



Finance Act 1962

1962 CHAPTER 44

PART II

INCOME TAX AND PROFITS TAX

CHAPTER I

RENEWAL OF INCOME TAX, AND CHANGES IN PERSONAL RELIEFS

7 Charge of income tax for 1962-63

Income tax for the year 1962-63 shall be charged at the standard rate of seven shillings and ninepence in the pound, and in the case of an individual whose total income exceeds two thousand pounds, at such higher rates in respect of the excess as Parliament may hereafter determine.

8 Increase of reliefs for small incomes

- (1) In section fifteen of the Finance Act, 1952 (relief for persons under sixty-five with small incomes), as originally enacted, for the references to two hundred and fifty pounds (the income limit for the full relief) there shall be substituted in all places references to four hundred pounds; and (as regards the marginal relief) for the references to three hundred and fifty pounds and to two-fifths there shall be substituted references to five hundred and fifty pounds and to one-half.
- (2) In section thirteen of the Finance Act, 1957 (relief for persons over sixty-five with small incomes), as originally enacted, for the references to two hundred and fifty pounds and to four hundred pounds (the income limits for exemption) there shall be substituted references to three hundred pounds and to four hundred and eighty pounds; and (as regards the marginal relief) for the reference to fifty pounds (the addition to the income limit) there shall be substituted a reference to seventy-five pounds.

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- (3) This section shall not be deemed to have required any change in the amounts deducted or repaid under section one hundred and fifty-seven (pay as you earn) of the Income Tax Act, 1952, before the twenty-second day of June, nineteen hundred and sixty-two.

9 Relief for blind persons

- (1) Subject to subsection (3) below, if a claimant proves—
- (a) that he is a married man who for the year of assessment has his wife living with him, and that one of them was, and the other was not, throughout the year a registered blind person; or
 - (b) that, not being such a married man, he was throughout the year a registered blind person;

and also proves that the amounts of any tax-free disability payments receivable in the year by him or, as the case may be, by his wife living with him are such that seven-ninths of the aggregate thereof is less than one hundred pounds, he shall be entitled to a deduction from the amount of income tax with which he is chargeable equal to tax at the standard rate on an amount equal to one hundred pounds reduced by seven-ninths of the aggregate of any such payments so receivable.

- (2) Subject to subsection (3) below, if a claimant proves—
- (a) that he is a married man who for the year of assessment has his wife living with him; and
 - (b) that throughout the year both he and his wife were registered blind persons; and
 - (c) that the amounts of any tax-free disability payments receivable in the year (whether by him or his wife) are such that seven-ninths of the aggregate thereof is less than two hundred pounds ;

he shall be entitled to a deduction from the amount of income tax with which he is chargeable equal to tax at the standard rate on an amount equal to two hundred pounds reduced by seven-ninths of the aggregate of any such payments so receivable.

- (3) Unless a claimant who is entitled to relief for the year of assessment under section two hundred and seventeen of the Income Tax Act, 1952, in respect of the services of a daughter relinquishes his claim to that relief, he shall not be allowed relief under subsection (1) or (2) above for that year.

- (4) In this section—

" registered blind person " means a person registered as a blind person in a register compiled under section twenty-nine of the National Assistance Act, 1948, or under any corresponding enactment for the time being in force in Northern Ireland;

" tax-free disability payment " means a periodical payment receivable by a person on account of his blindness and not falling to be treated as income for the purposes of income tax.

- (5) In subsection (1) of section fourteen of the Finance Act, 1957 (under which, as amended by the Finance Act, 1960, certain reliefs specified in paragraphs (a) to (d) thereof by reference to the enactments conferring them are allowable for purposes of surtax), at the end of paragraph (d) there shall be inserted the following—

“and

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- (e) subsection (1) or (2) of section nine of the Finance Act, 1962 (relief for blind persons);”.
- (6) The Income Tax Acts, and in particular Part VIII of the Income Tax Act, 1952, shall have effect as if subsections (1) to (4) of this section were contained in the said Part VIII between sections two hundred and eighteen and two hundred and nineteen.

CHAPTER II

CHARGE ON GAINS FROM ACQUISITION AND DISPOSAL OF ASSETS

10 Charge to income tax and profits tax

- (1) Without prejudice to any other provision of the Income Tax Acts directing income tax to be charged under Schedule D, tax under that Schedule for the year 1962-63 or any subsequent year of assessment shall be charged, subject to and in accordance with the rules contained in this Chapter, in respect of all gains accruing to any person resident and ordinarily resident for the year in the United Kingdom from his acquisition and disposal of any chargeable assets, not being gains which accrue as profits of a trade, profession, vocation, office or employment:
- Provided that tax shall not be chargeable by virtue of this section where the acquisition or the disposal occurred before the tenth day of April, nineteen hundred and sixty-two, except in so far as provision to the contrary is made by section fourteen of this Act.
- (2) Except for purposes of section fourteen of this Act, there shall be no acquisition and disposal within the meaning of this Chapter where the disposal occurs more than three years after the acquisition in the case of a disposal of land, or where the disposal occurs more than six months after the acquisition in any other case.
- (3) Tax charged under Schedule D by virtue of this section shall be charged under a new Case VII of that Schedule (in this Chapter referred to as " Case VII "), and—
- the tax with which a person is chargeable under Case VII for any year of assessment shall be computed on the gains accruing to him in that year, after deducting any losses allowable under Case VII against those gains; and
 - subject to subsection (6) below, a gain on the acquisition and disposal of an asset shall for purposes of Case VII be treated as accruing at the time of the disposal or, if that precedes the acquisition, the time of the acquisition ; and
 - the amount or net amount on which tax is charged by this subsection shall be deemed for income tax purposes to be income for the year of assessment of the person chargeable.
- (4) Subject to the provisions of this Chapter the losses allowable under Case VII against gains accruing to a person in any year of assessment shall consist of any losses accruing to him in that or any previous year from any chargeable acquisition and disposal, that is to say, from his acquisition and disposal of assets in such circumstances that a gain accruing from it would have been chargeable under Case VII; and a loss shall be treated as accruing at the same time, and be computed in the same manner, as a gain would be.
- (5) The foregoing provisions of this section with respect to losses allowable under Case VII shall not prejudice any right to relief in respect of other losses from tax chargeable under that Case, or otherwise affect any other provision of the Income Tax Acts with respect to losses; but no deduction shall be made under Case VII of a loss or part of a

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loss in respect of which relief from tax has already been allowed by such a deduction or otherwise, and where such a deduction is made no relief from tax in respect of the loss or that part of it shall be allowed under any other provision of the Income Tax Acts.

- (6) In the case of individuals resident and ordinarily resident but not domiciled in the United Kingdom, tax under Case VII shall not be charged in respect of gains arising to them out of the United Kingdom except that tax shall be charged on the amounts (if any) received in the United Kingdom in respect of those gains, any such amounts being treated as gains accruing when they are received in the United Kingdom ; and accordingly losses arising out of the United Kingdom to any such individual shall not be allowable under Case VII.
- (7) In computing for the purposes of the profits tax the profits or losses arising from a trade or business, any such gains and losses as are to be included and allowed in computing a person's income for purposes of Case VII shall by virtue of this Chapter (but subject to the enactments adapting income tax principles to the computation) be respectively included as receipts and allowed by way of deduction from gains so included, in so far as they would not otherwise be brought into the computation; and for this purpose—
- (a) subject to paragraph (c) below, the gains to be included and the losses to be allowed shall be those accruing from the acquisition and disposal of assets where income arising from the assets to the person making the disposal would be brought into account as a receipt in computing the profits including franked investment income of the trade or business, or would be so brought into account apart from subsection (5) of section forty-two of the Finance Act, 1938 (which relates to payments between associated companies);
 - (b) in the case of any chargeable accounting period, whether or not it is a period for which the accounts of the trade or business are made up, the gains to be included shall be those accruing during the period, and the losses to be allowed shall be determined accordingly, and subsection (3) of section (twenty) of the Finance Act, 1937, shall not apply in relation to those gains or losses ;
 - (c) where under section twenty-two of the Finance Act, 1937, the profits or losses of a subsidiary are to be treated as profits or losses of the principal company, the gains or losses to be brought into account by virtue of paragraph (a) above in the case of any company shall be the same as if no notice were in force under that section, but—
 - (i) where gains accrue in a chargeable accounting period of the subsidiary in excess of the losses allowable to the subsidiary under this Chapter against those gains, then in computing the profits arising in the corresponding chargeable accounting period of the principal company from its trade or business the excess shall, for the purpose of deducting losses allowable to the principal company under this Chapter and accruing in that period and for the purposes of sub-paragraph (ii) below, be regarded as if it were a gain to be included by virtue of this Chapter in the computation of those profits; and
 - (ii) where losses accrue in a chargeable accounting period of the subsidiary so as to be allowable to the subsidiary under this Chapter against gains so accruing, but exceed the amount (if any) of those gains, the excess may be allowed as a deduction in computing the profits or losses generally of that period :

Provided that this sub-paragraph shall not apply unless in computing the profits arising in the corresponding chargeable accounting period of the principal company from its trade or business gains are to be

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included by virtue of this Chapter in excess of the losses allowable against those gains, nor shall a greater amount be allowed to any subsidiary or subsidiaries by reference to the period than the amount of that excess.

