirectly through or from the branch or agency, and any income from property or rights used by, or held by or for, the branch or agency (but so that this paragraph shall not include distributions received from companies resident in the United Kingdom); and
 - (b) such chargeable gains accruing on the disposal of assets situated in the United Kingdom as are by Part III of the Finance Act 1965 made chargeable to capital gains tax in the case of an individual not resident or ordinarily resident in the United Kingdom.
- (3) Subject to section 319 of this Act (overseas life insurance companies), where a company not resident in the United Kingdom receives any payment on which it bears income tax by deduction, and the payment forms part of, or is to be taken into account in computing, the company's income chargeable to corporation tax, the income tax thereon shall be set off against any corporation tax assessable on that income by an assessment made for the accounting period in which the payment falls to be taken into account for corporation tax; and accordingly in respect of that payment the company shall not be entitled to a repayment of income tax before the assessment for that accounting period is finally determined and it appears that a repayment is due.

247 Basis of, and periods for, assessment

- (1) Except as otherwise provided by the Corporation Tax Acts, corporation tax shall be assessed and charged for any accounting period of a company on the full amount of the profits arising in the period (whether or not received in or transmitted to the United Kingdom) without any other deduction than is authorised by those Acts.
- (2) An accounting period of a company shall begin for purposes of corporation tax whenever—
 - (a) the company, not then being within the charge to corporation tax, comes within it, whether by the company becoming resident in the United Kingdom or acquiring a source of income, or otherwise; or
 - (b) an accounting period of the company ends without the company then ceasing to be within the charge to corporation tax.
- (3) An accounting period of a company shall end for purposes of corporation tax on the first occurrence of any of the following:—
 - (a) the expiration of twelve months from the beginning of the accounting period;
 - (b) an accounting date of the company or, if there is a period for which the company does not make up accounts, the end of that period ;
 - (c) the company beginning or ceasing to carry on any trade, or to be, in respect of a trade, within the charge to corporation tax;
 - (d) the company beginning or ceasing to be resident in the United Kingdom;
 - (e) the company ceasing to be within the charge to corporation tax.

- (4) For the purposes of this section a company resident in the United Kingdom, if not otherwise within the charge to corporation tax, shall be treated as coming within the charge to corporation tax at the time when it commences to carry on business.
- (5) If a company carrying on more than one trade makes up accounts of any of them to different dates, and does not make up general accounts for the whole of the company's activities, subsection (3)(b) above shall apply with reference to the accounting date of such one of the trades as the Board may determine.
- (6) If a chargeable gain or allowable loss accrues to a company at a time not otherwise within an accounting period of the company, an accounting period of the company shall then begin for the purposes of corporation tax, and the gain or loss shall accrue in that accounting period.
- (7) Notwithstanding anything in the preceding subsections, where a company is wound up, an accounting period shall end and a new one begin with the commencement of the winding up, and thereafter, subject to section 245(6) above, an accounting period shall not end otherwise than by the expiration of twelve months from its beginning or by the completion of the winding up.

For this purpose a winding up is to be taken to commence on the passing by the company of a resolution for the winding up of the company, or on the presentation of a winding up petition if no such resolution has previously been passed and a winding up order is made on the petition, or on the doing of any other act for a like purpose in the case of a winding up otherwise than under the Companies Act 1948.

- (8) Where it appears to the inspector that the beginning or end of any accounting period of a company is uncertain, he may make an assessment on the company for such period, not exceeding twelve months, as appears to him appropriate, and that period shall be treated for all purposes as an accounting period of the company unless either the inspector on further facts coming to his knowledge sees fit to revise it or on an appeal against the assessment in respect of some other matter the company shows the true accounting periods; and if on an appeal against an assessment made by virtue of this subsection the company shows the true accounting periods, the assessment appealed against shall, as regards the period to which it relates, have effect as an assessment or assessments for the true accounting periods, and there may be made such other assessments for any such periods or any of them as might have been made at the time when the assessment appealed against was made.

248 Allowance of charges on income

- (1) In computing the corporation tax chargeable for any accounting period of a company any charges on income paid by the company in the accounting period, so far as paid out of the company's profits brought into charge to corporation tax, shall be allowed as deductions against the total profits for the period as reduced by any other relief from tax, other than group relief.
- (2) Subject to the following subsections and to any other express exceptions, " charges on income " means for the purposes of corporation tax payments of any description mentioned in subsection (3) below, not being dividends or other distributions of the company; but no payment which is deductible in computing profits or any description of profits for purposes of corporation tax shall be treated as a charge on income.

