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## SCHEDULES

### SCHEDULE 5

Section 37.

#### RELIEF FOR INCREASE IN VALUE OF TRADING STOCK AND WORK IN PROGRESS

##### PART I

##### INCOME TAX

###### *Entitlement to relief*

- 1 (1) Where a person carries on a trade in respect of which he is within the charge to income tax under Case I of Schedule D and—
- (a) the value of his trading stock at the end of a period of account (the "closing stock value") exceeds
  - (b) the value of his trading stock at the beginning of that period (the "opening stock value"),
- he shall, subject to the provisions of this Schedule, be entitled to relief under this paragraph by reference to the amount of that excess (the "increase in stock value").
- (2) The amount of relief to which a person is entitled under this paragraph for any trade in respect of any period of account is the amount of the increase in stock value in that period less 15% of the relevant income of that trade for that period.
- (3) A person shall not be entitled to relief under this paragraph in respect of any period of account unless a claim for the relief is made within two years after the end of the year of assessment in which that period of account ends.

###### *Charge by way of recovery of relief*

- 2 (1) Where a person carries on a trade in respect of which he is within the charge to income tax under Case I of Schedule D and in a period of account his closing stock value is less than his opening stock value, then, subject to the provisions of this Schedule, a charge by way of recovery of relief shall be made on him, on whichever is the lesser of—
- (a) the whole amount of the reduction in stock value in that period; or
  - (b) the amount of unrecovered past relief allowed to him for that trade.
- (2) Where during or at the end of a period of account a person carrying on a trade ceases to do so, or ceases to be within the charge to income tax under Case I of Schedule D in respect of the trade, he is not entitled to relief or liable to a charge in respect of that period under the foregoing provisions of this Part, but a final charge by way of recovery of relief shall be made on him on an amount equal to the unrecovered past relief allowed to him for that trade.

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This sub-paragraph is subject to paragraphs 20 and 21 below (which provide for continuity in the case of certain successions).

- (3) Where during or at the end of a period of account a person carrying on a trade ceases (by virtue of ceasing to be resident in the United Kingdom) to be within the charge to income tax under Case I of Schedule D in respect of a part of the trade, he shall be treated for the purposes of this Schedule as if that part were a separate trade carried on by him in that period ; and all necessary apportionments between the two parts of the trade (including the apportionment of unrecovered past relief allowed for that trade) shall be made by reference to the respective values of the trading stock of each part immediately after that event.

*Method of giving effect to relief or charge*

- 3 (1) Relief under paragraph 1 above in respect of any period of account shall be given as a deduction in charging the profits or gains of the trade to income tax for the relevant year of assessment.

The relief shall be deducted before any deduction is made for capital allowances.

- (2) A charge under paragraph 2 above in respect of any period of account shall be made by means of an assessment to income tax on the profits or gains of the trade—
- (a) in the case of a charge under paragraph 2(1), for the relevant year of assessment; and
  - (b) in the case of a charge under paragraph 2(2) for the year of assessment in which the discontinuance or other event takes place.

Any such assessment is in addition to any other assessment falling to be made on the profits or gains of the trade for the year of assessment in question.

*Top-slicing*

- 4 (1) Where a trade has been carried on by a person for more than one year before the discontinuance or other event on which a charge under paragraph 2(2) above falls to be made on him, then his liability to tax for the year of assessment for which the charge is made shall, on a claim made by him within two years of the end of that year of assessment, be reduced in accordance with the following provisions of this paragraph.
- (2) The reduction is the amount of the difference between—
- (a) the tax on the whole amount on which the charge is made (the "chargeable amount"), calculated on the basis set out in sub-paragraph (4) below ; and
  - (b) the tax (if any) on the appropriate fraction of the chargeable amount, calculated on the same basis, and multiplied by the reciprocal of the appropriate fraction.
- (3) The "appropriate fraction" depends on the period for which the trade has been carried on before the discontinuance or other event and is—
- (a) one-half if the trade has been so carried on for more than one but less than two years ;
  - (b) one-third if it has been so carried on for two years or more.

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- (4) The amounts of tax referred to in sub-paragraph (2) are to be calculated on the following assumptions—
- (a) that the person's total income does not include any amount in respect of which he is chargeable to tax under section 80, 81 or 82 of the Taxes Act (premiums, etc. treated as rent), section 187 of that Act (payments on retirement or removal from office) or section 399(1)(a) of that Act (gains from life policies, etc);
  - (b) that deductions to be made in computing the tax are so far as possible set against sums other than the chargeable amount (or the fraction of it);
  - (c) that the chargeable amount (or fraction), after any deductions remaining to be made after applying paragraph (b), is the highest part of the person's total income (notwithstanding any other provisions of the Income Tax Acts directing any other income to be so treated).
- (5) Where a claim under this paragraph for any year of assessment is made in respect of more than one trade, the paragraph applies to each chargeable amount individually as if there were only one charge in that year.
- (6) For the purposes of section 400, paragraphs 3 and 4 of Schedule 3 and paragraph 8 of Schedule 8 of the Taxes Act (other top-slicing provisions) a person's total income shall not be treated as including any amount as a result of a charge under paragraph 2(2).