11 Chargeable assets

- (1) Subject to the provisions of this section, all forms of property, whether situated in the United Kingdom or not, (including options, debts and incorporeal property generally) shall be chargeable assets for the purposes of Case VII, with the exception of tangible movable property; and subsection (2) of section ten of this Act shall apply to an option or other right to acquire or dispose of land as it applies to land.
- (2) Tangible movable property shall be chargeable assets in any of the following cases:—
 - (a) commodities of any description shall be chargeable assets in relation to any acquisition and disposal by a person dealing on a futures market or dealing with or through a person ordinarily engaged in dealing on a futures market;
 - (b) currency of any description shall be chargeable assets, except in relation to an acquisition and disposal by an individual for the personal expenditure outside the United Kingdom of himself or his family or dependants (including expenditure on the provision or maintenance of any residence outside the United Kingdom);
 - (c) tangible movable property of any description shall be chargeable assets in relation to any acquisition and disposal by a person acquiring it with a view to its employment in a trade or business carried on or to be carried on by him, but disposing of it without its being employed in that trade or business.
- (3) Subject to subsection (7) below, the dwelling-house or part of a dwelling-house which is an individual's only or main residence shall not be chargeable assets in relation to any acquisition and disposal of it by him, nor shall land which he has for his own occupation and enjoyment with that residence as its garden or grounds up to an area (inclusive of the site of the dwelling-house) of one acre, or such larger area as the Commissioners concerned may in any particular case determine, on being satisfied that, regard being had to the size and character of the dwelling-house, the larger area is required for the reasonable enjoyment of it (or of the part in question) as a residence.

In the case where part of the land occupied with a residence is and part is not to be treated under this subsection as chargeable assets, then (up to the permitted area) that part shall be taken not to be chargeable assets which, if the remainder were separately occupied, would be the most suitable for occupation and enjoyment with the residence.

- (4) Subject to subsection (7) below, any building or part of a building which a person occupies and uses for the purposes only of a trade, profession or vocation carried on by him (other than a trade of dealing in or developing land, or of providing services for the occupier of land in which that person has an estate or interest) shall not be chargeable assets in relation to any acquisition and disposal of it by him, nor shall any land which he occupies for purposes ancillary to his occupation and use of the building or part of a building; and this subsection—
 - (a) shall apply in relation to any permanent or semi-permanent structure in the nature of a building, as it applies in relation to a building ; and
 - (b) shall apply in relation to the discharge of the functions of a public or local authority, and to the occupation of woodlands where the woodlands are

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managed by the occupier on a commercial basis and with a view to the realisation of profits, as it applies in relation to a trade, profession or vocation.

- (5) Subject to subsection (7) below, fixed plant or machinery which does not form part of a building or of a permanent or semi-permanent structure in the nature of a building, and which a person uses for the purposes only of a trade carried on by him, shall not be chargeable assets in relation to any acquisition or disposal of it by him; and this subsection shall apply in relation to the discharge of the functions of a public or local authority, and to the occupation of woodlands where the woodlands are managed by the occupier on a commercial basis and with a view to the realisation of profits, as it applies in relation to a trade.
- (6) Patent rights (that is to say, the right to do or authorise the doing of anything which would, but for that right, be an infringement of a patent) shall not be chargeable assets, nor shall rights to acquire in the future patent rights as respects any invention in respect of which the patent has not yet been granted.
- (7) Subsection (3), (4) or (5) above shall not apply by reason of a person's use of an asset for a purpose within the subsection, unless his acquisition of it was made for that purpose and not wholly or partly for the purpose of realising a gain from the disposal of it; but where a person acquires land as a site for a building or structure, and disposes of it after the erection of the building or structure, subsection (3) or (4) above shall not be prevented from applying by reason of his not having acquired the land with the building or structure on it.

12 General operation of charge

- (1) Subject to the provisions of this section, any acquisition of an interest or right in or over assets (whether it continues after or ceases on the acquisition), or any disposal of such an interest or right (whether it subsists before or is created by the disposal), shall be deemed for purposes of Case VII to be an acquisition or a disposal of the assets, and (except in so far as the context otherwise requires) the expression "acquire" and the expression "dispose of" shall be construed accordingly.
- (2) For purposes of Case VII, where a contract is made to acquire or dispose of an asset (including an asset not in existence or not ascertained at the time of the contract), the contract shall be deemed to be the acquisition or disposal of the asset (for the consideration provided for by the contract), and the conveyance or transfer of an asset or of an interest or right in or over an asset in pursuance of a contract previously made shall not be deemed to be an acquisition or disposal of the asset.
- (3) Subject to subsection (4) below and to the Ninth Schedule to this Act, a person's acquisition of any asset, and the disposal of it to him, shall for purposes of Case VII be deemed to be for a consideration equal to the market value of the asset or of the interest or right in or over it received by him—
 - (a) where he acquires the asset otherwise than by way of a bargain made at arm's length, and in particular where he acquires it by way of gift, or by way of distribution from a company in respect of shares in the company; or
 - (b) where he acquires the asset wholly or partly for a consideration that cannot be valued, or in connection with his own or another's loss of office or employment or diminution of emoluments, or otherwise in consideration for or recognition of his or another's services or past services in any office or employment or of any other services rendered or to be rendered by him or another; or

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- (c) where he acquires the asset as trustee for creditors of the person making the disposal.
- (4) Where, on a person's acquisition of an asset, the asset or the interest or right in or over it received by him falls to be taken into account for purposes of tax as a receipt of an income nature (whether as his receipt or another's), or would fall to be so taken into account if he (or, as the case may be, that other) were chargeable to tax in respect of the whole of his income, his acquisition shall for purposes of Case VII be deemed to be for a consideration equal to the amount or value attributed to the asset for that purpose.
- (5) In relation to assets held by a person as nominee for another person, or as trustee for another person absolutely entitled as against the trustee (or for two or more persons jointly so entitled), this Chapter shall apply as if the property were vested in, and the acts of the nominee or trustee in relation to the assets were the acts of, the person or persons for whom he is nominee or trustee (acquisitions from or disposals to him by that person or persons being disregarded accordingly).
- (6) In relation to settled property, the trustees of the settlement shall for purposes of Case VII be treated as being a single and continuing body of persons (distinct from the persons who may from time to time be the trustees), and that body shall be treated as being resident and ordinarily resident in the United Kingdom unless the general administration of the trusts is ordinarily carried on outside the United Kingdom and the trustees or a majority of them for the time being are not resident or not ordinarily resident in the United Kingdom:
- Provided that a body corporate carrying on a business which consists of or includes the management of trusts, and acting as trustee of a trust in the course of that business, shall be treated in relation to that trust as not resident in the United Kingdom if the whole of the settled property consists of or derives from property provided by a person not at the time (or, in the case of a trust arising under a testamentary disposition or on an intestacy or partial intestacy, at his death) domiciled, resident or ordinarily resident in the United Kingdom.
- For the purposes of this subsection, where part of the property comprised in a settlement is vested in one trustee or set of trustees and part in another (and in particular where settled land within the meaning of the Settled Land Act, 1925, is vested in the tenant for life and investments representing capital money are vested in the trustees of the settlement), they shall be treated as together constituting and, in so far as they act separately, as acting on behalf of a single body of trustees.
- (7) Subsection (6) above shall apply in relation to property forming part of the estate of a deceased person and to his personal representatives as it applies in relation to settled property and to trustees of a settlement, but personal representatives shall not be chargeable to tax in respect of an acquisition and disposal by reference to the vesting of the property of the deceased in them.
- (8) A person acquiring assets as legatee shall not be chargeable under Case VII in respect of any acquisition and disposal by reference to that acquisition, except as provided by section fourteen of this Act; nor, in the case of settled property, shall a person be chargeable under Case VII in respect of any acquisition and disposal of a beneficial interest under the settlement.
- (9) The conveyance or transfer by way of security of an asset or of an interest or right in or over it, or transfer of a subsisting interest or right by way of security in or over an asset (including a retransfer on redemption of the security), shall not be treated