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- (3) Subject to subsections (4) to (6) below, the payments referred to in subsection (2) above are—
- (a) any yearly interest, annuity or other annual payment and any such other payments as are mentioned in section 52(2) of this Act but not including sums which are or, but for any exemption would be, chargeable under Schedule A, and
 - (b) any other interest payable in the United Kingdom on an advance from a bank carrying on a bona fide banking business in the United Kingdom, or from a person who in the opinion of the Board is bona fide carrying on business as a member of a stock exchange in the United Kingdom or bona fide carrying on the business of a discount house in the United Kingdom;
- and for the purposes of this section any interest payable by a company as mentioned in paragraph (b) above shall be treated as paid on its being debited to the company's account in the books of the person to whom it is payable.
- (4) No such payment as is mentioned in subsection (3) (a) above made by a company to a person not resident in the United Kingdom shall be treated as a charge on income unless the company is so resident and either—
- (a) the company deducts income tax from the payment in accordance with section 53 or section 54 of this Act, and accounts under Schedule 9 to this Act for the tax so deducted, or
 - (b) the payment is a payment of interest falling within section 249 below, or
 - (c) the payment is one payable out of income brought into charge to tax under Case IV or V of Schedule D.
- (5) No such payment made by a company as is mentioned in subsection (3) above shall be treated as a charge on income if—
- (a) the payment is charged to capital, or the payment is not ultimately borne by the company; or
 - (b) the payment is not made under a liability incurred for a valuable and sufficient consideration (and, in the case of a company not resident in the United Kingdom, incurred wholly and exclusively for the purposes of a trade carried on by it in the United Kingdom through a branch or agency), and is not a covenanted donation to charity.
- (6) No such payment of interest as is mentioned in subsection (3) above made by a company shall be treated as a charge on income unless—
- (a) the company exists wholly or mainly for the purpose of carrying on a trade, or
 - (b) the payment of interest is wholly and exclusively laid out or expended for the purposes of a trade carried on by the company, or
 - (c) the company is an investment company (as defined by section 304(5) of this Act, and including an authorised unit trust scheme), or
 - (d) the payment of interest would be eligible for relief under section 57 or section 62 of this Act (loans for purchase or improvement of land and certain pre-1970 loans) if it were made by an individual.
- (7) The deductions authorised by subsection (3)(a) above shall include five-sixths and no more of any payment made as an instalment, or part of an instalment, of an annuity within the meaning of the Tithe Acts 1936 and 1951; and subsection (5)(b) shall not apply to any such payment.

- (8) A covenanted donation to charity shall not be regarded for the purposes of the definition of " charges on income " in this section, or for any of the other purposes of the Corporation Tax Acts, as being, by reason of section 284(1)(a) or any other provision of this Act, a distribution.
- (9) In this section " covenanted donation to charity " means a payment under a disposition or covenant made by the company in favour of a body of persons or trust established for charitable purposes only, whereby the like annual payments (of which the donation is one) become payable for a period which may exceed six years and is not capable of earlier termination under any power exercisable without the consent of the persons for the time being entitled to the payments.

249 Charges on income: interest payable to non-residents

- (1) A payment of interest by a company is one to which section 248(4)(b) above applies if the company is carrying on a trade and—
- (a) 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
 - (b) the interest is in fact paid outside the United Kingdom, and
 - (c) either—
 - (i) the liability to pay the interest was incurred wholly or mainly for the purposes of activities of the company's trade carried on outside the United Kingdom, or
 - (ii) the interest is payable in the currency of a territory outside the scheduled territories and, subject to subsection (2) below, the liability to pay the interest was incurred wholly or mainly for the purposes of activities of that trade, wherever carried on.
- (2) Subsection (1)(c)(ii) above does not apply where—
- (a) the trade 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 has control, or
 - (c) the person carrying on the trade 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 assigned to it by section 534 of this Act.

- (3) For the purposes of subsection (1) above the company paying the interest shall be treated as carrying on any trade carried on by a 75 per cent. subsidiary of it (both being bodies corporate), if the subsidiary (as well as the company making the payment) is resident in the United Kingdom.
- (4) In determining for the purposes of this section whether one company is a 75 per cent. subsidiary of another that other company shall be treated as not being the owner—
- (a) of any share capital which it owns directly in a body corporate if a profit on a sale of the shares would be treated as a trading receipt of its trade ; or
 - (b) of any share capital which it owns indirectly, and which is owned directly by a body corporate for which a profit on the sale of the shares would be a trading receipt; or

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- (c) of any share capital which it owns directly or indirectly in a body corporate not resident in the United Kingdom.
- (5) In this section " the scheduled territories " means the territories specified in Schedule 1 to the Exchange Control Act 1947 as for the time being in force.

250 Computation of income: application of income tax principles

- (1) Except as otherwise provided by this Act or any other enactment relating to income tax or corporation tax, the amount of any income shall for purposes of corporation tax be computed in accordance with income tax principles, all questions as to the amounts which are or are not to be taken into account as income, or in computing income, or charged to tax as a person's income, or as to the time when any such amount is to be treated as arising, being determined in accordance with income tax law and practice as if accounting periods were years of assessment.
- (2) For the purposes of this section " income tax law " means, in relation to any accounting period, the law applying, for the year of assessment in which the period ends, to the charge on individuals of income tax other than surtax, except that it does not include such of the enactments of the Income Tax Acts as make special provision for individuals in relation to matters referred to in subsection (1) above.
- (3) Accordingly for purposes of corporation tax income shall be computed, and the assessment shall be made, under the like Schedules and Cases as apply for purposes of income tax, and in accordance with the provisions applicable to those Schedules and Cases, but (subject to the provisions of the Corporation Tax Acts) the amounts so computed for the several sources of income, if more than one, together with any amount to be included in respect of chargeable gains, shall be aggregated to arrive at the total profits.
- (4) Without prejudice to the generality of subsection (1) above, any provision of the Income Tax Acts which confers an exemption from income tax, or which provides for a person to be charged to income tax on any amount (whether expressed to be income or not, and whether an actual amount or not), shall, except as otherwise provided, have the like effect for purposes of corporation tax.
- (5) Where, by virtue of this section or otherwise, any enactment applies both to income tax and to corporation tax, it shall not be affected in its operation by the fact that they are distinct taxes but, so far as is consistent with the Corporation Tax Acts, shall apply in relation to income tax and corporation tax as if they were one tax, so that, in particular, a matter which in a case involving two individuals is relevant for both of them in relation to income tax shall in a like case involving an individual and a company be relevant for him in relation to that tax and for it in relation to corporation tax; and for that purpose in any such enactment references to a relief from or charge to income tax, or to a specified provision of the Income Tax Acts shall, in the absence of or subject to any express adaptation, be construed as being or including a reference to any corresponding relief from or charge to corporation tax, or to any corresponding provision of the Corporation Tax Acts.
- (6) The provisions of the Income Tax Acts applied by this section do not include anything in—
 - (a) Part I or Part II of this Act, or
 - (b) Chapter II of Part VI of this Act (Schedule D basis of assessment, etc.), or
 - (c) Chapter VIII of Part VI of this Act (Case VII of Schedule D),

and nothing in this section shall be taken to mean that income arising in any period is to be computed by reference to any other period (except in so far as this results from apportioning to different parts of a period income of the whole period).