*Meaning of "relevant year of assessment" and "basis period"*

- 5 (1) This paragraph provides for ascertaining the relevant year of assessment in relation to a period of account for the purposes of this Part of this Schedule.
- (2) In this Part of this Schedule—
- (a) the "basis period" for any year of assessment means the period on the profits or gains of which income tax for that year falls to be finally computed under Case I of Schedule D in respect of the trade in question, or, where, by virtue of any provision of section 115 of the Taxes Act, the profits or gains of any other period are to be taken as the profits or gains of the said period, that other period ; and
  - (b) references to a period of account entering into a basis period are to the period of account, or any part of it, falling within or coinciding with that basis period.
- (3) Where a period of account enters into the basis period for only one year of assessment, that year is the relevant year of assessment in relation to that period of account.
- (4) Where a period of account enters into the basis period for more than one year of assessment, then—
- (a) if this is by virtue of section 116 or 117 of the Taxes Act (commencement of trade), the relevant year of assessment in relation to that period of account is the first year of assessment into whose basis period the period of account enters ; and
  - (b) in any other case, the relevant year of assessment is the last such year of assessment.

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- (5) Where a period of account does not enter into the basis period for any year of assessment, the relevant year of assessment in relation to that period of account is that following the year of assessment in which the period of account ends.

*Right to set unused relief against general income*

- 6 (1) Subject to the provisions of this paragraph, a claim made under section 168 of the Taxes Act (set-off of losses against general income) for relief in respect of a loss sustained by the claimant in a trade in any year of assessment (the " year of loss ") may require the amount of that loss to be determined as if an amount equal to the relief to which he is entitled under this Part of this Schedule for the year of assessment for which the year of loss is the basis year were to be deducted in computing the profits or gains or losses of the trade in the year of loss.
- (2) A claim may be made under the said section 168 for relief in respect of a loss sustained by the claimant in any trade in any year of assessment notwithstanding that—
- (a) unless relief under this Part of this Schedule is brought into account; or
  - (b) unless there are brought into account both that relief and capital allowances (by virtue of section 169 of the Taxes Act),
- the claimant will not have sustained a loss in the trade in that year.
- (3) Relief for any year of assessment shall be taken into account by virtue of this paragraph only if and so far as it is not required to offset any charge for that year under paragraph 2; and for the purposes of this sub-paragraph the relief for a year of assessment shall be treated as required to offset the charge for a year up to the amount on which the charge falls to be made after deducting from it the amount (if any) of relief for earlier years which is carried forward to that year and would, if not set against the charge, be unused in that year.
- (4) Where the relief taken into account by virtue of this paragraph is that for the year of assessment for which the claim is made or for the preceding year (the year of loss being the basis year for that year itself, or the claim being made by way of carry forward of the loss by virtue of section 168(2) of the Taxes Act), effect shall not be given to that relief in respect of an amount greater than the amount unused in the year for which the claim is made, or, in the case of relief for the preceding year, the amount unused in both years.
- (5) For the purposes of this paragraph—
- (a) where the end of the basis period for a year of assessment falls in, or coincides with the end of, any year of assessment, that year is the basis year for the first mentioned year of assessment, but so that, if a year of assessment would under the foregoing provision be the basis year both for that year itself and for another year of assessment, it shall be the basis year for the year itself and not for the other year,
  - (b) any reference to the relief or charge for a year of assessment shall be construed as a reference to the relief or charge falling to be given effect in that year (excluding, in the case of relief, any part of the relief for an earlier year carried forward under paragraph 7 below),
  - (c) any reference to an amount of relief unused in a year shall be construed as referring to the amount by which, by reason of an insufficiency of profits or gains, effect cannot be given in that year, and

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- (d) effect shall be deemed to be given to relief carried forward from an earlier year before it is given to relief for a later year.
- (6) Where, on a claim made by virtue of this paragraph, relief is not given under section 168 of the Taxes Act for the full amount of the loss determined as mentioned in sub-paragraph (1) above, the relief under that section shall be attributed to the loss sustained by the claimant in the trade rather than to the relief under this Schedule in respect of that trade, but shall be attributed to relief under this Schedule rather than to the capital allowances in respect of the trade brought into account by virtue of section 169 of the Taxes Act.
- (7) Where a claim is made under the said section 168 by a person who, since the end of the year for which the claim is made, has carried on the trade in question in partnership, then effect shall be given to this paragraph in relation to that claim only with the consent in writing of every other person engaged in carrying on the trade between the end of that year and the making of the claim, except that where the claim is for a loss sustained before an event treated as the permanent discontinuance of the trade, the consent is not required of a person so engaged only since the discontinuance.
- (8) If a person whose consent is required under sub-paragraph (7) has died, the consent in writing of his personal representatives is required instead.