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for purposes of Case VII as involving any acquisition or disposal of the asset; and, without prejudice to the generality of the foregoing, this Chapter shall have effect in relation to any right to money secured on land (including periodical payments issuing out of land, where the right to the payments is not incident to an estate or interest in the land), as it has effect in relation to assets other than land, and not as it has effect in relation to land.

- (10) Where a person entitled to an asset by way of security or to the benefit of a charge or incumbrance on an asset deals with the asset for the purpose of enforcing or giving effect to the security, charge or incumbrance, his dealings with it shall be treated for purposes of Case VII as if they were done through him as nominee by the person entitled to it subject to the security, charge or incumbrance; and this subsection shall apply to the dealings of any person appointed to enforce or give effect to the security, charge or incumbrance as receiver, receiver and manager or judicial factor as it applies to the dealings of the person entitled as aforesaid.
- (11) Except as provided by section thirteen of this Act, a person disposing of land by letting it for a term of less than twenty-one years shall not be chargeable under Case VII in respect of any acquisition and disposal by reference to that disposal, unless the letting is accompanied by another letting or agreement for another letting such that the combined terms amount to twenty-one years or over, or by an agreement to dispose of the land otherwise than by letting it.

13 Computation of gains

- (1) Subject to the provisions of this Chapter the gain accruing to a person from his acquisition and disposal of any asset shall be computed for purposes of Case VII in the like manner as it would fall to be computed for purposes of Case I of Schedule D if the acquisition and disposal (together with anything done by him to or in relation to the asset in connection with the acquisition and disposal or with a view to the disposal) had been an adventure in the nature of trade (but so that no dividend or interest in respect of which tax has been borne by deduction or otherwise shall be brought into the computation as a receipt).
- (2) Subsection (1) above shall not be treated as applying for purposes of Case VII any provision as to the period of computation of profits for purposes of Case I, but the gain accruing on any disposal of an asset shall be computed in one sum as from the relevant acquisition (or first relevant acquisition).
- (3) Subject to the following subsections, the adventure by reference to which the gain on an acquisition and disposal is to be computed—
- (a) shall not be treated as relating to any assets not included in the disposal or to any interest not so included in assets which are so included, whether or not the assets or interest not so included were or was included in a relevant acquisition of the assets disposed of;
 - (b) shall not be treated as relating to assets included in the disposal which either are not chargeable assets or were not included in a relevant acquisition ;
 - (c) subject to paragraph (b) above, shall be treated as relating—
 - (i) to all assets included in the same disposal, whether or not included in the same acquisition ; and
 - (ii) to all relevant acquisitions of those assets; and

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(iii) to the whole interest included in the disposal in any assets to which the adventure relates, whether or not the whole interest was included in any relevant acquisition ;

and all necessary apportionments shall be made accordingly of the consideration for any acquisition or disposal or of any receipts or expenditure (including in particular, in the case of land, apportionments between the interest disposed of and an interest retained of receipts and expenditure in connection with the land).

- (4) If in the case of any asset the interest to which the adventure relates does not derive wholly from one or more relevant acquisitions, then the gain shall be computed as if such part of that interest as derives from any other acquisition had been first appropriated to the adventure immediately before the disposal.
- (5) If, in the case of land, there is included in the disposal besides the land to which the adventure relates any adjoining or neighbouring land, being chargeable assets and not being land acquired as legatee, so much (if any) of the consideration for the disposal as represents an enhancement due to a relevant acquisition of the first-mentioned land in the value of the adjoining or neighbouring land shall on the apportionment of the consideration be apportioned to the first-mentioned land.
- (6) If, in the case of land, the disposal is subject to an interest created by any such letting of the land as is excepted from Case VII by subsection (11) of section twelve of (this Act, and the letting was made by the person disposing of the land and made by him since a relevant acquisition, the adventure shall be treated as extending to that letting to the same extent as if the interest thereby created had been included in the disposal.
- (7) An asset shall be treated as having been acquired free of any interest or right by way of security subsisting at the time of any relevant acquisition of it, and as being disposed of free of any such interest or right subsisting at the time of the disposal.
- (8) For the purposes of this section—
- (a) " relevant acquisition " means, in relation to any disposal of an asset, an acquisition which with that disposal amounts to an acquisition and disposal within the meaning of this Chapter, except that it does not include an acquisition by reference to which tax is not chargeable, nor an acquisition from which no interest included in the disposal derives;
 - (b) an interest included in a disposal shall be treated as deriving from an acquisition if without that acquisition the whole interest could not have been so included, but so that the part of that interest which does and the part which does not derive from relevant acquisitions shall be determined as if any interest of temporary duration subsisting at the time of the first relevant acquisition (other than an interest of such a duration as to expire before the time of the disposal) had been of the same duration at the time of the disposal.

14 Disposals of land effected indirectly

- (1) Subject to the provisions of this section, where a person disposes of shares in a company, and immediately before the disposal either—
- (a) the company is or has control of a land-owning company, and is one which is under the control of not more than five persons and in which he has a substantial interest; or
 - (b) the company, or a company of which it has control, has a substantial interest in a land-owning company under the control of not more than five persons,

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and the company is one of which he has control, or of which he and persons connected with him have control;

then he shall be chargeable to tax under Case VII by reference to his disposal of the shares, whenever he acquired them, and notwithstanding that he acquired them as legatee.

- (2) Where, but for this section, a person would not be chargeable to tax under Case VII by reference to a disposal of shares in a company, then—
- (a) he shall not be chargeable unless chargeable gains would have accrued to the company, being a land-owning company, or to a land-owning company referred to in paragraph (a) or (b), as the case may be, of subsection (1) above, on the company disposing of its land at market value at the time of his disposal and any such land-owning company disposing likewise of the land of that company; and
 - (b) he shall not, if a gain accrues to him on that disposal, be chargeable by reference to it to tax on an amount greater than the amount of the chargeable gains which would have so accrued, or such part of that amount as is attributable to the shares disposed of by him, but if a loss accrues to him on the disposal, it shall not be allowable under Case VII.
- (3) For the purposes of this section, "chargeable gains" means gains chargeable to tax under Case VII, but in calculating the chargeable gains that would have accrued to a company on the disposal of its land there shall be made the like deductions as would have been made in charging that tax for the losses that would have so accrued and, so far as they could not be deducted from chargeable gains previously accruing to the company, for losses previously accruing to it:

Provided that in the application of this section to a disposal of shares acquired as legatee on a death a company shall be treated as not chargeable to tax under Case VII by reference to any acquisition of land made before the death.

- (4) Where in the case of a company any amount deductible under subsection (3) above in respect of losses cannot be deducted under that subsection because no gains or insufficient gains would have accrued to the company, the amount of the chargeable gains attributable to shares in the principal company shall be reduced by the amount that cannot be deducted or, if the company is not the principal company, by such part of that amount as is attributable to any shares held by the principal company.

In this subsection "principal company", in relation to any disposal of shares in a company, means that company.