251 Computation of income: special rules

- (1) Where a company begins or ceases to carry on a trade, or to be within the charge to corporation tax in respect of a trade, the company's income shall be computed as if that were the commencement or, as the case may be, discontinuance of the trade, whether or not the trade is in fact commenced or discontinued.
- (2) Subject to subsection (3) below and to any other provision of the Corporation Tax Acts which expressly authorises such a deduction, no deduction shall be made in computing income from any source—
 - (a) in respect of dividends or other distributions ; nor
 - (b) in respect of any yearly interest, annuity or other annual payment or in respect of any such other payments as are mentioned in section 52(2) of this Act, but not including sums which are, or but for any exemption would be, chargeable under Schedule A.
- (3) In computing income from a trade subsection (2)(b) above shall not prevent the deduction of yearly interest payable in the United Kingdom on an advance from a bank carrying on a bona fide banking business in the United Kingdom.

252 Company reconstructions without change of ownership

- (1) Where, on a company (" the predecessor ") ceasing to carry on a trade, another company (" the successor ") begins to carry it on, and—
 - (a) on or at any time within two years after that event the trade or an interest amounting to not less than a three-fourths share in it belongs to the same persons as the trade or such an interest belonged to at some time within a year before that event; and
 - (b) the trade is not, within the period taken for the comparison under paragraph (a) above, carried on otherwise than by a company which is within the charge to tax in respect of it;

then the Corporation Tax Acts shall have effect subject to subsections (2) to (5) below.

In paragraphs (a) and (b) above references to the trade shall apply also to any other trade of which the activities comprise the activities of the first mentioned trade.

- (2) The trade shall not be treated as permanently discontinued nor a new trade as set up and commenced for the purpose of the allowances and charges provided for by the Capital Allowances Act 1968 (including the enactments which under this Act are to be treated as contained in Part I of that Act); but there shall be made to or on the successor in accordance with that Act all such allowances and charges as would, if the predecessor had continued to carry on the trade, have fallen to be made to or on it, and the amount of any such allowance or charge shall be computed as if the successor had been carrying on the trade since the predecessor began to do so and as if everything done to or by the predecessor had been done to or by the successor (but so that no sale or transfer which on the transfer of the trade is made to the successor by the predecessor of any assets in use for the purpose of the trade shall be treated as giving rise to any such allowance or charge).

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- (3) The predecessor shall not be entitled to relief under section 178 of this Act (terminal losses), except as provided by subsection (5) below; and, subject to any claim made by the predecessor under section 177(2) of this Act (set off of loss against total profits), the successor shall be entitled to relief under section 177(1) of this Act (carry forward of loss), as for a loss sustained by the successor in carrying on the trade, for any amount for which the predecessor would have been entitled to claim relief if it had continued to carry on the trade.
- (4) Any securities within the meaning of section 471 of this Act (purchase and sale of securities) which at the time when the predecessor ceases to carry on the trade form part of the trading stock belonging to the trade shall be treated for the purposes of that section as having been sold at that time in the open market by the predecessor and as having been purchased at that time in the open market by the successor.
- (5) On the successor ceasing to carry on the trade—
- (a) if the successor does so within four years of succeeding to it, any relief which might be given to the successor under section 178 of this Act on its ceasing to carry on the trade may, so far as it cannot be given to the successor, be given to the predecessor as if the predecessor had incurred the loss (including any amount treated as a loss under subsection (3) of that section); and
 - (b) if the successor ceases to carry on the trade within one year of succeeding to it, relief may be given to the predecessor under section 178 of this Act in respect of any loss incurred by it (or amount treated as such a loss under subsection (3) of that section);
- but for the purposes of section 178 of this Act, as it applies by virtue of this subsection to the giving of relief to the predecessor, the predecessor shall be treated as ceasing to carry on the trade when the successor does so.
- (6) Where the successor ceases to carry on the trade within the period taken for the comparison under subsection (1)(a) above and on its doing so a third company begins to carry on the trade, then no relief shall be given to the predecessor by virtue of subsection (5) above by reference to that event, but subject to that subsections (2) to (5) above shall apply both in relation to that event (together with the new predecessor and successor) and to the earlier event (together with the original predecessor and successor), but so that—
- (a) in relation to the earlier event " successor " shall include the successor at either event; and
 - (b) in relation to the later event " predecessor " shall include the predecessor at either event;
- and if the conditions of this subsection are thereafter again satisfied, it shall apply again in like manner.
- (7) Where, on a company ceasing to carry on a trade, another company begins to carry on the activities of the trade as part of its trade, then that part of the trade carried on by the successor shall be treated for the purposes of this section as a separate trade, if the effect of so treating it is that subsection (1) or (6) above has effect on that event in relation to that separate trade ; and where, on a company ceasing to carry on part of a trade, another company begins to carry on the activities of that part as its trade or part of its trade, the predecessor shall for purposes of this section be treated as having carried on that part of its trade as a separate trade if the effect of so treating it is that subsection (1) or (6) above has effect on that event in relation to that separate trade.

