

Finance Act, 1959

18 of 1959

[27 July 1959]

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AN ACT TO CHARGE AND IMPOSE CERTAIN DUTIES OF CUSTOMS AND INLAND REVENUE (INCLUDING EXCISE), TO AMEND THE LAW RELATING TO CUSTOMS AND INLAND REVENUE (INCLUDING EXCISE) AND TO MAKE FURTHER PROVISIONS IN CONNECTION WITH FINANCE. BE IT ENACTED BY THE OIREACTHAS AS FOLLOWS:-

PART 1 Income Tax

1. Income Tax And Sur-Tax For The Year 1959-60 :-

(1) Income tax shall be charged for the year beginning on the 6th day of April, 1959, at the rate of seven shillings in the pound.

(2) Section 4 of Finance Act, 1952, is hereby amended by the substitution in both subsection (1) and subsection (2) of "eleven twenty-eighths" for "two-fifths" and "eleven-fourteenths" for "four-fifths".

(3) Sur-tax for the year beginning on the 6th day of April, 1959, shall be charged in respect of the income of any individual the total of which from all sources exceeds two thousand pounds and shall be so charged at the following rates, that is to say:

In respect of the first two thousand pounds of the income Nil

In respect of the excess over two thousand pounds,

for every pound of the first one thousand pounds of the excess One shilling and sixpence.

for every pound of the next one thousand pounds of the excess Three shillings.

for every pound of the next one thousand pounds of the excess Four shillings.

for every pound of the next one thousand pounds of the excess Five shillings.

for every pound of the next two thousand pounds of the excess Six

shillings.

for every pound of the next two thousand pounds of the excess
Seven shillings and sixpence.

for every pound of the next ten thousand pounds of the excess
Eight shillings.

for every pound of the remainder of the excess Eight shillings and
sixpence.

(4) The several statutory and other provisions which were in force on the 5th day of April, 1959, in relation to income tax and sur-tax and any such provisions which came into operation on the 6th day of April, 1959, in relation thereto shall, subject to the provisions of this Act, have effect in relation to the income tax and sur-tax to be charged as aforesaid for the year beginning on the 6th day of April, 1959.

2. Sur-Tax For The Year 1958-59 :-

(1) Notwithstanding anything to the contrary contained in Section 1 of Finance Act, 1958 , sur-tax for the year beginning on the 6th day of April, 1958, shall not be charged in respect of the income of any individual the total of which from all sources does not exceed two thousand pounds and, in respect of the income of any individual the total of which from all sources exceeds two thousand pounds, sur-tax for the year beginning on the 6th day of April, 1958, shall be charged at the following rates, that is to say:-

In respect of the first two thousand pounds of the income Nil

In respect of the excess over two thousand pounds,

for every pound of the first one thousand pounds of the excess One
shilling and sixpence.

for every pound of the next one thousand pounds of the excess
Three shillings.

for every pound of the next one thousand pounds of the excess
Four shillings.

for every pound of the next one thousand pounds of the excess
Five shillings.

for every pound of the next two thousand pounds of the excess Six
shillings.

for every pound of the next two thousand pounds of the excess
Seven shillings and sixpence.

for every pound of the next ten thousand pounds of the excess
Eight shillings.

for every pound of the remainder of the excess Eight shillings and

sixpence.

(2) Section 3 of Finance Act, 1928 , shall, in relation to the sur-tax for the year beginning on the 6th day of April, 1958, have effect subject to the provisions of this section.

3. Deduction In Charging Sur-Tax :-

(1) For the purpose of charging sur-tax for the year of assessment beginning on the 6th day of April, 1958, or for any subsequent year of assessment, there shall be deducted from the total income of an individual an amount equal to the deductions which, in ascertaining the amount of the income on which he is to be charged to income tax for that year of assessment, he is entitled to be allowed under the following provisions:

(a) subsection (1) of section 18 of the Finance Act, 1920,

(b) sections 19 to 22 of the Finance Act, 1920, and

(c) subsection (2) of section 2 of Finance Act, 1954 . (2) Where an individual not resident in the State is entitled to a deduction for any year under this section, the deduction shall be reduced in the proportion in which subsection (2) of section 8 of Finance Act, 1935 , reduces any relief given him for that year under the provisions specified in paragraphs (a), (b) and (c) of subsection (1) of this section.