- (5) The part attributable to any shares in a company of the amount of any chargeable gains, or of any amount deductible in respect of losses, shall be the sum which that amount would add to or take from the distributions made in respect of those shares in a winding-up of the company if the amount represented assets of the company or, in the case of an amount deductible in respect of losses, a liability of the company, and if apart from that amount the assets of the company were enough, and no more than enough, to ensure the satisfaction of its liabilities (including the return of share capital); and the part of any such amount which is directly or indirectly attributable under this subsection to shares held by a company shall (so far as is necessary for the determination of any question as to the tax chargeable) be apportioned by the like method between the shares in that company to arrive at the part attributable to any of those shares.

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- (6) In this section " land-owning company " means a company not carrying on a trade of dealing in or developing land, but entitled to land, being chargeable assets, to a value equal to or exceeding one-fifth of the net value of all its assets (that is to say, their value less the value of the debts and liabilities of the company); and for this purpose the value of the said land shall be taken to be the value of the company's interest free of any liability charged thereon, and to include the value of interests which the company has unconditionally contracted to acquire, but not that of interests which the company has unconditionally contracted to dispose of.

For the purposes of this subsection " value " in relation to a company's land means market value, and the net value of a company's assets is the net value they would have on a sale in the open market of the company's business as a going concern.

- (7) For the purposes of this section a person shall be deemed to have a substantial interest in a company if one-tenth or more in market value of the issued shares in the company is held by him or is held partly by him and partly by persons connected with him; and the persons to be treated as connected with one another are those specified in paragraph 20 of the Ninth Schedule to this Act.
- (8) In this section " share ", in relation to a company not limited by shares (whether or not it has a share capital), shall include the interest of a member of the company as such, whatever the form of that interest, and this section shall apply in relation to any disposal of rights attached to or forming part of a share as if the rights included in the, disposal and those not included were separate shares.

15 Charities, superannuation funds, and other special cases

- (1) There shall be exempt from tax chargeable under Case VII any gain accruing to a charity, or to any such Association as is mentioned in section four hundred and forty-nine of the Income Tax Act, 1952, from its acquisition and disposal of any assets.

In this subsection " charity " means any body of persons or trust established for charitable purposes only.

- (2) There shall be exempt from tax chargeable under Case VII any gain accruing to a person from his acquisition and disposal of investments or deposits held by him as part of a fund approved under section three hundred and seventy-nine of the Income Tax Act, 1952, but so that where part only of a fund is approved under that section the gain shall be exempt to the same extent only as income derived from the assets would be exempt under that section.
- (3) There shall be exempt from tax chargeable under Case VII any gain accruing to a person from his acquisition and disposal of assets held by him as part of a fund of which income is exempt from tax under any of the following enactments (which relate to superannuation and similar funds), that is to say.—
- (a) in the Income Tax Act, 1952, sections three hundred and eighty-one, three hundred and eighty-two and three hundred and eighty-five;
 - (b) in the Finance Act, 1956, subsection (5) of section twenty-two and subsection (3) of section forty;
 - (c) in the Finance Act, 1961, section twenty-one.
- (4) There shall be exempt from tax chargeable under Case VII any gain accruing to the United Kingdom Atomic Energy Authority from its acquisition and disposal of any assets, or accruing to any other person from his acquisition and disposal of

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investments or deposits held by him for the purposes of any pension scheme provided and maintained by that Authority.

- (5) There shall be exempt from tax chargeable under Case VII any gains which accrue to an assurance company (within the meaning of Part XX of the Income Tax Act, 1952) from its acquisition and disposal of investments of its life assurance fund, but which by reason of the mutual nature of the company's business or part of it do not accrue as profits of a trade.
- (6) Any gain accruing to a person from his acquisition and disposal of any assets as trustee or assignee in bankruptcy shall be exempt from tax chargeable under Case VII.
- (7) Where assets of the British Transport Commission are, by virtue of or in accordance with any Act of the present Session providing for the dissolution of that Commission, transferred to any body corporate established by that Act, then—
 - (a) the Commission shall not be chargeable to tax under Case VII by reference to the transfer in respect of its acquisition and disposal of any asset included in the transfer; and
 - (b) the body corporate shall be treated as if the Commission's acquisition of the asset had been its acquisition of it (paragraph 18 of the Ninth Schedule to this Act applying for the purposes of this paragraph as it applies for the purposes of that Schedule).

16 Supplementary

- (1) For the purposes of this Chapter—

" company " includes any body corporate ;

" control " has the meaning assigned to it by section three hundred and thirty-three of the Income Tax Act, 1952, but any reference to a company being under the control of not more than five persons shall be construed in accordance with subsections (2) and (3) of section two hundred and fifty-six of that Act;

" legatee " includes any person taking under a testamentary disposition or on an intestacy or partial intestacy, whether he takes beneficially or as trustee, and a donatio mortis causa shall be treated as a testamentary disposition and shall not be treated as a gift;

" market value " in relation to any property means the price which that property might reasonably be expected to fetch on a sale in the open market;

" personal representatives " has the meaning assigned to it by subsection (4) of section four hundred and twenty-three of the Income Tax Act, 1952 ;

" settled property " means, subject to subsection (4) below, any property held in trust other than property to which subsection (5) of section twelve of this Act applies ;

" shares " includes stock, and shares or debentures comprised in any letter of allotment or similar instrument shall be treated as issued unless the right to the shares or debentures thereby conferred remains provisional until accepted and there has been no acceptance.

- (2) For the purposes of subsection (6) of section ten of this Act, there shall be treated as received in the United Kingdom in respect of any gain all amounts paid, used or enjoyed in or in any manner or form transmitted or brought to the United Kingdom, and section twenty-four of the Finance Act, 1953 (under which income applied outside

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the United Kingdom in payment of debts is, in certain cases, treated as received in the United Kingdom), shall apply as it would apply for purposes of subsection (3) of section one hundred and thirty-two of the Income Tax Act, 1952, if the gain were income arising from possessions out of the United Kingdom.

- (3) Where two or more persons carry on a business in partnership, gains accruing to them on the disposal of any partnership assets shall, in Scotland as well as elsewhere in the United Kingdom, be assessed and charged on them under Case VII separately, and any partnership dealings shall be treated as dealings by the partners and not by the firm as such; but any statement of the profits or gains of a partnership delivered under section one hundred and forty-four of the Income Tax Act, 1952, shall include, with respect to any disposal of partnership property during the year of assessment to which the statement relates, the like particulars as if the partnership were chargeable under Case VII in respect of any gain accruing on the disposal.
- (4) This Chapter shall apply in relation to any unit trust scheme (as defined in subsection (1) of section twenty-six of the Prevention of Fraud (Investments) Act, 1958), as if the trustees were a company whose business consists mainly in the making of investments, and as if the rights of the unit holders were shares in the company, and in the case of an authorised unit trust scheme within the meaning of section sixty-nine of the Finance Act, 1960, as if the company were resident and ordinarily resident in the United Kingdom ; but the said section sixty-nine shall not apply so as to treat income chargeable to tax under Case VII as income of unit holders (unless included in the distribution for any distribution period).
- (5) An underwriting member of Lloyd's or of an approved association of underwriters shall be treated for the purposes of this Chapter (and in particular of subsection (5) of section twelve) as absolutely entitled as against the trustees to the investments of his premiums trust fund, his special reserve fund (if any) and any other trust fund required or authorised by the rules of Lloyd's or the association in question, or required by the underwriting agent through whom his business or any part of it is carried on, to be kept in connection with the business; but—
 - (a) the trustees of any such fund shall (subject to subsection (6) below) be assessed and charged to income tax at the standard rate as if this subsection had not been passed, and may, notwithstanding anything in any enactment or in the trusts of the fund, out of any gain accruing from the acquisition and disposal of an investment of the fund make good to the underwriting member any increase in the surtax or profits tax borne by him which is attributable to that gain ; and
 - (b) in paragraph (a) of sub-paragraph (3) of paragraph 6 of the Twenty-first Schedule to the Income Tax Act, 1952 (which relates to the computation of the profits of an underwriter's business for the purpose of regulating payments into and out of his special reserve fund), the reference to income arising from the investments forming part of those funds shall include the amount of the gains chargeable to tax under Case VII which accrue in the underwriting year in question from the acquisition and disposal of any such investments, after deducting from those gains losses accruing before the end of that year from any chargeable acquisition and disposal of any such investments so far as those losses are not under this paragraph deductible from gains accruing in a previous underwriting year.