*Carry forward of unused relief*

- 7 (1) Where, in any year of assessment, full effect cannot be given to any relief falling to be allowed under this Part of this Schedule owing to there being no profits or gains of the trade chargeable for that year, or owing to the profits or gains chargeable being less than the amount of the relief, the relief or part of the relief to which effect has not been given, as the case may be, shall be carried forward and, for the purpose of making the assessment to income tax for the following year, be added to the amount of relief for that year and be deemed to be part of that relief, or, if no relief falls to be allowed for that year, be deemed to be relief for that year, and so on for succeeding years.
- (2) This paragraph has effect subject to paragraph 6 above.

*Social security contributions*

- 8 In computing for the purposes of Schedule 2 to the Social Security Act 1975 the amount of the profits or gains of a trade in respect of which Class 4 contributions are payable—
- (a) deductions or additions shall be made under paragraph 2 of that Schedule for any relief or charge under this Part of this Schedule which falls to be made in charging profits or gains to income tax under Case I of Schedule D; and
- (b) paragraphs 6 and 7 above shall be included among the relief provisions to which paragraph 3(1) of that Schedule applies.

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## PART II

### CORPORATION TAX

#### *Entitlement to relief*

- 9 (1) Where a company carries on a trade in respect of which it is within the charge to corporation tax under Case I of Schedule D and—
- (a) the value of its trading stock at the end of a period of account (the "closing stock value") exceeds
  - (b) the value of its trading stock at the beginning of that period (the "opening stock value"),
- the company shall, subject to the provisions of this Schedule, be entitled to relief under this paragraph by reference to the amount of that excess (the "increase in stock value").
- (2) The amount of relief to which a company is entitled under this paragraph for any trade in respect of any period of account is the amount of the increase in stock value in that period less 152 of the relevant income of that trade for that period.
- (3) A company shall not be entitled to relief under this paragraph unless a claim for the relief is made within two years after the end of the period of account in respect of which the relief is claimed.

#### *Charge by way of recovery of relief*

- 10 (1) Where a company carries on a trade in respect of which it is within the charge to corporation tax under Case I of Schedule D and in a period of account its closing stock value is less than its opening stock value, then, subject to the provisions of this Schedule, a charge by way of recovery of relief shall be made on the company, on whichever is the lesser of—
- (a) the whole amount of the reduction in stock value in that period; or
  - (b) the amount of unrecovered past relief allowed to the company for that trade.
- (2) Where during or at the end of a period of account a company carrying on a trade ceases to do so, or ceases to be within the charge to corporation tax under Case I of Schedule D in respect of the trade, it is not entitled to relief or liable to a charge in respect of that period under the foregoing provisions of this Part, but a final charge by way of recovery of relief shall be made on the company on an amount equal to the unrecovered past relief allowed to it for that trade.
- This sub-paragraph is subject to paragraphs 20 and 21 below (which provide for continuity in the case of certain successions).
- (3) Where during or at the end of a period of account a company carrying on a trade ceases (by virtue of ceasing to be resident in the United Kingdom) to be within the charge to corporation tax in respect of a part of the trade, it shall be treated for the purposes of this Schedule as if that part were a separate trade carried on by it in that period; and all necessary apportionments between the two parts of the trade (including the apportionment of unrecovered past relief allowed for that trade) shall be made by reference to the respective values of the trading stock of each part immediately after that event.

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- 11 (1) Where there is a change of ownership of a company and section 483 of the Taxes Act applies so as to restrict the carrying forward of losses incurred before the change, then relief to which those disallowed losses are attributable shall, although unrecovered in periods of account ending before the change of ownership nevertheless be disregarded in ascertaining the amount of unrecovered past relief in later periods of account.
- (2) Relief to which disallowed losses are attributable is that which was not given effect in the period of account or base period for which it was allowed or in a subsequent period of account.
- (3) For the purposes of sub-paragraph (2) relief is assumed to be given effect before capital allowances and profits or gains are assumed to be set against losses attributable to relief before other losses. Section 483(5) of the Taxes Act has effect subject to this sub-paragraph.
- (4) For the purpose of ascertaining the extent to which relief to which disallowed losses are attributable has been recovered in periods of account ending before the change of ownership, it shall be assumed—
- (a) that relief is recovered from earlier periods before later periods ; and
  - (b) that effect is given to relief from earlier periods before later periods.