- (8) Where under subsection (7) above any activities of a company's trade fall, on the company ceasing or beginning to carry them on, to be treated as a separate trade, the accounting periods of the company shall be adjusted accordingly, and any necessary apportionment shall be made of receipts, expenses, allowances or charges.
- (9) Where, by virtue of subsection (8) above, any sum falls to be apportioned and, at the time of the apportionment, it appears that it is material as respects the liability to tax (for whatever period) of two or more companies, any question which arises as to the manner in which the sum is to be apportioned shall be determined, for the purposes of the tax of all those companies—
- (a) in a case where the same body of General Commissioners have jurisdiction with respect to all those companies, by those Commissioners, unless all the companies agree that it shall be determined by the Special Commissioners,
 - (b) in a case where different bodies of Commissioners have jurisdiction with respect to those companies, by such of those bodies as the Board may direct, unless all the companies agree that it shall be determined by the Special Commissioners, and
 - (c) in any other case, by the Special Commissioners,
- and any such Commissioners shall determine the question in like manner as if it were an appeal:
- Provided that all the said companies shall be entitled to appear and be heard by the Commissioners who are to make the determination or to make representations to them in writing.
- (10) Any relief obtainable under this section by way of discharge or repayment of tax shall be given on the making of a claim.

253 Company reconstructions: supplemental

- (1) For the purposes of section 252 above—
- (a) a trade carried on by two or more persons shall be treated as belonging to them in the shares in which they are entitled to the profits of the trade ;
 - (b) a trade or interest therein belonging to any person as trustee (otherwise than for charitable or public purposes) shall be treated as belonging to the persons for the time being entitled to the income under the trust;
 - (c) a trade or interest therein belonging to a company shall, where the result of so doing is that subsection (1) or (6) of section 252 above has effect in relation to an event, be treated in any of the ways permitted by subsection (2) below.
- (2) For the purposes of section 252 above, a trade or interest therein which belongs to a company engaged in carrying it on may be regarded—
- (a) as belonging to the persons owning the ordinary share capital of the company and as belonging to them in proportion to the amount of their holdings of that capital, or
 - (b) in the case of a company which is a subsidiary company, as belonging to a company which is its parent company, or as belonging to the persons owning the ordinary share capital of that parent company, and as belonging to them in proportion to the amount of their holdings of that capital,
- and any ordinary share capital owned by a company may, if any person or body of persons has the power to secure by means of the holding of shares or the possession of

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voting power in or in relation to any company, or by virtue of any power conferred by the articles of association or other document regulating any company, that the affairs of the company owning the share capital are conducted in accordance with his or their wishes, be regarded as owned by the person or body of persons having that power.

- (3) For the purposes of subsection (2) above—
- (a) references to ownership shall be construed as references to beneficial ownership;
 - (b) a company shall be deemed to be a subsidiary of another company if and so long as not less than three-quarters of its ordinary share capital is owned by that other company, whether directly or through another company or other companies, or partly directly and partly through another company or other companies;
 - (c) the amount of ordinary share capital of one company owned by a second company through another company or other companies, or partly directly and partly through another company or other companies, shall be determined in accordance with subsections (5) to (10) of section 532 of this Act; and
 - (d) where any company is a subsidiary of another company, that other company shall be considered as its parent company unless both are subsidiaries of a third company.
- (4) In determining, for the purposes of section 252 above, whether or to what extent a trade belongs at different times to the same persons, persons who are relatives of one another and the persons from time to time entitled to the income under any trust shall respectively be treated as a single person, and for this purpose " relative " means husband, wife, ancestor, lineal descendant, brother or sister.

Franked investment income

254 Set-off of losses etc. against surplus of franked investment income

- (1) Where a company has a surplus of franked investment income for any year of assessment, the company may on making a claim for the purpose require that the amount of the surplus shall for all or any of the purposes mentioned in subsection (2) below be treated as if it were a like amount of profits chargeable to corporation tax, and subject to subsection (4) below the provisions mentioned in subsection (2) below shall apply in accordance with this section to reduce the amount of the surplus for purposes of section 240 of this Act so that income tax shall be repayable accordingly.
- (2) The purposes for which a claim may be made under subsection (1) above are those of—
- (a) the setting of trading losses against total profits under section 177(2) of this Act;
 - (b) the deduction of charges on income under section 248 of this Act;
 - (c) the deduction of expenses of management under section 304 or 305 of this Act;
 - (d) the setting of certain capital allowances against total profits under section 74(3) of the Capital Allowances Act 1968.
- (3) Where a company makes a claim under this section for any year of assessment, then—
- (a) the amount to which the claim relates shall for purposes of the claim be treated as profits of the accounting period or periods comprising or together