In this subsection expressions used in section four hundred and eighty of the Income Tax Act, 1952, or in the Twenty-first Schedule to that Act have the same meanings as they have for purposes of that section or Schedule.

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- (6) The assessment to be made on the trustees of a fund by virtue of paragraph (a) of subsection (5) above for any year of assessment shall not take account of losses accruing in any previous year of assessment, and if for that or any other reason the tax paid on behalf of an underwriting member for any year of assessment by virtue of assessments so made exceeds the tax for which he is liable, the excess shall, on a claim being made by him to the surveyor, be repaid by the Commissioners of Inland Revenue:

Provided that if the surveyor objects to a claim for a deduction on account of losses allowable under Case VII, the claim shall be heard and determined by the Commissioners concerned in like manner as if it were an appeal against an assessment under Case VII, and the provisions of the Income Tax Act, 1952, relating to the statement of a case for the opinion of the High Court on a point of law shall apply.

- (7) Where it appears to the Commissioners of Inland Revenue that a person is or may be chargeable to tax under Case VII in respect of his acquisition and disposal of assets, they may by notice in writing served on any person require him, within such time not less than twenty-eight days as may be specified in the notice.—
- (a) to state whether he has acted on behalf of the first-mentioned person in connection with any acquisition or disposal of assets by that person ;
 - (b) if so, to furnish information in his possession with respect to the acquisition or disposal, being information as to—
 - (i) the assets comprised in the acquisition or disposal and the consideration for the acquisition or disposal; and
 - (ii) the date and manner of the acquisition or disposal, including any condition to which it was subject and the satisfaction or otherwise of any such condition ;

and Part III of the Finance Act, 1960 (which relates to penalties), shall have effect as if this subsection were among the provisions specified in the second column of the Sixth Schedule to that Act.

- (8) The rules contained in the Ninth Schedule to this Act shall have effect with respect to the operation of Case VII in relation to the matters there dealt with, and with respect to matters arising out of the charge to tax under this Chapter, and the foregoing sections of this Chapter shall have effect subject to the rules so contained; and the enactments mentioned in the first column in the Tenth Schedule to this Act shall, for the purpose of adapting or applying them in relation to the provisions of this Chapter, have effect subject to and in accordance with the provision made in respect thereto in the second column in that Schedule.

CHAPTER III

MISCELLANEOUS AMENDMENTS

17 **Bounties payable on voluntary extension of army service**

Any sum which, in pursuance of the scheme introduced on the nineteenth day of July, nineteen hundred and sixty-one, becomes or has become payable out of moneys provided by Parliament by way of bounty to a man serving in Her Majesty's military forces on his voluntarily undertaking to serve for a further period shall not be regarded as being or having been income for any income tax purposes.

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18 Modification of right to set capital allowances against general income

- (1) Section twenty of the Finance Act, 1954 (which enables capital allowances to be taken into account on a claim to set a trading loss against income generally), shall in relation to any claim for a loss sustained in the year 1962-63 or a later year of assessment, have effect with the following modifications :—
- (a) the claim shall not be made by reference to the capital allowances for that year (" the relevant year of assessment "), but by reference to those for the year for which that year is the basis year ; and
 - (b) the amount of the capital allowances to be taken into account in computing the loss shall not be limited by reference to the amount to which effect cannot be given in charging profits or gains of the trade, but the capital allowances for any year shall be so taken into account only if and in so far as they are not required to offset balancing charges for the year ; and
 - (c) where the allowances taken into account are the allowances for the year for which the claim is made or for the preceding year (the relevant year of assessment being the basis year for that year itself or the claim being made by way of carry-forward of the loss under subsection (3) of section fifteen of the Finance Act, 1953), relief shall not be given by reference to those allowances in respect of an amount greater than the amount non-effective in the year for which the claim is made or, in the case of allowances for the preceding year, the amount non-effective in both years.
- (2) For the purposes of the said section twenty, where the end of the basis period for a year of assessment (as defined in section three hundred and twenty-five of the Income Tax Act, 1952) 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 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; and—
- (a) any reference to the capital allowances or balancing charges for a year of assessment shall be construed as a reference to those falling to be made in charging the profits or gains of the trade for that year (but not including in the case of allowances any part of the allowances for an earlier year carried forward under subsection (2) of section three hundred and twenty-three of the Income Tax Act, 1952); and
 - (b) any reference to an amount of capital allowances non-effective in a year shall be construed as referring to the amount to which by reason of an insufficiency of profits or gains effect cannot be given in charging the profits or gains of the trade for the year.
- (3) For the purposes of paragraph (b) of subsection (1) above the capital allowances for a year of assessment shall be treated as required to offset balancing charges for the year up to the amount on which the balancing charges fall to be made after deducting from that amount the amount (if any) of capital allowances for earlier years which is carried forward to that year and would, without the balancing charges, be non-effective in that year.
- (4) Accordingly (subject to paragraphs (b) and (c) of subsection (1) above) the said section twenty shall have effect with the following amendments:—
- (a) in subsection (1) for the words from " as if" to " deducted " there shall be substituted the words " as if an amount equal to the capital allowances for the

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- year of assessment for which the relevant year of assessment is the basis year were to be deducted ",
- and for the words " that year " in both places there shall be substituted the words " the relevant year of assessment "; and
- (b) there shall be omitted the proviso to subsection (1), and in subsection (3) the words from " the capital allowances " to " but " ; and
- (c) in subsection (4) after the words " that year " there shall be inserted the words " or, in the case of allowances for the following year, in charging the profits or gains of the trade for that following year ".
- (5) Relief from tax may be given by virtue of subsection (1) of the said section twenty by reference to capital allowances for a year of assessment before the passing of any Act granting income tax for that year, as if income tax had been granted for the year without alteration; but if relief given to a person by virtue of that subsection for any year of assessment is affected by a subsequent alteration of the law, or by any discontinuance of the trade or other event occurring after the end of the year, any necessary adjustment may be made, and so much of any repayment of tax as exceeded the amount repayable in the events that happened may, if not otherwise made good, be assessed under Case VI of Schedule D and recovered from that person accordingly.
- (6) This section shall apply in relation to a claim for the year 1961-62 as it applies in relation to claims for subsequent years of assessment, if the claim is expressed to be made on the basis that this section shall apply, and shall not apply to a claim for the year 1962-63 or for the year 1963-64, if the claim is expressed to be made on the basis that this section shall not apply; but
- (a) subject to paragraph (b) below, a claim made by a person for any of those years on either basis (including a claim for the year 1961-62 made before the passing of this Act) may be superseded by a further claim made by him on the other basis within the time allowed for claims for the year 1963-64; and
- (b) a claim may not be made for the year 1961-62 or for the year 1962-63 on the basis that this section shall apply, if a claim (not since superseded) has been made in respect of the same trade for a later year on the basis that this section shall not apply, nor may a claim be made for the year 1962-63 or for the year 1963-64 on the basis that this section shall not apply, if a claim (not since superseded) has been made in respect of the same trade for a previous year on the basis that this section shall apply.
- (7) Where under paragraph (a) of subsection (6) above a claim made on one basis is, after effect has been given to it, superseded by a further claim made on the other basis, then (without prejudice to any other provision for adjusting tax) there may be made all such repayments of tax and assessments or alterations of assessments as may be necessary to give effect to the further claim in place of the claim superseded.
- (8) This section shall be construed as one with subsections (1) to (6) of the said section twenty.

19 Double taxation relief under Finance Act, 1961 (effect on dividends)

- (1) Notwithstanding the provision in subsection (1) of section three hundred and fifty of the Income Tax Act, 1952, that the tax deductible under section one hundred and eighty-four from dividends shall be determined without regard to double taxation relief, where—

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- (a) a body of persons pays a dividend out of profits or gains in respect of which development relief is given; and
- (b) credit cannot be given against profits tax for that relief or can be so given for part only of it (on the basis that credit is to be so given for development relief in priority to any other double taxation relief);

the rate at which tax is authorised by section one hundred and eighty-four to be deducted from the dividend shall be the reduced rate provided for by this section, and any provision of the Income Tax Acts referring to deduction of tax under section one hundred and eighty-four (and in particular the provisions of sections one hundred and eighty-five, one hundred and eighty-six and four hundred and ninety-one to four hundred and ninety-three of the Income Tax Act, 1952, for determining the gross amount of the dividend) shall have effect accordingly.