*Method of giving effect to relief or charge*

- 12 (1) Relief under paragraph 9 above in respect of any period of account shall, subject to the provisions of this paragraph, be given effect by treating the amount of the relief as a trading expense of the trade in that period.
- (2) A charge under paragraph 10 above in respect of any period of account shall, subject to the provisions of this paragraph, be given effect by treating the amount on which the charge is to be made as a trading receipt of the trade in that period.
- (3) Where a trade is set up and commenced by a company during a period of account, any amount which in accordance with this paragraph falls to be treated as an expense or receipt of the trade in that period, shall be brought into account only in respect of the accounting period, or periods, beginning with or after that commencement.
- (4) Where during a period of account a company carrying on a trade ceases to do so, or ceases in respect of it to be within the charge to corporation tax under Case I of Schedule D, any relief or charge which in accordance with this paragraph falls to be treated as an expense or receipt of the trade in that period, shall be brought into account only in respect of the accounting period, or periods, ending on or before that discontinuance or other event.

**PART III**

LINK WITH PREVIOUS STOCK RELIEF PROVISIONS

*Interpretation*

- 13 In this Part of this Schedule, "Schedule 10 " means Schedule 10 to the Finance (No. 2) Act 1975, "Schedule 10 relief" means relief under that Schedule and " base

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period " means a base period (including a further base period) as defined in that Schedule.

*Entry into operation of Parts I and II*

- 14 (1) The provisions of this paragraph indicate the periods of account to which Parts I and II of this Schedule apply (being, in most cases, the periods of account falling after the base period for which Schedule 10 relief was given).
- (2) The periods of account in respect of which entitlement to relief or liability to charge may arise under Part I of this Schedule are, subject to sub-paragraph (3) below, those falling after the following—
- (a) the last period of account ending in the year 1974-75 ; or
  - (b) if no period of account ended in that year, the first period of account ending after 5th April 1975.
- (3) Where a trade was set up and commenced after 5th April 1974 and there is no period of account ending in the year 1974-75, such entitlement or liability may arise in respect of any period of account the whole or part of which falls after that commencement.
- (4) The periods of account in respect of which entitlement to relief or liability to charge may arise under Part II of this Schedule are, subject to sub-paragraph (5) below, those falling after the following—
- (a) the last period of account ending in the financial year 1974 ; or
  - (b) if no period of account ended in that year, the first period of account ending after 31st March 1975.
- (5) Where a trade was set up and commenced after 31st March 1974 and there is no period of account ending in the financial year 1974, such entitlement or liability may arise in respect of any period of account the whole or part of which falls after that commencement.

*Transitional relief*

- 15 (1) The provisions of this paragraph apply for supplementing Schedule 10 relief in the case of persons whose base period ended after 5th April 1975, or, in the case of a company, 31st March 1975 (the relief having been proportionately reduced in those cases).
- (2) There is entitlement to transitional relief under this paragraph—
- (a) where the base period of a person other than a company ended after 5th April 1975 and a claim for relief is made before 6th April 1978 ;
  - (b) where a company's base period ended after 31st March 1975 and a claim for relief is made within two years after the end of the base period.
- (3) In either case the amount of transitional relief is given by the formula

where—

B is the base period increase, as defined in paragraph 1(1) or 6(1) of Schedule 10,

I is 15 per cent. of the relevant income for the base period, computed in accordance with this Schedule,



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M is, in the case of a person other than a company, the lesser of 12 or the number of months in the base period in excess of 24, and, in the case of a company, is the number of months between the end of the accounting period ending in the financial year 1974 and the end of the base period, and

N is the number of months in the base period.

- (4) Where a base period consists of a number of complete months and a fraction of a month or consists only of a fraction of a month, references in this paragraph to the number of months in that period shall be construed as including that fraction, or as a reference to that fraction, as the case may be.
- (5) Transitional relief to which a person other than a company is entitled shall be given as a deduction in charging the profits or gains of the trade to income tax for the last year of assessment in the basis period for which (as defined in paragraph 5 above) there falls the whole or any part of the period of account whose end also marks the end of the base period.
- (6) Transitional relief to which a company is entitled shall be given effect by treating the amount of the relief as a trading expense of the trade in the accounting period whose end also marks the end of the base period.
- (7) Any claim, or adjustment of a claim, for any other relief which falls to be made in consequence of a claim for transitional relief may be made at any time when a claim for transitional relief could be made, notwithstanding that it would otherwise be out of time.
- (8) All such adjustments shall be made in any assessments to tax as are necessary to give effect to the provisions of this paragraph.