8 & 9 Geo. 5, c. 40.

(3) In the case of a husband and wife who are for any year of assessment separately assessed to tax by virtue of an application under Rule 17 of the General Rules or under section 8 of the Income Tax Act, 1918, the following provisions shall apply in relation to any deduction to be made under subsection (1) of this section for that year:

(a) whether or not they are separately assessed to sur-tax, the deduction to be made from their total income shall be the same as if there were no separate assessment;

(b) where they are separately assessed to sur-tax, the resulting relief from sur-tax shall be divided between them by treating their respective incomes as reduced as follows:

(i) the amount (if any) included in the deduction in respect of relief under subsection (2) of section 21 or under section 22 of the Finance Act, 1920, shall be treated as reducing the income of the husband or the wife according as he or she maintains the child, relative, son or daughter, in respect of whom that relief is given,

(ii) subject to the foregoing subparagraph, the deduction shall be

treated as reducing their respective incomes rateably, but so that, if the amount by which the income of either falls to be reduced under subparagraphs (i) and (ii) of this paragraph exceeds the amount of that income, the income of the other shall be treated as reduced by the amount of the excess.

4. Amendment Of Section 21 Of Finance Act, 1920 :-

Section 21 of the Finance Act, 1920, is hereby amended by the insertion after subsection (2) of the following subsection:-

"(2A) The references in the preceding provisions of this section to a child receiving full-time instruction at an educational establishment shall include references to a child undergoing training by any person (hereafter in this subsection referred to as the employer) for any trade, profession or vocation in such circumstances that the child is required to devote the whole of his time to the training for a period of not less than two years.

For the purpose of a claim in respect of a child undergoing training the inspector of taxes may require the employer to furnish particulars with respect to the training of the child in such form as may be prescribed by the Revenue Commissioners."

5. Covenanted Subscriptions For Teaching Of Natural Sciences :-

(1) Section 20 of the Finance Act, 1922, shall have effect as if references to income payable-

12 & 13 Geo. 5, c. 17.

(a) to any university, college or school, being a university, college or school in the State for the purpose of assisting such university, college or school to teach the natural sciences or any of them, or

(b) to a fund, being a fund within the meaning of this section, were included in the reference, occurring in section 20 of the Finance Act, 1922, by virtue of the insertion in paragraph (b) of subsection (1) thereof, by section 3 of Finance Act, 1957, of subparagraph (ia), to income payable to any university or college, being a university or college in the State, for the purpose of enabling such university or college to carry on research.

(2) For the purposes of this section "fund" means a fund-

(i) held upon irrevocable trusts under the law of the State,

(ii) administered in the State, and

(iii) having for its sole purpose the granting of financial or other aid to universities, colleges or schools in the State in order to assist

such universities, colleges or schools to teach the natural sciences or any of them.

6. Purchases And Sale Of Securities: Application Of sections 7 To 9 :-

(1) Subject as hereinafter provided, the three next following sections relate to cases of a purchase by a person (in those sections referred to as the first buyer) after the 22nd day of April, 1959, of any securities and their subsequent sale by him, the result of the transaction being that interest becoming payable in respect of the securities (in those sections referred to as the interest) is receivable by the first buyer.

(2) The said sections do not relate to cases where-

(a) the time elapsing between the purchase by the first buyer and his taking steps to dispose of the securities exceeded six months, or

(b) that time exceeded one month and, in the opinion of the Revenue Commissioners, the purchase and sale were each effected at the current market price and the sale was not effected in pursuance of an agreement or arrangement made before or at the time of the purchase.