- (2) In this section " development relief" means double taxation relief given by virtue of section seventeen of the Finance Act, 1961 (which provides for relief by reference to exemptions from foreign taxation given to promote development), but includes any indirect relief by the reduction under this section of the tax deducted or treated as deducted from any dividend.
- (3) The reduced rate referred to in subsection (1) above shall be, in relation to any dividend, the standard rate reduced by the amount of any reduction in the net United Kingdom rate for the dividend (within the meaning of subsection (1) of the said section three hundred and fifty) which is due to so much of the development relief as cannot be given by way of credit against profits tax as mentioned in paragraph (b) of subsection (1) above; and for the purposes of this section there shall be treated as paid out of profits or gains in respect of which development relief has been given any dividend for which the net United Kingdom rate is reduced by development relief.
- (4) The power of the Commissioners of Inland Revenue under section three hundred and fifty-one of the Income Tax Act, 1952, to make regulations for carrying out the provisions of sections three hundred and forty-seven and three hundred and fifty of that Act shall include power to make regulations for carrying out this section.
- (5) Where a dividend is payable wholly or partly at a fixed gross rate per cent., and the rate at which tax is deductible is affected by this section, the net amount to be paid shall be determined according to the reduced rate provided for by this section, and not according to the standard rate ; and tax payable in respect of a dividend shall be treated as satisfied by a deduction made in accordance with this section to the same extent as if the deduction had been of tax at the standard rate.
- (6) Where a company is or has been an overseas trade corporation and is or has been entitled to development relief, the rate at which tax is authorised to be deducted from a dividend shall be determined, if there is a different net United Kingdom rate for different parts of the dividend, by treating each such part as a separate dividend, and Part IV of the Finance Act, 1957, shall have effect subject to the following modifications:—
 - (a) so much of any relevant distribution or part of a relevant distribution (within the meaning of the Fifth Schedule to that Act) as is to be regarded under that Schedule as made out of the exempt trading income of the period to which the distribution or part is finally related shall, for any of the following purposes, be grossed up at the reduced rate applying to a dividend regarded as paid out of that income (instead of at the standard rate for the year of assessment in which the date of distribution falls), that is to say.—

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- (i) for the purpose of determining under paragraph 9 of that Schedule the amount of that income which is to be regarded as applied in making the distribution or that part of it; and
 - (ii) for the purpose of determining, in the case of a dividend, the amount on which the company is chargeable to tax by reference to it under section twenty-six of that Act; and
 - (iii) for the purpose of determining, in the case of a grant or loan to which paragraph 1 or 2 of the Sixth Schedule to that Act applies, the amount of income which is under that paragraph to be deemed to have been received by the person to whom the grant or loan is made; and
- (b) in determining under the Fifth Schedule to that Act—
- (i) how far a relevant distribution is to be finally related to any period; or
 - (ii) in what proportions a relevant distribution or part of a relevant distribution is to be regarded as made out of the exempt trading income and the other income respectively of the period to which it is finally related;

any part of the income of the period in respect of which development relief is given (or, in the case of exempt trading income, would fall to be given if it were chargeable to tax) shall be treated as being of an amount which, after deduction of tax thereon at the standard rate for the year of assessment in which the date of distribution falls, is equal to the actual amount of the income after deduction of an amount equal to tax thereon at that rate as that tax is or would be reduced by reason of the development relief given or falling to be given in respect of the income.

20 Extension of double taxation relief in respect. of certain dividends

- (1) Paragraph 10 of the Sixteenth Schedule (to the Income Tax Act, 1952, and paragraph 3 of the Seventeenth Schedule to that Act (which relate to the allowance of double taxation relief on certain dividends paid to a company resident in the United Kingdom and controlling, directly or indirectly, not less than one half of the voting power in the company paying the dividend, and provide for taking account of the foreign tax paid by the last-mentioned company in respect of its profits) shall each be amended as follows:—
- (a) after the words " in the company paying the dividend " there shall be inserted the words " or which controls, directly or indirectly, a proportion of that voting power greater than one quarter and is subject to a local limitation preventing it from controlling a larger proportion "; and
 - (b) at the end of the paragraph there shall be added the words—

“In this paragraph ' local limitation' means a limitation imposed by the law in force in the territory where the company paying the dividend is resident, or by executive action of the Government of that territory.”
- (2) Where a company resident in the United Kingdom either—
- (a) controls, directly or indirectly, not less than one half of the voting power in a company resident in a territory outside the United Kingdom ; or
 - (b) controls, directly or indirectly, a proportion of that voting power greater than one quarter and is subject to a local limitation preventing it from controlling a larger proportion;

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then, for the purposes of any credit to be allowed to the first-mentioned company in accordance with the Sixteenth or Seventeenth Schedule to the Income Tax Act, 1952, in respect of a dividend paid to it by the other company, tax payable by the other company in respect of its profits under the law of any territory outside the United Kingdom shall be taken into account as if it were payable under the law of the first-mentioned territory, and paragraphs 7 and 8 of the said Sixteenth Schedule (which relate to the computation of the amount of income in certain cases where double taxation relief is allowed) shall apply accordingly.

In this subsection " local limitation " has the same meaning as it has (by virtue of subsection (1) above) in paragraph 10 of the said Sixteenth Schedule and paragraph 3 of the said Seventeenth Schedule.

- (3) This section shall have effect only in relation to dividends by reference to which income tax is chargeable for the year 1962-63 or a subsequent year of assessment and (for the purposes of the profits tax) in relation to any other dividends which are received after the end of March, nineteen hundred and sixty-two, and by reference to which income tax is not chargeable for any year of assessment.

21 Power to direct interest on Northern Ireland securities to be payable without deduction of tax

- (1) The Treasury on the application of the Ministry of Finance for Northern Ireland may, as respects any securities to which (this section applies, direct that the securities specified in the direction shall be issued, or shall be deemed to have been issued, subject to the condition that the interest thereon shall be paid without deduction of income tax; and in relation to any securities so specified and the interest thereon section one hundred and ninety-six of the Income Tax Act, 1952 (which made provision for paying interest on certain government securities without deduction of tax), shall have effect as if—
- (a) the securities were securities in respect of which a direction had been given by the Treasury under subsection (1) of that section; and
 - (b) references in that section to " the Bank " were (not withstanding subsection (6) thereof) references to the bank in the books of which the securities are registered or inscribed; and
 - (c) the references in subsections (3) and (4) of that section to the Treasury were references to the said Ministry of Finance.
- (2) The securities to which this section applies are securities issued under paragraph (c) of subsection (1) of section eleven of the Exchequer and Financial Provisions Act (Northern Ireland), 1950, for money borrowed by the said Ministry of Finance for the purposes of making issues from the Consolidated Fund of Northern Ireland.

22 Taxation of Gas Council and Area Boards

- (1) Subject to the provisions of this section, for the purposes of income tax and for the purposes of the profits tax the Gas Council shall be treated as carrying on a trade or business from the beginning of April, nineteen hundred and sixty-two, and from the beginning of that month—
- (a) any trade or business carried on by an Area Board within the meaning of the Gas Act, 1948, shall be treated as part of the trade or business carried on by the Gas Council;

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- (b) subject to paragraph (c) below, any property, rights or liabilities of any such Board shall be treated as property, rights or liabilities of the Gas Council, and any thing done by or to any such Board shall be deemed to have been done by or to the Gas Council;
 - (c) any rights, liabilities or things done—
 - (i) of, by or to the Gas Council against, to or by any such Board ; or
 - (ii) of, by or to any such Board against, to or by the Gas Council or any other such Board, shall be left out of account;
 and income tax and the profits tax shall be charged accordingly.
- (2) Subsection (1) above shall not affect income tax for any year of assessment earlier than the year 1962-63 or the profits tax for any chargeable accounting period ending with or before the end of March, nineteen hundred and sixty-two, or the computation of the profits and gains or losses of the trade or business of an Area Board for any such year of assessment or chargeable accounting period; and any such losses may be carried forward and set off against the profits or gains of the trade or business of the Gas Council as if incurred by the Gas Council in carrying on that trade or business.
- (3) The trade or business of the Gas Council shall not be treated as a new trade or business set up and commenced at the beginning of April, nineteen hundred and sixty-two; but, subject to subsection (2) above, the Income Tax Acts and the enactments relating to the profits tax shall apply in relation to that trade or business as if before the beginning of that month it had consisted of the trades or businesses of the Area Boards, and (without prejudice to the generality of the foregoing) allowances and balancing charges shall be made to or on the Gas Council accordingly by reference to the capital expenditure of Area Boards and to the allowances made to Area Boards in respect of that expenditure.
- (4) The expenses of the Gas Council to which Area Boards may be required to contribute under subsection (1) of section forty-eight of the Gas Act, 1948, shall be taken to include the satisfaction of any obligations of the Gas Council in respect of income tax or the profits tax.