*Succession during or at end of base period*

- 16
- (1) In this paragraph " succession " means such a succession in the persons engaged in carrying on a trade as is mentioned in paragraph 13 of Schedule 10, and "predecessor" and "successor" mean the persons so engaged before and after a succession.
  - (2) Where there was a succession within the 12 months before the end of the base period and—
    - (a) the predecessor was an individual, a partnership or a company ; and
    - (b) the successor was a company,the inspector may, on an application by the successor, notwithstanding anything in Schedule 10, apportion the relief falling to be given under that Schedule as seems to him just between the predecessor and successor.
  - (3) Where there was a succession at the end of the base period, the successor may elect that the predecessor's closing stock value at the end of the base period be reduced in accordance with Schedule 10, notwithstanding anything in paragraphs 5, 11 and 12 of that Schedule (change of persons engaged in carrying on a trade to be treated as cessation of that trade).
  - (4) An application or election under this paragraph must be made by notice in writing to the inspector by 1st January 1977 or after that date but within two years after the end of the base period.
  - (5) Any claim, or adjustment of a claim, for other relief which falls to be made in consequence of an application or election under this paragraph may be made at any

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time when the application or election could be made, notwithstanding that it would otherwise be out of time.

- (6) All such adjustments shall be made in any assessments to tax as are necessary to give effect to the provisions of this paragraph.

*Time limit for claiming Schedule 10 relief*

- 17 A claim by a company for Schedule 10 relief may be made at any time before 1st January 1977 notwithstanding that the time limit imposed by paragraph 6(3) of that Schedule has expired.

*Recovery of Schedule 10 relief*

- 18 (1) The provisions of this paragraph apply for making Schedule 10 relief and relief under this Part recoverable in the same way as relief under Part I or II of this Schedule.
- (2) The reference in paragraph 26 below (meaning of " past relief " for purposes of recovery of relief) to the amount of Schedule 10 relief allowed to any person in respect of a trade is to—
- (a) the amount by which his closing stock value at the end of the base period was reduced in accordance with paragraph 1(2)(a)(i) or 6(2)(a)(i) of Schedule 10 ; together with
- (b) the amount of any relief to which he is entitled under this Part.
- (3) In ascertaining the amount of Schedule 10 relief no account is to be taken of any diminution directed by paragraph 8(3) of that Schedule in the case where the end of the base period coincided with the end of the reference period for relief under section 18 of the Finance Act 1975.
- (4) For the purpose of ascertaining at any time the amount of unrecovered past relief allowed to any person in respect of a trade, relief given to a predecessor by virtue of paragraph 16 above shall be treated as if given to the successor.
- (5) In consequence of the foregoing provisions of this paragraph paragraph 1(2)(b) and paragraph 6(2)(b) of Schedule 10 are repealed and shall be deemed never to have had effect; and no account shall be taken for any of the purposes of this Schedule of any reduction in the value of trading stock under section 18(4) of the Finance Act 1975.

**PART IV**

GENERAL

*Partnerships*

- 19 (1) Where a trade is carried on by persons in partnership, entitlement to relief or liability to charge under this Schedule is a joint entitlement or liability, and any claim for relief under this Schedule shall be a single claim made in the partnership name.
- (2) Where none of those persons is a company, entitlement to relief and liability to charge under this Schedule shall be ascertained and given effect as if the trade were carried on by an individual.

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- (3) Where any of those persons is a company, entitlement to relief and liability to charge under this Schedule shall be ascertained as if the partnership were a company and shall be given effect in accordance with the following provisions of this paragraph.
- (4) A company's share in any such entitlement or liability in any accounting period of the partnership shall be determined according to the interests of the partners during that period, and shall be given effect as if the share derived from a trade carried on by the company alone in its corresponding accounting period or periods.

In this sub-paragraph "corresponding accounting period or periods" means the accounting period or periods of the company comprising or together comprising the accounting period of the partnership, and any necessary apportionment shall be made between corresponding accounting periods if more than one.

- (5) The share in any such entitlement or liability of the partner or partners other than companies shall be given effect as if that share derived from a trade carried on by him, or, as the case may be, by them in partnership, otherwise than in partnership with a company.