- comprising that year, and shall be apportioned between them (if more than one) in proportion to the parts of the year respectively comprised in them ;
- (b) the reduction falling to be made in profits of an accounting period shall be made as far as may be in profits chargeable to corporation tax rather than in the amount treated as profits so chargeable under this section.
- (4) Where a claim under this section relates to section 177(2) of this Act or to section 74(3) of the Capital Allowances Act 1968 and an accounting period of the company falls partly before and partly within the time mentioned in that subsection, then—
- (a) the restriction imposed by section 177(3) of this Act or by section 74(4) of the Capital Allowances Act 1968 on the amount of the relief shall be applied only to any relief to be given apart from this section, and shall be applied without regard to any amount treated as profits of the period under this section ; but
- (b) relief under this section shall be given only against so much (if any) of the amount so treated as would under subsection (3)(a) above be apportioned to the part of the period falling within the said time if that part were a separate accounting period.
- (5) Where—
- (a) on a claim made under this section for any year of assessment relief is given in respect of the whole or part of any loss incurred in a trade, or of any amount which could be treated as a loss under section 177(8) of this Act; and
- (b) in a later year of assessment the distributions on which the company pays the income tax under section 232(2) of this Act exceed its franked investment income ;
- then (unless the company has ceased to carry on the trade or to be within the charge to corporation tax in respect of it) the company shall, for purposes of section 177(1) of this Act, be treated as having, in the accounting period ending at or last before the beginning of the later year of assessment, incurred a loss equal to whichever is the lesser of—
- (i) the excess referred to in paragraph (b) above ; and
- (ii) the amount in respect of which relief was given as aforesaid, or so much of that amount as remains after deduction of any part of it dealt with under this subsection in relation to an earlier year of assessment.
- (6) Subsection (5) above shall apply, with the necessary adaptations.—
- (a) in relation to relief given in respect of management expenses; and
- (b) in relation to relief given in respect of capital allowances ;
- as it applies in relation to relief given in respect of a loss (the reference to the company ceasing to be within the charge to corporation tax in respect of the trade being construed as a reference to its ceasing to be within that charge at all):
- Provided that any amount which may be dealt with under subsection (5) as a loss shall be so dealt with rather than under this subsection, except in so far as the company concerned otherwise elects.
- (7) The time limits for claims under this section shall be as follows—
- (a) if and so far as the purpose for which the claim is made is the setting of trading losses against total profits under section 177(2) of this Act, two years from the end of the year of assessment in which falls the end of the accounting period in which the trading loss is incurred,

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- (b) if and so far as the purpose for which the claim is made is the deduction of charges on income under section 248 of this Act or of expenses of management under section 304 or 305 of this Act, six years from the end of the accounting period in which the charges were paid or the expenses of management were incurred,
 - (c) if and so far as the purpose for which the claim is made is the setting of capital allowances against total profits under section 74(3) of the Capital Allowances Act 1968, two years from the end of the year of assessment in, which falls the end of the accounting period for which the capital allowances fall to be made.
- (8) For the purposes of a claim under this section for any year of assessment the surplus of franked investment income for any year of assessment shall be calculated without regard to the part, if any, carried forward from an earlier year of assessment.

255 Set-off of loss brought forward, or terminal loss

- (1) Where a company has a surplus of franked investment income in any year of assessment, the company, instead of or in addition to making a claim under section 254 above, may on making a claim for the purpose require that the surplus shall be taken into account for relief under section 177(1) or under section 178 of this Act, up to the amount of franked investment income for the year which, if chargeable to corporation tax, would have been so taken into account by virtue of section 177(7) of this Act; and (subject to the restriction to the said amount of franked investment income) the following subsections shall have effect where the company makes a claim under this section for any year of assessment.
- (2) The amount to which the claim relates shall for the purposes of the claim be treated as trading income of the accounting period or periods comprising or together comprising the year of assessment, and shall be apportioned between them (if more than one) in proportion to the parts of the year respectively comprised in them.
- (3) The reduction falling to be made in trading income of an accounting period shall be made as far as may be in trading income chargeable to corporation tax rather than in the amount treated as trading income so chargeable under this section.
- (4) If the claim relates to section 177(1) of this Act, section 254(5) above shall apply in relation to it.
- (5) If the claim relates to section 178 of this Act and an accounting period of the company falls partly outside the three years mentioned in subsection (1) of that section, then—
 - (a) the restriction imposed by subsection (2) of that section on the amount of the reduction that may be made in the trading income of that period shall be applied only to any relief to be given apart from this section, and shall be applied without regard to any amount treated as trading income of the period by virtue of this section, but
 - (b) relief under this section shall be given only against so much (if any) of the amount so treated as would under subsection (2) above be apportioned to the part of the period falling within the three years in question if that part were a separate accounting period.
- (6) The time limits for claims under this section shall be as follows—
 - (a) if and so far as the purpose for which the claim is made is the allowance of relief under section 177(1) of this Act, six years from the end of the year of assessment for which the claim is made,

- (b) if and so far as the purpose for which the claim is made is the allowance of relief under section 178 of this Act, six years from the time when the company ceases to carry on the trade.
- (7) For the purposes of a claim under this section for any year of assessment the surplus of franked investment income for any year of assessment shall be calculated without regard to the part, if any, carried forward from an earlier year of assessment.

Group income

256 Group income, etc.

- (1) Where a company receives dividends from another company (both being bodies corporate resident in the United Kingdom), and the company paying the dividends is—
- (a) a 51 per cent. subsidiary of the other or of a company so resident of which the other is a 51 per cent. subsidiary; or
 - (b) a trading or holding company owned by a consortium the members of which include the company receiving the dividends,

then, subject to the following provisions of this section, the company receiving the dividends and the company paying them may jointly elect that this subsection shall apply to the dividends received from the latter by the former, and so long as the election is in force any such dividends shall be excluded from sections 232(2) and 240 of this Act, and are accordingly not included, unless otherwise stated, in references to the franked investment income of the company receiving them (but are in the Corporation Tax Acts referred to as "group income" of that company):

Provided that an election under this subsection shall not prevent the payment of any amount of dividends under deduction of income tax, and where notwithstanding the election any amount is so paid, the Corporation Tax Acts shall have effect in relation to it as if there had been no such election.