(3) An appeal shall lie to the Special Commissioners with respect to any opinion of the Revenue Commissioners under paragraph (b) of subsection (2) of this section in like manner as an appeal would lie against an assessment to income tax, and the provisions of the Income Tax Acts relating to appeals shall apply and have effect accordingly.

(4) The reference in subsection (2) of this section to the first buyer taking steps to dispose of the securities shall be construed-

(a) if he sold them in the exercise of an option he had acquired, as a reference to his acquisition of the option,

(b) in any other case, as a reference to his selling them.

(5) For the purposes of this and the three next following sections a sale of securities similar to, and of the like nominal amount as, securities previously bought (hereinafter referred to as the original securities) shall be equivalent to a sale of the original securities, and subsection (4) of this section shall apply accordingly; and where the first buyer bought parcels of similar securities at different times, a subsequent sale of any of the securities shall so far as may be related to the last to be bought of the parcels, and then to the last but one, and so on:

Provided that a person shall be under no greater liability to tax by virtue of this subsection than he would have been under if instead of selling the similar securities he had sold the original securities.

(6) Where, at the time when a trade is, or is deemed to be, set up and commenced, any securities form part of the trading stock belonging to the trade, those securities shall be treated for the purposes of this section as having been sold at that time in the open market by the person to whom they belonged immediately before that time and as having been purchased at that time in the open market by the person thereafter engaged in carrying on the trade; and subject to the foregoing provisions of this subsection, where there is a change in the persons engaged in carrying on a trade which is not a change on which the trade is deemed to be discontinued, the provisions of this section shall apply in relation to the person so engaged after the change as if anything done to or by his predecessor had been done to or by him.

(7) For the purposes of this and the three next following sections-

(a) "interest" includes a dividend;

(b) "person" includes any body of persons, and references to a person entitled to any exemption from income tax include, in a case of an exemption expressed to apply to income of a trust or fund, references to the persons entitled to make claims for the granting of that exemption;

(c) "securities" includes stocks and shares;

(d) securities shall be deemed to be similar if they entitle their holders to the same rights against the same persons as to capital and interest and the same remedies for the enforcement of those rights, notwithstanding any difference in the total nominal amounts of the respective securities or in the form in which they are held or the manner in which they can be transferred.

7. Purchase And Sale Of Securities: Dealers In Securities :-

(1) Subject to the provisions of this section, if the first buyer is engaged in carrying on a trade which consists of or comprises dealings in securities, then, in computing for any of the purposes of the Income Tax Acts the profits arising from or loss sustained in the trade, the price paid by him for the securities shall be reduced by the appropriate amount in respect of the interest, as determined in accordance with the First Schedule to this Act. (2) Where, in the opinion of the Revenue Commissioners, the first buyer is bona fide carrying on the business of a discount house in the State, or where

the first buyer is a member of a stock exchange in the State who is recognised by the committee of that stock exchange as carrying on the business of a dealer, subsection (1) of this section shall not have effect in relation to securities bought in the ordinary course of his said business.

(3) Subsection (1) of this section shall not apply if the interest is to any extent required to be brought into account under section 51 of Finance Act, 1958, as if it were a trading receipt which had not borne tax or would to any extent be so required to be brought into account but for the provisions of paragraph 2 of the Third Schedule to that Act.

8. Purchase And Sale Of Securities: Persons Entitled To Exemptions :-

(1) If the first buyer is entitled under any enactment to an exemption from income tax which, apart from this subsection, would extend to the interest, then, subject to the provisions of this section, the exemption shall not extend to an amount equal to the appropriate amount in respect of the interest, as determined in accordance with the First Schedule to this Act: Provided that if the first buyer is entitled as aforesaid and any annual payment is payable by him out of the interest, the annual payment shall be deemed as to the whole thereof to be paid out of profits or gains not brought into charge to tax, and Rule 21 of the General Rules shall apply accordingly.