#### *Successions*

- 20 (1) The provisions of this paragraph apply—
- (a) where the whole or part of a trade carried on by one company ("the predecessor") is transferred to another company ("the successor") and section 252 of the Taxes Act (company reconstructions) has effect in relation to that event; or
  - (b) where the whole of a trade carried on by an individual or by persons in partnership ("the predecessor") is transferred to a company resident in the United Kingdom ("the successor") and at the date of the transfer not less than three-quarters of the ordinary share capital of the company is held by that individual or those persons,
- and, in either case, the trading stock is transferred at cost or at market value.
- (2) Where the whole of a trade is transferred and the predecessor and successor so elect, then, for the purposes of this Schedule—
- (a) the trading stock transferred shall be treated both as forming part of the predecessor's closing stock in his period of account which ends with or includes the date of transfer, and as forming part of the successor's opening stock in his period of account which begins with or includes the date of transfer; and
  - (b) in ascertaining in that or any later period of account the amount of unrecovered past relief allowed to a person in respect of the trade, the successor shall be treated as having carried on the trade since the predecessor began (or is himself treated, by virtue of this sub-paragraph or of any other provision of this Schedule, as having begun) to do so.
- (3) Where part of a trade is transferred and the predecessor and successor so elect, then, for the purposes of this Schedule, the predecessor shall be treated as having carried on in the period of account during or at the end of which the transfer occurs a separate trade consisting of the part transferred; and all necessary apportionments between the two parts of the trade (including the apportionment of unrecovered past relief allowed for the trade) shall be made by reference to the respective values of the trading stock of each part immediately after the transfer.

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- (4) An election under this paragraph shall be by notice in writing signed by both the predecessor and the successor and sent to the inspector within two years after the date of the transfer.
- 21 (1) Subject to the provisions of this paragraph, where there is a change in the persons engaged in carrying on a trade, this Schedule applies as if the trade had been permanently discontinued at the date of the change and a new trade had been then set up and commenced.

For the purposes of this paragraph, a change in the personal representatives of any person, or in the trustees of any trust, shall not be treated as a change in the persons carrying on any trade carried on by those personal representatives or trustees as such.

- (2) Where there is a change of persons but—
- (a) a person engaged in carrying on the trade immediately before the change continues to be so engaged immediately after the change; and
  - (b) the trading stock of the trade immediately before the change is the trading stock immediately after the change,
- an election may be made to the effect that sub-paragraph (1) shall not apply to the change.
- (3) An election under this paragraph must be made by all the persons engaged in carrying on the trade before the change ("the predecessors ") and all those so engaged immediately after the change (" the successors "), and be signed by them and sent to the inspector within two years after the date of the change.

Where those persons have elected under section 154(2) of the Taxes Act that the trade be treated as continuing for income tax purposes, they shall be treated as having also made an election under this paragraph.

- (4) In ascertaining for the purposes of this Schedule the amount of unrecovered past relief allowed to a person in respect of a trade where at an earlier date a change in the persons carrying on that trade has been the subject of an election under this paragraph, the successors (in relation to that change) shall be treated as having carried on the trade since the predecessors began (or are themselves treated, by virtue of this sub-paragraph or of any other provision of this Schedule, as having begun) to do so.
- (5) Where during a period of account there is a change in the persons engaged in carrying on a trade, and—
- (a) an election is made under this paragraph ; but
  - (b) no election is made under section 154(2) of the Taxes Act in relation to that change,
- any relief or charge under this Schedule in respect of that period of account shall be apportioned between the predecessors and successors according to the respective lengths of the parts of the period falling before and after the change, and for the purpose of giving effect to that relief or charge each of those parts shall be treated as if it were a separate period of account.

*Adjustment for special circumstances*

- 22 (1) Where any arrangements have been effected by a person carrying on a trade, or by him and other persons acting together, such as, in particular, the following—

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- (a) any acquisition or disposal of trading stock otherwise than in the normal course of the trade in question ; or
- (b) any change in the normal pattern or method of carrying on the trade; or
- (c) any change in the date to which the accounts of the trade are made up; or
- (d) any increase in the value of a person's trading stock which is associated with a decrease in the trading stock of another person connected with him (within the meaning of section 533(5) or (6) of the Taxes Act),

and it appears that the sole or main benefit which, but for this paragraph, might have been expected to accrue to that person was the obtaining of relief or the reduction of the amount of a charge under this Schedule, an adjustment shall be made under this paragraph.

- (2) The adjustment is to substitute, for the purposes of this Schedule, for any opening or closing value of trading stock in any period of account which appears to have been affected by the arrangements, the value which it appears there would have been had those arrangements not been made.

#### *Valuation of stock in certain cases*

- 23 (1) For the purposes of this Schedule in ascertaining the entitlement of a person to relief, or his liability to a charge, in respect of any period of account—
- (a) in a case where at any time during the twelve months preceding the beginning of that period of account he was not carrying on the trade in question ; or
  - (b) in a case where during that period of account there was a major alteration in the conduct of the trade in question which resulted in an exceptional increase in his trading stock,
- he shall be treated as having at the beginning of that period of account trading stock of such value as may be attributed in accordance with this paragraph.
- (2) If for any of the purposes of this Schedule there falls to be ascertained the value of any trading stock at a date other than the beginning or end of a period of account and when no value was in fact determined, that value shall be such as may be attributed in accordance with this paragraph.
  - (3) The value to be attributed is such value as is reasonable and just having regard to all the relevant circumstances of the case, and in particular—
    - (a) to the opening and closing values of trading stock of the trade for that period of account;
    - (b) to movements during that period of account in the costs of items of a kind comprised in the person's trading stock during the period; and
    - (c) to changes during that period in the volume of the trade carried on by that person.