- (2) Where a company receives from another company (both being bodies corporate resident in the United Kingdom) any such payments as are referred to below in this subsection, and either—
- (a) the conditions of subsection (1)(a) or (b) above would be satisfied in relation to the companies if the payments were dividends, or
 - (b) the company receiving the payments is a 51 per cent. subsidiary of the other company,

then, subject to the following provisions of this section, the company receiving the payments and the company paying them may jointly elect that this subsection shall apply to any such payments received from the latter by the former, and so long as the election is in force those payments may be made without deduction of income tax and neither section 53 nor section 54 of this Act shall apply thereto.

The payments for which an election may be made under this subsection are any payments which are for corporation tax charges on income of the company making them.

- (3) Subsections (1) and (2) above shall not apply to dividends or other payments received by a company on any investments, if a profit on the sale of those investments would be treated as a trading receipt of that company.

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- (4) Where a company purports by virtue of an election under this section to pay any dividends or other payments without deduction of income tax, and income tax ought to have been deducted, then the company receiving the dividends or other payments shall be treated for the purposes of sections 232 and 240 of this Act as if that tax had been deducted and been repaid to it under Schedule 9 to this Act, and the amount of that tax may be recovered from it accordingly by adjustment of the payments and repayments under the said Schedule 9 or otherwise.
- (5) In determining for the purposes of this section whether one body corporate is a 51 per cent. subsidiary of another, that other shall be treated as not being the owner—
- (a) of any share capital which it owns directly or in directly in a body corporate not resident in the United Kingdom, or
 - (b) of any share capital which it owns indirectly, and which is owned directly by a body corporate for which a profit on the sale of the shares would be a trading receipt.
- (6) For the purposes of this section—
- (a) " trading or holding company " means a trading company or a company the business of which consists wholly or mainly in the holding of shares or securities of trading companies which are its 90 per cent. subsidiaries,
 - (b) " trading company " means a company whose business consists wholly or mainly of the carrying on of a trade or trades,
 - (c) a company is owned by a consortium if three-quarters or more of the ordinary share capital of the company is beneficially owned between them by five or fewer companies resident in the United Kingdom of which none beneficially owns less than one-twentieth of that capital, and those companies are called the members of the consortium.
- (7) References in this section to dividends or payments received by a company apply to any received by another person on behalf of or in trust for the company, but not to any received by the company on behalf of or in trust for another person, and references to " group income " shall be construed accordingly.

257 Election for group income, etc.

- (1) An election under subsection (1) or subsection (2) of section 256 above (in the following provisions of this section referred to as an " election ") shall be made by notice in writing to the inspector, and the notice shall set out the facts necessary to show that the companies are entitled to make the election.
- (2) An election shall not have effect in relation to dividends or other payments paid less than three months after the giving of the notice and before the inspector is satisfied that the election is validly made, and has so notified the companies concerned; but shall be of no effect if within those three months the inspector notifies the companies concerned that the validity of the election is not established to his satisfaction:

Provided that the companies shall have the like right of appeal against any decision that the validity of the election is not established as the company paying the dividends or other payments would have if it were an assessment made on that company, and Part V of the Taxes Management Act 1970 shall apply accordingly.

- (3) An election shall cease to be in force if at any time the companies cease to be entitled to make the election, and on that happening each company shall forthwith notify the inspector.
- (4) Either of the companies making an election may at any time give the inspector notice in writing revoking the election; and any such notice shall have effect from the time it is given.

Group relief

258 Group relief

- (1) Relief for trading losses and other amounts eligible for relief from corporation tax may in accordance with the following provisions of this Chapter be surrendered by a company (called " the surrendering company ") which is a member of a group of companies and, on the making of a claim by another company (called " the claimant company ") which is a member of the same group, may be allowed to the claimant company by way of a relief from corporation tax called " group relief".
- (2) Group relief shall also be available in accordance with the said provisions—
 - (a) where the surrendering company is a trading company which is owned by a consortium and which is not a 75 per cent. subsidiary of any company, and the claimant company is a member of the consortium, or
 - (b) where the surrendering company is a trading company—
 - (i) which is a 90 per cent. subsidiary of a holding company which is owned by a consortium, and
 - (ii) which is not a 75 per cent. subsidiary of a company other than the holding company,and the claimant company is a member of the consortium, or
 - (c) where the surrendering company is a holding company which is owned by a consortium and which is not a 75 per cent. subsidiary of any company, and the claimant company is a member of the consortium;

Provided that no claim may be made by a member of a consortium if a profit on a sale of the share capital of the surrendering or holding company which that member owns would be treated as a trading receipt of that member.

- (3) Subject to the following sections of this Chapter, two or more claimant companies may make claims relating to the same surrendering company, and to the same accounting period of that surrendering company.
- (4) A payment for group relief—
 - (a) shall not be taken into account in computing profits or losses of either company for corporation tax purposes, and
 - (b) shall not for any of the purposes of the Corporation Tax Acts be regarded as a distribution or a charge on income,and in this subsection "payment for group relief" means a payment made by the claimant company to the surrendering company in pursuance of an agreement between them as respects an amount surrendered by way of group relief, being a payment not exceeding that amount.
- (5) For the purpose of this section and the following sections of this Chapter—