(2) This section shall not apply where the exemption arises from the residence of the first buyer in Great Britain or Northern Ireland.

9. Purchase And Sale Of Securities: Traders Other Than Dealers In Securities :-

(1) If the first buyer carries on a trade not falling within section 7 of this Act, then, in ascertaining whether any, and, if so, what, repayment of tax is to be made to him under section 34 of the Income Tax Act, 1918, by reference to any loss sustained in the trade and the aggregate amount of his income for the year of assessment his income for which includes the interest, there shall be left out of account-

(a) the appropriate amount in respect of the interest, as determined in accordance with the First Schedule to this Act, and
(b) any tax paid on that amount.

(2) Where the first buyer is a company and carries on a trade not

falling within section 7 of this Act or a business consisting mainly in the making of investments then, if any annual payment payable by the company is to any extent payable out of the interest, that annual payment shall be deemed to that extent not to be payable out of profits or gains brought into charge to tax, and Rule 21 of the General Rules shall apply accordingly.

(3) In subparagraph (3) of paragraph 5 of the Third Schedule to Finance Act, 1958 , "and" shall be deleted at the end of clause (c), and after clause (d) there shall be inserted the following:

"and

(e) if the company is not engaged as aforesaid, but were it so engaged any reduction under section 7 of the Finance Act, 1959, would, or would but for subsection (3) of that section, fall to be made as respects the price paid by the company for securities (within the meaning of that section) bought by it in a year of assessment in the period, such amount as would, after deduction of income tax at the rate applicable to the payment, be equal to the amount of the reduction, so however that where the securities are of the description specified in paragraph 4 of the First Schedule to that Act the amount shall be the amount of the reduction,"

and in subparagraph (3) of paragraph 4 of that Schedule after "clause (d)" there shall be inserted "or (e) ".

(4) In this section "company" includes any body corporate.

10. Confirmation Of Agreement On Double Taxation :-

The agreement, set forth in the Second Schedule to this Act, made on the 4th day of April, 1959, between the Government and the United Kingdom Government relating to the agreement set out in Part I of the First Schedule to Finance Act, 1926 (as amended by the agreements set out in the First Schedule to Finance Act, 1928 , and the First Schedule to Finance Act, 1948), is hereby confirmed and, subject to confirmation by the United Kingdom Parliament, shall have effect accordingly.

PART 2 Customs And Excise

11. Tobacco :-

(1) The duty of customs on tobacco imposed by section 20 of Finance Act, 1932 , shall, as on and from the 1st day of May, 1959, be charged, levied and paid as respects unmanufactured tobacco at the several rates specified in Part I of the Third Schedule to this Act

in lieu of the several rates at which the said duty is now chargeable on unmanufactured tobacco by virtue of section 7 of Finance Act, 1957 . (2) The duty of excise on tobacco imposed by section 19 of the Finance Act, 1934 , shall, as on and from the 1st day of May, 1959, be charged, levied and paid as respects unmanufactured tobacco at the several rates specified in Part II of the Third Schedule to this Act in lieu of the several rates at which the said duty is now chargeable on unmanufactured tobacco by virtue of section 7 of Finance Act, 1957 . (3) As respects unmanufactured tobacco which, apart from this subsection, would be entitled by virtue of subsection (7) of section 7 of Finance Act, 1957 , to the preferential rates of customs duties specified in Part HI of the Schedule to that Act, the duty of customs chargeable thereon on delivery from bonded warehouse shall, as on and from the 1st day of May, 1959, be charged, levied and paid at the rates for unmanufactured tobacco specified in Part III of the Third Schedule to this Act. (4) As respects unmanufactured tobacco delivered from a bonded warehouse to a licensed manufacturer of tobacco on or after the 1st day of May, 1959, the Revenue Commissioners may, subject to compliance by the manufacturer with such conditions for securing payment of the duty as they may think fit to impose, permit the manufacturer to defer payment of the duty charged on the tobacco to a day not later than-

(a) in case the tobacco is so delivered in the month of March in any year, the last day of that month, or

(b) in any other case, the last day of the month succeeding the month in which the tobacco is so delivered.