#### *Discontinuity in stock values*

- 24 (1) Where a person's closing stock value in a period of account is not calculated on the same basis as that used for the calculation of the opening stock value in that period, he shall be treated, for the purposes of this Schedule, as having at the beginning of that period trading stock of the amount he would have had if the basis of calculation had been that used for the closing stock value.

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- (2) Where a person's opening stock value in a period of account (including a value he is treated as having by virtue of sub-paragraph (1) above or of any other provision of this Schedule) is less than the amount of unrecovered past relief allowed to him for that trade, he shall be treated, for the purposes of this Schedule, as having at the beginning of that period trading stock of an amount equal to the amount of unrecovered past relief.

*Farm animals*

- 25 (1) Animals treated as trading stock under Schedule 6 to the Taxes Act (farm animals etc.) shall, subject to the provisions of this paragraph, be so treated for the purposes of this Schedule.
- (2) Where a person makes an election for the herd basis under that Schedule which takes effect during a period of account, animals forming part of a herd with respect to which the election has effect shall be treated for the purposes of this Schedule as not having been trading stock of that person at any time during that period.
- (3) Where a person makes an election for the herd basis under that Schedule then at the end of the last period of account not affected by the election (hereafter referred to as "the point of election ") the unrecovered past relief allowed to him for the fanning or other trade in question (including the relief in respect of that period of account) shall be apportioned between the herd and the rest of his trading stock by reference to their respective values at the point of election, and in subsequent periods of account that part attributed to the herd is recoverable in accordance with the following provisions of this paragraph.
- (4) A charge by way of recovery of relief shall be made where in a period of account for which the election has effect there is a reduction of the number of animals in the herd and—
- (a) in the case of the first period in respect of which such a charge arises, the number at the end of that period is less than the number of animals in the herd at the point of election (that difference being referred to hereafter as "the relevant number "); or
  - (b) in the case of any subsequent period in respect of which such a charge arises, the number at the end of that period is less than the number of animals in the herd at the end of the last preceding period of account in respect of which such a charge arose (that difference being referred to hereafter as "the relevant number ").

This paragraph also applies (subject to sub-paragraph (6) below) where the person ceases to keep the herd and the first-mentioned number in paragraph (a) or (b) above is accordingly nil.

- (5) The amount on which the charge to be made is the amount which bears to the whole amount of unrecovered past relief attributed to the herd at the point of election, the same proportion as the relevant number of animals in relation to the period of account in question bears to the number of animals in the herd at the point of election.
- (6) Where a herd is sold as a whole and another production herd of the same class is acquired, this paragraph applies as if those herds were the same herd.

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- (7) A charge under this paragraph shall be treated for all purposes as if it were a charge by way of recovery of relief under paragraph 2 or 10 above falling to be made for the farming or other trade in question, and shall be given effect accordingly.
- (8) In this paragraph "herd" and "production herd" have the same meaning as in Schedule 6 to the Taxes Act, and this paragraph applies (as does that Schedule), with the necessary adaptations, to animals or other creatures kept singly as it applies in relation to herds.

*Meaning of "past relief"*

- 26 (1) References in this Schedule to "past relief", in relation to a trade carried on by any person in any period of account, are to the aggregate amount of the following reliefs allowed to him (or treated as allowed to him)—
- (a) Schedule 10 relief (as defined in paragraph 18 above) allowed for that trade ; and
  - (b) relief under Part I or Part II of this Schedule allowed for that trade in respect of earlier periods of account.
- (2) The amount of unrecovered past relief in any period of account is that aggregate amount less the aggregate of the amounts on which charges by way of recovery of relief have been made on that person for that trade in respect of earlier periods of account.

*Application to professions and foreign trades etc.*

- 27 (1) The foregoing provisions of this Schedule have effect, with the necessary modifications, in relation to professions and vocations chargeable under Case II of Schedule D as they have effect in relation to trades chargeable under Case I of that Schedule.
- (2) The foregoing provisions of this Schedule (including sub-paragraph (1) of this paragraph) have effect, with the necessary modifications, in relation to trades, professions and vocations carried on outside the United Kingdom and chargeable under Case V of Schedule D otherwise than on a remittance basis as they have effect in relation to trades, professions and vocations chargeable under Case I or Case II of that Schedule, except that where, in charging the income from that trade, profession or vocation, a deduction of one quarter of the amount of that income falls to be allowed under section 23(3) of the Finance Act 1974 (income charged to income tax otherwise than on remittance basis) the amount of relief under this Schedule shall be confined to three-quarters of the amount which would have been applicable had the trade, profession or vocation been chargeable under the said Case I or Case II.

