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## SCHEDULES

### THIRD SCHEDULE

Section 17.

#### PROVISIONS SUPPLEMENTARY TO S. 17 (COMPANY RECONSTRUCTIONS, ETC., WITHOUT CHANGE OF OWNERSHIP)

- 1 (1) In this Schedule—
  - (a) " the principal section " means section seventeen of this Act;
  - (b) " relevant change " means a change to which subsection (1) or (2) of the principal section applies in the persons engaged in carrying on a trade, and includes an event treated as such a change by subsection (3) of the principal section.
- (2) Where a trade is to be treated under any provision of the Income Tax Acts as being permanently discontinued, and a new trade set up and commenced, on the occurrence of any event (whether before or after the commencement of this Act), it shall be so treated for the purposes of this Schedule.
- 2 (1) Subject to the following provisions of this Schedule, for any year of assessment in which there is a relevant change tax in respect of the trade shall be assessed and charged separately on those engaged in carrying on the trade before the change, and those so engaged after it; but the amount On which tax is chargeable shall be computed as if there had been no such change in that year and shall be apportioned as may be just.
- (2) If after a relevant change, but before the end of the year of assessment following that in which the change occurs, there is a permanent discontinuance of the trade, then on that discontinuance section one hundred and thirty of the Income Tax Act, 1952, shall apply, as respects any period before the relevant change, to the persons charged or chargeable for that period as it would apply if no relevant change had taken place and they had been charged accordingly for the subsequent period up to the discontinuance.
- (3) If a relevant change occurs in either of the two years of assessment next after the year of assessment in which a trade is set up and commenced, subsection (3) of section one hundred and twenty-nine of the Income Tax Act, 1952 (which provides that on a change in a partnership the notices which may be given under that section are to be signed by the persons engaged in carrying on the trade after the change as well as before), shall apply in relation to the relevant change whether or not it is such a change as is described in that subsection.
- 3 (1) A person engaged in carrying on the trade after a relevant change shall be entitled to relief under section three hundred and forty-two of the Income Tax Act, 1952, or subsection (3) of section fifteen of the Finance Act, 1953 (which relate to the carry forward of trade losses), as for a loss sustained by him in carrying on the trade, for any amount for which a company ceasing on that change to be so engaged would have been entitled to claim relief as aforesaid if the company had continued to be so engaged:

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Provided that this sub-paragraph shall not apply where immediately before the relevant change the company ceasing to be so engaged was carrying on the trade in partnership with a person who continues to be so engaged after the change.

- (2) Where immediately after a relevant change the trade is carried on by two or more persons in partnership, any amount for which they are entitled to claim relief by virtue of the foregoing sub-paragraph shall be divided between them in the shares in which they are then entitled to the profits of the trade.
- 4        There shall be made to or on the persons from time to time carrying on the trade after a relevant change all such allowances and charges under Parts X and XI of the Income Tax Act, 1952, as would, if the trade had at all times since the date of its commencement been carried on by the same person, have fallen to be made to or on him, and the amount of any such allowance or charge shall be computed as if they had been carrying on the trade at all times since that date, and as if everything done to or by their predecessors in carrying it on had been done to or by them; but no sale or transfer made to any such persons on a relevant change by their immediate predecessors of assets in use for the purpose of the trade shall be treated as giving rise to any such allowance or charge.
- 5        (1) Where, immediately before a relevant change, the trade is being carried on by a company otherwise than in partnership with a person continuing to be engaged in carrying it on immediately after the change, and any person engaged in carrying on the trade immediately after the change sustains a terminal loss therein (within the meaning of section eighteen of this Act) on a subsequent discontinuance of the trade, relief in respect of that terminal loss (so far as it is not otherwise relieved) may be given under the said section eighteen for the period before the change to the person carrying on the trade immediately before the change as if he had been the person sustaining the terminal loss; and, if there is more than one person carrying on the trade immediately before the change, the terminal loss shall be divided between them in the shares in which they are then entitled to the profits of the trade.
- (2) Where the trade is permanently discontinued less than twelve months after a relevant change, relief may be given under the said section eighteen to a person engaged in carrying on the trade before the relevant change and not after, and the reference in paragraph (c) of subsection (7) of that section to a time immediately before the discontinuance shall in relation to such a person be taken as a reference to the time immediately before the relevant change.
- (3) In a case to which sub-paragraph (2) of this paragraph applies, subsection (5) of the said section eighteen shall apply in relation to a person engaged in carrying on the trade before the relevant change but not after, or after but not before, as if the period mentioned in paragraph (d) of that subsection were restricted to the time for which he was so engaged and as if the amount of the allowances mentioned in paragraph (b) thereof were similarly apportioned according to the time (if any) for which he was engaged in carrying on the trade in the year of assessment in which it was permanently discontinued.
- 6        Section one hundred and forty-three of the Income Tax Act, 1952 (which provides for the valuation of trading stock on a discontinuance of a trade), shall apply in relation to a relevant change as it would have applied but for the operation of subsections (1) and (2) of the principal section.

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- 7 (1) There shall be made such additional assessments, reductions of assessments or repayments of tax as may in any case be required in order to give effect to the principal section and this Schedule.
- (2) In the case of the death of a person who, if he had not died, would have become chargeable to income tax for any year by virtue of the principal section, the tax which would have been so chargeable shall be assessed and charged upon his executors or administrators and shall be a debt due from and payable out of his estate.
- (3) Any of the persons engaged in carrying on the trade at any time in the period beginning with a relevant change to which subsection (1) of the principal section applies (whether or not by virtue of subsection (3)), and ending with the year of assessment following that in which the conditions for the said subsection (1) to apply to the change are first satisfied, shall be liable for tax assessed in respect of the trade—
- (a) under any additional assessment made by virtue of this paragraph for a part of the year of assessment in which the relevant change occurs falling before that change, and
  - (b) under any assessment for any part of the said period beginning with the relevant change.
- 8 Subsection (1) of section three hundred and twenty-nine of the Income Tax Act, 1952 (which relates to procedure on apportionments under Part X of that Act), shall apply to any apportionment under the principal section or this Schedule as it applies to an apportionment under the said Part X.