23 Sales of building land by persons associated with builder

- (1) Where a person contracts with a builder for the erection of a building on land acquired or to be acquired in connection with the contract from a third person associated with the builder, then, unless that third person is carrying on a trade of dealing in or developing land and disposes of the land in the course of that trade, he shall be treated as receiving as income on his disposing of the land a sum equal to the amount (if any) by which the consideration receivable by him for the land together with the market value of any interest retained by him in the land exceeds the cost to him of the land, and shall be chargeable to tax in respect thereof under Case VI of Schedule D accordingly:

Provided that where the third person acquired the land at a time when he was neither a builder nor associated with a builder, the cost to him of the land shall be determined as if he had acquired it at market value on his thereafter becoming (or first becoming) a builder or associated with a builder.

- (2) For the purposes of this section land shall be deemed to be acquired in connection with a contract for the erection of a building if that contract is entered into before or on the same day as the contract for the acquisition of the land, or if the contract for the acquisition of the land is subject to any condition or stipulation, or is made in pursuance of any arrangement, for the building to be erected on terms provided

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for by the condition, stipulation or arrangement; and this subsection shall apply notwithstanding that the person contracting with the builder and the person acquiring the land are not the same, if the land is acquired with a view to or in connection with the erection of the building.

- (3) Where a person contracts to dispose of land to another person acquiring it in connection with a contract for the erection of a building, the reference in subsection (1) above to any interest retained by the first-mentioned person shall include the whole of the interest which he then has in the land in so far as he does not dispose of it to that other person.
- (4) For the purposes of this section " builder " means a person carrying on a trade which consists of or includes the erection or securing the erection of buildings, and (subject to subsection (5) below) the following persons shall be deemed to be associated with one another, that is to say.—
 - (a) any individual and that individual's husband or wife and any relative, or husband or wife of a relative, of that individual or of that individual's husband or wife (" relative" meaning for this purpose brother, sister, ancestor or lineal descendant);
 - (b) any person in his capacity as trustee of a settlement and any individual who in relation to that settlement is a settlor, and any person associated with that individual (" settlement" and "settlor " having for this purpose the meanings assigned to them by section four hundred and three of the Income Tax Act, 1952);
 - (c) any person and a body of persons of which that person, or persons associated with him, or that person and persons associated with him, has or have control;
 - (d) any two or more bodies of persons associated with the same person by virtue of paragraph (c) above ;
 - (e) in relation to a disposal by joint owners, the joint owners and any person associated with any of them.

In this subsection " body of persons " includes a partnership, and " control" has the meaning assigned to it by section three hundred and thirty-three of the Income Tax Act, 1952.

- (5) For the purposes of this section a person from whom land is acquired in connection with a contract with a builder shall be deemed in relation to that contract to be associated with the builder, if the contract is entered into by the builder in pursuance of any reciprocal arrangement between that person and a person with whom the builder is associated or between them and other persons.
- (6) This section shall not apply in relation to land acquired in connection with a contract for the erection of a building if that contract or the contract for the acquisition of the land was entered into before the tenth day of April, nineteen hundred and sixty-two.
- (7) Where this section applies to a disposal of land by a person carrying on a trade or business in respect of which the profits tax is chargeable, it shall have effect for the computation of the profits or losses arising from the trade or business for the purposes of the profits tax in like manner as it has effect for the computation of that person's income for purposes of income tax.

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24 Sales of land by land-owning companies

- (1) Any profit arising to a land-owning company on the disposal of any of its land shall be deemed to be income of the company, and shall be chargeable to tax under Case VI of Schedule D accordingly, if—
 - (a) a person who carried on the activities of that company together with any related activities would be regarded as carrying on a trade of dealing in or developing land; and
 - (b) the consideration for his disposal of the land in question would be regarded as a trading receipt of that trade.
- (2) Subject to the provisions of this section, the activities to be taken into account under subsection (1) above as related activities in relation to a company's disposal of land are—
 - (a) the activities with respect to land of any person with whom the company is connected at the time of the disposal; and
 - (b) the activities with respect to land of any company not within paragraph (a) above, being activities of that company at a time when it was under such control as would have brought it within paragraph (a) above if it had not ceased to be under that control, or ceased to exist, or both.
- (3) The activities to be taken into account under paragraph (a) of subsection (1) above in relation to a company's disposal of land—
 - (a) shall not include the activities of any person while carry on a trade of dealing in or developing land; and
 - (b) shall not by virtue of paragraph (a) of subsection (2) above include the activities of any person while not connected with the company making the disposal or with a company within paragraph (a) or (b) of that subsection;

but subject to subsection (4) below shall include transactions between persons whose activities are so taken into account (any such transaction being as regards either of them treated as if the activities of the other were not to be taken into account).
- (4) There shall not be taken into account under paragraph (a) of subsection (1) above any transaction whereby one company disposes of land to another at a time when—
 - (a) either company is a subsidiary of the other or both are subsidiaries of a third company (" subsidiary " having for this purpose the meaning assigned to it for certain purposes of the profits tax by section forty-two of the Finance Act, 1938); or
 - (b) the members of both companies are the same, and hold equivalent interests in each.
- (5) Anything done with respect to a company's land in the course of the winding up of the company shall be treated for the purposes of this section as if the company were not being wound up and were carrying on the same trade or business as before the commencement of the winding up; and where land of a land-owning company is disposed of by way of distribution to its members (whether or not in a winding up) or is in any other case disposed of otherwise than by way of bargain at arm's length, the land shall be treated as disposed of for a consideration equal to its market value.
- (6) Subject to the provisions of this section, section thirteen of this Act and paragraph 17 of the Ninth Schedule thereto shall apply to the computation for purposes of this section of the profit arising from a disposal of land as they apply to the computation of gains for purposes of Case VII of Schedule D, but without regard to subsection (2) of

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section ten of this Act or to any other provision limiting the acquisitions or disposals to be taken into account in computing gains for purposes of Case VII.

- (7) A company shall not be chargeable to tax by virtue of this section by reference to any acquisition of land" made before the tenth day of April, nineteen hundred and sixty-two, nor by reference to any such letting of land as is excepted from Case VII of Schedule D by subsection (11) of section twelve of this Act except in so far as account is to be taken of such a letting on a subsequent disposal by virtue of subsection (6) of section thirteen of this Act.
- (8) All assessments to income tax chargeable by virtue of this section shall be made by the Special Commissioners, and the provisions of the Income Tax Acts shall apply as if the company had required the assessment to be so made.
- (9) No obligation as to secrecy imposed by statute or otherwise on the Special Commissioners or on persons employed in relation to Inland Revenue shall prevent the disclosure, in connection with any question as to the liability of a company to tax by virtue of this section, of information as to the affairs of any such person or company as is referred to in paragraph (a) or (b) of subsection (2) above; and the first-mentioned company may by notice in writing to the surveyor require any such information relevant for the determination of the question to be disclosed to it.
- (10) Where it appears to the Commissioners of Inland Revenue that a company is or may be chargeable to tax by virtue of this section in respect of a disposal of land, they may, by notice in writing served on that company, or any person or company whose activities the Commissioners have reason to suppose may be taken into account as related activities in connection with that disposal, or any past or present member or officer of any company above-mentioned or person for whom such a member is or was nominee, require the person on whom the notice is served to furnish, within such time not less than twenty-eight days as may be specified in the notice, information in his possession with respect to any matters specified in the notice, being matters which are relevant to the question whether the first-mentioned company is chargeable to tax as aforesaid in respect of the disposal, or are relevant to the computation of the profit arising to it from the disposal; and Part III of the Finance Act, 1960 (which relates to penalties), shall have effect as if this subsection were among the provisions specified in the second column of the Sixth Schedule to that Act.
- (11) Any profit on which a land-owning company is chargeable to tax by virtue of this section shall, if the company is one to which section two hundred and forty-five (surtax on undistributed income of certain companies) of the Income Tax Act, 1952, applies, be deemed to be investment income; and where this section applies to a disposal of land by a company, it shall have effect for the computation of the profits or losses arising from the company's trade or business for the purposes of the profits tax in like manner as it has effect for the computation of the company's income for purposes of income tax.
- (12) Where—
 - (a) a land-owning company commences a trade of dealing in or developing land, and then or afterwards appropriates as trading stock of the trade land held by it at its commencement of the trade ; and
 - (b) if the company had disposed of the land at market value immediately before its commencement of the trade, it would have been chargeable to tax by virtue of this section in respect of a profit arising on the disposal;

