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SCHEDULES

SCHEDULE 9

STOCK RELIEF

PART II

INCOME TAX

Right to set unused relief against general income

- 8 (1) Subject to the provisions of this paragraph, a claim made under section 168 of the Taxes Act (set-off of losses against general income) for relief in respect of a loss sustained by the claimant in a trade in any year of assessment (the " year of loss ") may require the amount of that loss to be determined as if an amount equal to the relief to which he is entitled under this Part of this Schedule for the year of assessment for which the year of loss is the basis year were to be deducted in computing the profits or gains or losses of the trade in the year of loss.
- (2) Where there are capital allowances that can be the subject of a claim under the said section 168 by virtue of section 169 of the Taxes Act, no claim shall be made under section 168 by reference to relief under this Part of this Schedule unless a claim is also made by reference to those capital allowances; but a claim may be made under section 168 for relief in respect of a loss sustained by the claimant in any trade in any year of assessment notwithstanding that the claimant would not have sustained a loss in that year unless relief under this Part of this Schedule is brought into account.
- (3) Relief for any year of assessment shall be taken into account by virtue of this paragraph only if and so far as it is not required to offset any charge for that year under paragraph 4 above; and for the purposes of this sub-paragraph the relief for a year of assessment shall be treated as required to offset the charge for a year up to the amount on which the charge falls to be made after deducting from it the amount (if any) of relief for earlier years which is carried forward to that year and would, if not set against the charge, be unused in that year.
- (4) Where the relief taken into account by virtue of this paragraph is that for the year of assessment for which the claim is made or for the preceding year (the year of loss being the basis year for that year itself, or the claim being made by way of carry forward of the loss by virtue of section 168(2) of the Taxes Act), effect shall not be given to that relief in respect of an amount greater than the amount unused in the year for which the claim is made, or, in the case of relief for the preceding year, the amount unused in both years.
- (5) For the purposes of this paragraph—
- (a) where the end of the basis period for a year of assessment falls in, or coincides with the end of, any year of assessment, that year is the basis year for the first-mentioned year of assessment, but so that, if a year of assessment

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- would under the foregoing provision be the basis year both for that year itself and for another year of assessment, it shall be the basis year for the year itself and not for the other year;
- (b) any reference to the relief or charge for a year of assessment shall be construed as a reference to the relief or charge falling to be given effect in that year (excluding, in the case of relief, any part of the relief for an earlier year carried forward under paragraph 9 below);
 - (c) any reference to an amount of relief unused in a year shall be construed as referring to the amount by which, by reason of an insufficiency of profits or gains, effect cannot be given to the relief in that year.
- (6) Where, on a claim made by virtue of this paragraph, relief is not given under section 168 of the Taxes Act for the full amount of the loss determined as mentioned in sub-paragraph (1) above, the relief under that section shall be attributed—
- (a) to the loss sustained by the claimant in the trade rather than to the capital allowances in respect of the trade brought into account by virtue of section 169 of the Taxes Act; and
 - (b) to those capital allowances rather than to relief under this Part of this Schedule.
- (7) Where a claim is made under the said section 168 by a person who, since the end of the year for which the claim is made, has carried on the trade in question in partnership, then effect shall be given to this paragraph in relation to that claim only with the consent in writing of every other person engaged in carrying on the trade between the end of that year and the making of the claim, except that where the claim is for a loss sustained before an event treated as the permanent discontinuance of the trade, the consent is not required of a person so engaged only since the discontinuance.
- (8) If a person whose consent is required under sub-paragraph (7) has died, the consent in writing of his personal representatives is required instead.