*Interpretation*

- 28 (1) In this Schedule "period of account" means a period for which an account is made up in relation to the trade, profession or vocation in question.
- (2) For the purposes of this Schedule a source of income is "within the charge to" income tax or corporation tax if that tax is chargeable on the income arising from it, or would be so chargeable if there were any such income, and references to a person or to profits or gains, being within the charge to tax shall be similarly construed.

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- 29 (1) Subject to the provisions of this paragraph, in this Schedule " trading stock" means property of any description, whether real or personal, being either—
- (a) property such as is sold in the ordinary course of the trade, profession or vocation in question, or would be so sold if it were mature or if its manufacture, preparation or construction were complete ; or
  - (b) materials such as are used in the manufacture, preparation or construction of any such property as is referred to in paragraph (a) above,
- and includes work in progress.
- (2) Sub-paragraph (1) above does not apply to—
- (a) securities, which for this purpose includes stocks and shares; or
  - (b) land, other than such as is ordinarily sold in the course of the trade, profession or vocation only—
    - (i) after being developed by the person carrying on the trade, profession or vocation, or
    - (ii) in the case of a company which is a member of a group, for the purpose of being developed by another company in that group ; or
  - (c) goods which the person carrying on the trade, profession or vocation has let on hire or hire-purchase.
- (3) In sub-paragraph (2) above, references to development are references to the construction or substantial reconstruction of buildings on the land in question and "group" shall be construed in accordance with section 272 of the Taxes Act.
- (4) For the purposes of this Schedule the value of a person's trading stock at any time shall be reduced to the extent to which payments on account have been made at or before that time in respect of that stock.
- (5) References in this Schedule to trading stock are to the trading stock brought into account in computing the profits or gains of a trade, profession or vocation in accordance with Case I or, as the case may be, Case II of Schedule D.
- (6) Where a person not resident in the United Kingdom carries on a trade partly within the United Kingdom and partly abroad, references in this Schedule to his trading stock are to the stock attributable to that part of the trade within the charge to United Kingdom tax.
- 30 In this Schedule " work in progress " means—
- (a) any services performed in the ordinary course of the trade, profession or vocation, the performance of which was partly completed at the material time and for which it would be reasonable to expect that a charge will subsequently be made; and
  - (b) any article produced, and any such material as is used, in the performance of any such services.
- 31 (1) In this Schedule " relevant income" in relation to a person carrying on a trade, profession or vocation, means the income from that trade, profession or vocation computed in accordance with the rules applicable to Case I or, as the case may be, Case II of Schedule D.
- (2) In computing, for the purposes of this Schedule, the relevant income for any period of account—
- (a) no account shall be taken of any set-off or reduction of income by virtue of section 168, 171, 174, 177 or 178 of the Taxes Act, in respect of losses ;



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- (b) no deduction or addition shall be made by virtue of any provision of this Schedule, in respect of any relief or charge; and
- (c) no account shall be taken of any reduction in the value of trading stock directed by section 18 of the Finance Act 1975 or Schedule 10 to the Finance (No. 2) Act 1975

but there shall be taken into account any deduction or addition in respect of capital allowances and balancing charges referable to that period of account.

- (3) In a case falling within Part I of this Schedule, the capital allowances and balancing charges referable to a period of account are—
  - (a) the first year and initial allowances claimed for expenditure incurred in that period ;
  - (b) balancing allowances and charges on disposals in that period ; and
  - (c) the appropriate fraction of the writing down allowances for the year which in relation to that period of account is the relevant year of assessment for the purposes of the said Part I.
- (4) The appropriate fraction mentioned in sub-paragraph (3)(c) is the fraction of which the denominator is the number of months during which the trade was carried on in the relevant year of assessment and the numerator is the number of months during which the trade was carried on in the period of account.

For the purposes of this sub-paragraph fractions of a month shall be disregarded.

- (5) In a case falling within Part II of this Schedule the capital allowances referable to a period of account are the allowances (less any balancing charges) for the accounting period or periods constituting that period of account.
- (6) In a case falling within Part III of this Schedule the relevant income for the base period there referred to is the aggregate amount of the relevant income for each of the periods of account comprising that period, and the capital allowances and balancing charges referable to each such period of account shall be ascertained as if those periods were periods to which Part I or, as the case may be, Part II of this Schedule applied.

32 Any reference in this Schedule to a period ending in another period includes a reference to a period ending on the same day as the other period.