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then in computing the profits of the trade for purposes of tax the cost of the land to the company shall be substituted for its market value at the time of the appropriation.

- (13) For the purposes of this section any person who, or group of persons which.—
- (a) can determine the manner in which one half of the votes which could be cast at a general meeting of a company are to be cast on matters not of such a description as to bring into play any special voting rights or restrictions on voting rights; or
 - (b) is entitled to one half of any profits of a company distributed by way of dividend, or would be entitled in the winding up of a company to one half of the net assets;
- shall be treated as having control of the company and of any other company of which it has (or is to be treated as having) control.

- (14) In this section—
- (a) " company " includes any body corporate;
 - (b) subject to subsection (13) above, " control" has the meaning assigned to it by section three hundred and thirty-three of the Income Tax Act, 1952;
 - (c) " land-owning company " has the meaning assigned to it by subsection (6) of section fourteen of this Act, except that the words " being chargeable assets " in that subsection shall not apply ;

and the persons to be treated for purposes of this section as connected with one another are those specified in paragraph 20 of the Ninth Schedule to this Act, but so that for purposes of this section " control" in that paragraph shall have the same meaning as in this section and, where two companies are connected with one another, they shall each be treated as connected with any person whose control (alone or with others) of that or the other company is relevant to establish their connection.

25 Amendments of Finance Act, 1960, ss. 21 to 28

- (1) For the purposes of sections twenty-one to twenty-three of the Finance Act, 1960—
- (a) the expression "share" shall be construed in relation to a company not limited by shares (whether or not it has a share capital) as including references to the interest of a member of the company as such, whatever the form of that interest; and
 - (b) any sale of rights attached to or forming part of a share shall be treated as a sale of a share, as if the rights included in the sale and those not included had been separate shares;

and the expression " securities" in Part II of that Act shall for the purposes of section twenty-eight include any share in a company within the meaning of paragraph (a) above.

- (2) Where by virtue of section twenty-one of the Finance Act, 1960 (which provides for charging tax in respect of certain sales of shares in a company by reference to a supposed sale of the company's trading stock), the consideration for a sale of shares in a company is deemed to be income of the seller, and any securities of the company other than shares in the company are included in the sale or in an associated sale at a price in excess of the company's liability on the securities, the excess shall for purposes of that section be treated as part of the consideration for the sale of the shares, in so far as it has not by virtue of this provision been treated as part of the consideration for any other sale of shares; and in this subsection—

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- (a) any reference to section twenty-one of the Finance Act, 1960, shall include a reference to that section as extended by section twenty-two or twenty-three of that Act; and
 - (b) " associated sale " means, in relation to any sale of shares, a sale of securities made to the same person as the sale of the shares (or which would be treated under subsection (4) or (5) of section twenty-four of that Act as made to that person), being a sale such that if both sales were of shares they would be sales of associated parcels of shares within the meaning of section twenty-four of that Act.
- (3) In section twenty-eight of the Finance Act, 1960 (which provides for the cancellation of tax advantages from certain transactions in securities where the tax advantage is obtained or obtainable in the circumstances set out in subsection (2) of the section).—
- (a) the reference in paragraph (a) of subsection (2) to a person being entitled by reason of any exemption from tax to recover tax in respect of dividends received by him shall include a reference to his being by reason of section twenty (subvention payments) of the Finance Act, 1953, so entitled ; and
 - (b) the reference in paragraph (b) of subsection (2) to a person becoming entitled in respect of securities held or sold by him to a deduction in computing profits or gains by reason of a fall in the value of securities shall include a reference to his becoming in respect of any securities formerly held by him (whether sold by him or not) so entitled;
- and where a company in the circumstances mentioned in the said paragraph (b) becomes entitled to a deduction as there mentioned, the section shall apply in relation to any tax advantage obtained or obtainable in consequence of that deduction by another company by virtue of section twenty of the Finance Act, 1953, in respect of a subvention payment to the first-mentioned company, as if obtained or obtainable by the other company in circumstances falling within that paragraph.
- (4) In the case of a man and his wife living with him (whether or not she is separately assessed to tax), the said section twenty-eight shall be treated as applying to him in respect of any transaction or transactions as it would apply if any property, rights or liabilities of the wife were his property, rights or liabilities in relation to which she had acted only as nominee for him, and shall be treated as applying to the wife in respect of any transaction or transactions as it would apply if any property, rights or liabilities of the man were her property, rights or liabilities in relation to which he had acted only as nominee for her:
- Provided that no adjustment made under subsection (3) of that section by reference to any transaction or transactions to counteract any tax advantage shall by virtue of this subsection be so made that a person bears more tax than if the transaction or transactions had not had as a consequence that any relief or increased relief from, or repayment or increased repayment of, income tax, or any deduction in computing profits or gains, was obtained or obtainable, or that the way in which receipts accrued was such that the recipient did not pay or bear tax on them.
- (5) For the purposes of the said section twenty-eight a tax advantage obtained or obtainable by a person shall be deemed to be obtained or obtainable by him in consequence of a transaction in securities or of the combined effect of two or more such transactions, if it is obtained or obtainable in consequence of the combined effect of the transaction or transactions and of the liquidation of a company.
- (6) This section shall be construed as one with Part II of the Finance Act, 1960.

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(7) This section—

- (a) in so far as it affects sections twenty-one to twenty three of the Finance Act, 1960, shall not apply in relation to any sale of shares made (or treated for purposes of those sections as made) before the tenth day of April, nineteen hundred and sixty-two ; and
- (b) in so far as it affects section twenty-eight of that Act, shall not apply to a person in respect of any transaction or transactions in securities if they were carried out before that day, and if any change in the nature of any activities carried on by any person, being a change necessary in order that the tax advantage should be obtainable in consequence of the transaction or transactions, was also effected before that day;

but nothing in this section shall be taken to prejudice the operation of any of those enactments in any such case.

26 Penalties and assessments

- (1) Part III of the Finance Act, 1960 (which relates to income tax and profits tax penalties and assessments), shall be construed as having, from the commencement of that Act, the like effect in relation to happenings before that commencement as it has in relation to happenings after that commencement, except as specifically provided by any enactment contained in the said Part III (including the Seventh Schedule to the Act); and where any enactment so contained makes use of words in the present tense or in a past tense, that use shall not be taken to have any reference to the commencement of the Act or to import any distinction between happenings before and happenings after that commencement.

In this subsection " happening " includes any act or omission.

- (2) In subsection (2) of section forty-four of the Finance Act, 1960 (which contains savings by reference to proceedings commenced before the commencement of that Act), " proceedings " shall be construed as referring only to proceedings for the recovery of a penalty under the Income Tax Acts or the enactments relating to the profits tax.
- (3) This section shall be deemed to have had effect as from the commencement of the Finance Act, 1960, but not so as to make interest payable under section fifty-eight of that Act on any tax as respects which a certificate under subsection (5) of that section was refused before the passing of this Act.