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SCHEDULES

SCHEDULE 16

APPORTIONMENT OF INCOME ETC. OF CLOSE COMPANIES

PART II

PROVISIONS FOR DETERMINING RELEVANT INCOME AND DISTRIBUTIONS, ETC

Requirements of the company's business

- 12 (1) For the purposes of paragraph 8(2) above there shall be regarded as income available for distribution and not as having been applied, or as being applicable, to the current requirements of a company's business, or to such other requirements as may be necessary or advisable for the maintenance and development of that business—
- (a) any sum expended or applied, or intended to be expended or applied, out of the income of the company, otherwise than in pursuance of an obligation entered into by the company before 4th August 1914—
 - (i) in or towards payment for the business, undertaking or property which the company was formed to acquire or which was the first business, undertaking or property of a substantial character in fact acquired by the company, or
 - (ii) in redemption or repayment of any share or loan capital or debt (including any premium thereon) issued or incurred in or towards payment for any such business, undertaking or property, or issued or incurred for the purpose of raising money applied or to be applied in or towards payment therefor, or
 - (iii) in meeting any obligations of the company in respect of the acquisition of any such business, undertaking or property, or
 - (iv) in redemption or repayment of any share or loan capital or debt (including any premium thereon) issued or incurred otherwise than for adequate consideration, and
 - (b) any sum expended or applied, or intended to be expended or applied, in pursuance or in consequence of any fictitious or artificial transaction, and
 - (c) in the case of a company which is neither a trading company nor a member of a trading group, any sum expended or applied, or available to be expended or applied, out of the income of the company in or towards the redemption, repayment or discharge of any loan capital or debt (including any premium thereon) in respect of which any person is a loan creditor of the company.
- (2) For the purposes of sub-paragraph (1)(a)(iv) above, share or loan capital or debt shall be deemed to be issued or incurred otherwise than for adequate consideration if—
- (a) it is issued or incurred for consideration the value of which to the company is substantially less than the amount of the capital or debt (including any premium thereon), or

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- (b) it is issued or incurred in or towards, or for the purpose of raising money applied or to be applied in or towards, the redemption or repayment of any share or loan capital or debt which itself was issued or incurred for such consideration as is mentioned in paragraph (a) of this sub-paragraph or which represents, directly or indirectly, any share or loan capital or debt which itself was issued or incurred for such consideration.
- (3) References in the foregoing provisions of this paragraph to money applied or to be applied for any purpose shall be deemed to include references to money applied or to be applied in or towards the replacement of that money.