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- (a) two companies shall be deemed to be members of a group of companies if one is the 75 per cent. subsidiary of the other or both are 75 per cent. subsidiaries of a third company,
 - (b) " holding company " means a company the business of which consists wholly or mainly in the holding of shares or securities of companies which are its 90 per cent. subsidiaries, and which are trading companies,
 - (c) " trading company " means a company whose business consists wholly or mainly of the carrying on of a trade or trades.
- (6) In applying for the said purposes the definition of " 75 per cent. subsidiary " in section 532 of this Act any share capital of a registered industrial and provident society shall be treated as ordinary share capital.
- (7) References in this and the following sections of this Chapter to a company apply only to bodies corporate resident in the United Kingdom; and in determining for the purposes of this and the following sections of this Chapter whether one company is a 75 per cent. subsidiary of another, the other company shall be treated as not being the owner—
- (a) of any share capital which it owns directly in a body corporate if a profit on a sale of the shares would be treated as a trading receipt of its trade, or
 - (b) of any share capital which it owns indirectly, and which is owned directly by a body corporate for which a profit on the sale of the shares would be a trading receipt, or
 - (c) of any share capital which it owns directly or in directly in a body corporate not resident in the United Kingdom.
- (8) For the said purposes—
- (a) a company is owned by a consortium if all of the ordinary share capital of that company is directly and beneficially owned between them by five or fewer companies, and those companies are called the members of the consortium,
 - (b) a member's share in a consortium shall be the percentage of the ordinary share capital of the surrendering company, or as the case may be of the holding company through which the surrendering company is owned, which is beneficially owned by that member in the relevant accounting period of the surrendering company, and if that percentage has fluctuated in the accounting period, the average percentage over the period shall be taken.

259 Kinds of group relief

- (1) If in any accounting period the surrendering company has incurred a loss, computed as for the purposes of subsection (2) of section 177 of this Act, in carrying on a trade, the amount of the loss may be set off for the purposes of corporation tax against the total profits of the claimant company for its corresponding accounting period:

Provided that this subsection shall not apply to so much of a loss as is excluded from the said subsection (2) by subsection (4) of the said section, or by section 180 of this Act (farming and market gardening).

- (2) If for any accounting period any capital allowances fall to be made to the surrendering company which are to be given by discharge or repayment of tax and are to be available primarily against a specified class of income, so much of the amount of those capital allowances (exclusive of any carried forward from an earlier period) as exceeds its income of the relevant class arising in that accounting period (before deduction of any

losses of any other period or of any capital allowances) may be set off for purposes of corporation tax against the total profits of the claimant company for its corresponding accounting period.

- (3) If for any accounting period the surrendering company (being an investment company) may under section 304(1) of this Act deduct any amount as expenses of management disbursed for that accounting period, so much of that amount (exclusive of any amount deductible only by virtue of subsection (2) of the said section 304) as exceeds the company's profits of that accounting period may be set off for purposes of corporation tax against the total profits of the claimant company (whether an investment company or not) for its corresponding accounting period.
- (4) The surrendering company's profits of the period shall be determined for the purposes of subsection (3) above without any deduction under the said section 304 and without regard to any deduction falling to be made in respect of losses or allowances of any other period.
- (5) References in subsections (3) and (4) above to the said section 304 do not include references to that section as applied by section 305 of this Act to companies carrying on life assurance business.
- (6) If in any accounting period the surrendering company has paid any amount by way of charges on income, so much of that amount as exceeds its profits of the period may be set off for purposes of corporation tax against the total profits of the claimant company for its corresponding accounting period.
- (7) The surrendering company's profits of the period shall be determined for the purposes of subsection (6) above without regard to any deduction falling to be made in respect of losses or allowances of any other period, or to expenses of management deductible only by virtue of subsection (2) of section 304 of this Act.
- (8) In applying any of the preceding subsections in the case of a claim made by a company as a member of a consortium only a fraction of the loss referred to in subsection (1) above, or of the excess referred to in subsection (2) or (3) or (6) above, as the case may be, may be set off under the subsection in question, and that fraction shall be equal to that member's share in the consortium, subject to any further reduction under section 261(2) below.

260 Relation of group relief to other relief

- (1) Group relief for an accounting period shall be allowed as a deduction against the claimant company's total profits for the period before reduction by any relief derived from a subsequent accounting period, but as reduced by any other relief from tax (including relief in respect of charges on income under section 248(1) above).
- (2) The said other relief shall be determined on the assumption that the company makes all relevant claims under section 177(2) of this Act and section 74(3) of the Capital Allowances Act 1968 (set-off of trading losses and capital allowances against total profits).
- (3) For the purposes of this section "relief derived from a subsequent accounting period" means—
 - (a) relief under section 177(2) of this Act in respect of a loss incurred in an accounting period after the accounting period the profits of which are being computed, and

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- (b) relief under section 74(3) of the Capital Allowances Act 1968 in respect of capital allowances falling to be made for an accounting period after the accounting period the profits of which are being computed, and
 - (c) relief under section 87 of the Finance Act 1965 (transitional relief on cessation of trade etc.) where the company ceases to possess the source of income in question at a time after the end of the accounting period the profits of which are being computed, and
 - (d) relief under section 178 of this Act in respect of a loss incurred in an accounting period after the end of the accounting period the profits of which are being computed.
- (4) The reductions to be made in total profits of an accounting period against which any relief derived from a subsequent accounting period is to be set off shall include any group relief for that first-mentioned accounting period, and this subsection shall have effect notwithstanding that under section 87(3) of the Finance Act 1965 relief under that section is to be given in priority to any other relief.

261 Corresponding accounting periods

- (1) For the purposes of group relief any accounting period of the claimant company which falls wholly or partly within an accounting period of the surrendering company corresponds to that accounting period.
- (2) If an accounting period of the surrendering company and a corresponding accounting period of the claimant company do not coincide—

- (a) the amount which may be set off against the total profits of the claimant company for the corresponding accounting period shall be reduced by applying the fraction

$$\frac{\mathbf{A}}{\mathbf{B}}$$

(if that fraction is less than unity), and

- (b) the said profits against which the amount mentioned in paragraph (a) above (as reduced where so required) may be set off shall be reduced by applying the fraction

$$\frac{\mathbf{A}}{\mathbf{C}}$$

(if that fraction is less than unity),

where

A is the length of the period common to the two accounting periods,
 B is the length of the accounting period of the surrendering company, and
 C is the length of the corresponding accounting period of the claimant company.

262 Companies joining or leaving group or consortium

- (1) Subject to the following provisions of this section, group relief shall be given if, and only if, the surrendering company and the claimant company are members of the same group, or fulfil the conditions for relief for a consortium, throughout the whole of the

surrendering company's accounting period to which the claim relates, and throughout the whole of the corresponding accounting period of the claimant company

- (2) Where on any occasion two companies become or cease to be members of the same group, then for the purposes specified in subsection (3) below it shall be assumed as respects each company that on that occasion (unless a true accounting period of the company begins or ends then) an accounting period of the company ends, and a new one begins, the new accounting period to end with the end of the true accounting period (unless before then there is a further break under this subsection), and—
 - (a) that the losses or other amounts of the true accounting period are apportioned to the component accounting periods on a time basis according to their lengths, and
 - (b) that the amount of total profits for the true accounting period of the company against which group relief may be allowed in accordance with section 260(1) above is also so apportioned to the component accounting periods.
- (3) Where the one company is the surrendering company and the other company is the claimant company—
 - (a) references to accounting periods, to profits, and to losses, allowances, expenses of management or charges on income of the surrendering company, in section 259 above shall be construed in accordance with subsection (2) above,
 - (b) references to accounting periods in section 261 above and subsection (1) of this section shall be so construed (so that if the two companies are members of the same group in the surrendering company's accounting period, they must under section 261 above also be members of the same group in any corresponding accounting period of the claimant company),
 - (c) references to profits, and amounts to be set off against the profits, in section 261 above shall be so construed (so that an amount apportioned under subsection (2) above to a component accounting period may fall to be reduced under section 261(2) above).
- (4) Subsection (2) and (3) above shall apply with the necessary modifications where a company begins or ceases to fulfil the conditions for relief for a consortium, either as a surrendering company or as a claimant company, as it applies where two companies become or cease to be members of the same group.

263 Exclusion of double allowances, etc.

- (1) Relief shall not be given more than once in respect of the same amount, whether by giving group relief and by giving some other relief (in any accounting period) to the surrendering company, or by giving group relief more than once.
- (2) In accordance with subsection (1) above, two or more claimant companies cannot, in respect of any one loss or other amount for which group relief may be given, and whatever their accounting periods corresponding to that of the surrendering company, obtain in all more relief than could be obtained by a single claimant company whose corresponding accounting period coincided with the accounting period of the surrendering company.
- (3) If claims for group relief are made by more than one claimant company which relate to the same accounting period of the same surrendering company, and—

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- (a) all the claims so made are admissible only by virtue of subsections (2) and (3) of section 262 above, and
- (b) there is a part of the surrendering company's accounting period during which none of those claimant companies is a member of the same group as the surrendering company,

those claimant companies shall not obtain in all more relief than could be obtained by a single claimant company which was not a member of the same group as the surrendering company during that part of the surrendering company's accounting period (but was a member during the remainder of that accounting period).

- (4) If claims for group relief are made by a claimant company as respects more than one surrendering company for group relief to be set off against its total profits for any one accounting period, and—
 - (a) all the claims so made are admissible only by virtue of subsections (2) and (3) of section 262 above, and
 - (b) there is a part of the claimant company's accounting period during which none of the surrendering companies by reference to which the claims are made is a member of the same group as the claimant company,

the claimant company shall not obtain in all more relief to be set off against its profits for the accounting period than it could obtain on a claim as respects a single surrendering company (with unlimited losses and other amounts eligible for relief) which was not a member of the same group as the claimant company during that part of the claimant company's accounting period (but was a member during the remainder of that accounting period).

- (5) The provisions of this subsection have effect as respects a claim for group relief made by a company as a member of a consortium, in this subsection referred to as a "consortium claim"—
 - (a) a consortium claim, and a claim other than a consortium claim, shall not both have effect as respects the loss or other amount of the same accounting period of the same surrendering company, unless each of the two claims is as respects a loss or other amount apportioned under section 262(2)(a) above to a component of that accounting period, and the two components do not overlap,
 - (b) in subsections (3) and (4) above consortium claims shall be disregarded,
 and paragraph (a) above shall take effect according to the order in which claims are made.

- (6) Without prejudice to the provisions of section 87(3) of the Capital Allowances Act 1968, any reference in Part I of that Act to an allowance made includes a reference to an allowance which would be made but for the granting of group relief, or but for that and but for an insufficiency of profits or other income against which to make it.

264 Claims and adjustments

- (1) A claim for group relief—
 - (a) need not be for the full amount available,
 - (b) shall require the consent of the surrendering company notified to the inspector in such form as the Board may require, and
 - (c) must be made within two years from the end of the surrendering company's accounting period to which the claim relates.

- (2) A claim for group relief by a company as a member of a consortium shall require the consent of each other member of the consortium, notified to the inspector in such form as the Board may require, in addition to the consent of the surrendering company.
- (3) If the inspector discovers that any group relief which has been given is or has become excessive he may make an assessment to corporation tax under Case VI of Schedule D in the amount which ought in his opinion to be charged.
- (4) Subsection (3) above is without prejudice to the making of an assessment under section 29(3)(c) of the Taxes Management Act 1970, and to the making of all such other adjustments by way of discharge or repayment of tax or otherwise as may be required where a claimant company has obtained too much relief, or a surrendering company has forgone relief in respect of a corresponding amount.