(5) As respects unmanufactured tobacco delivered from a bonded warehouse to a licensed manufacturer of tobacco on or after the 1st day of May, 1959, in relation to which there is no deferment of payment of duty pursuant to subsection (4) of this section, the manufacturer shall be entitled to receive a rebate of duty of two pence and one half-penny in respect of every pound of the tobacco.

12. Section 12 :-

Section 12 of Finance Act, 1932 , is hereby amended by the deletion of "and are not obtainable or likely to be obtainable in Saorstát Éireann" and by the insertion of "and the said Minister for Finance, after such consultation as aforesaid, so thinks proper" before "the Revenue Commissioners may".

13. Exemptions From Entertainments Duty :-

(1) In this section "entertainments duty" means the excise duty referred to by that name in and chargeable under section 1 of the Finance (New Duties) Act, 1916, as amended by subsequent enactments.

(2) On and after the 16th day of April, 1959, entertainments duty shall not be charged or levied on payments for admission to any entertainment which consists solely of one or more greyhound races.

(3) During the period beginning on the 16th day of April, 1959, and ending on the 31st day of July, 1959, entertainments duty shall not be charged or levied on payments for admission to any entertainment which consists solely of an exhibition of the sport of boxing.

(4) On and after the 1st day of August, 1959, entertainments duty shall not be charged or levied on payments for admission to any entertainment which consists solely of an exhibition of any game or sport which is played or contested by two or more persons or by two or more groups of persons.

14. Entertainments Duty-Ball Or Dance Proceeds Of Which Are For Educational, Philanthropic Or Charitable Purposes :-

Subsection (4) of section 10 of Finance Act, 1943 , shall, as respects any entertainment which is a ball or dance held on or after the 1st day of August, 1959, have effect as if "sixty per cent." were substituted for "fifty per cent."

15. Entertainments Duty-Rates In The Case Of Ball Or Dance :-

On and after the 1st day of August, 1959, subsection (2) of section 15 of Finance Act, 1956 , shall have effect as if- (a) for the rates specified in paragraph (i) thereof there were substituted the following rates:

Rate of Duty.

Where the payment for admission, excluding duty-exceeds 2s. 6d. but does not exceed 2s. 10d. 1d.

" 2s. 10d " " " " 3s. 3d. 3d.

" 3s. 3d. " " " " 3s. 5d. 3d.

" 3s. 5d. " " " " 3s. 8d. 4d.

" 3s. 8d. " " " " 4s. 7d. 5d.

" 4s. 7d. 5d. for the first 4s. 7d. and for every additional 1s. or part

of 1s.

(b) for the rates specified in paragraph (ii) thereof there were substituted the following rates:

Rate of Duty.

Where the payment for admission, excluding duty- exceeds 2s. 6d. but does not exceed 2s. 9d. 3d.

" 2s. 9d. " " " " 3s. 0d. 6d.

" 3s. 0d. " " " " 3s. 2d. 7d.

" 3s. 2d. " " " " 3s. 4d. 8d.

" 3s. 4d. " " " " 4s. 2d. 10d.

" 4s. 2d. 10d. for the first 4s. 2d. and 3d. for every additional 1s. or part of 1s.

16. Entertainments Duty- Amendment Of Section 10 (4) (C) Of Finance Act, 1948 :-

Paragraph (c) of subsection (4) of section 10 of Finance Act, 1948 , shall, as respects entertainments held on or after the 1st day of August, 1959, have effect as if "seventy-five per cent."were substituted for "fifty per cent."

17. Entertainments Duty-Rates In The Case Or Cinematographic Exhibitions :-

On and after the 1st day of August, 1959, section 10 of Finance Act, 1948 , shall have effect as if, for the rates specified in subsection (3) thereof, there were substituted the following rates:

Rate of Duty.

Where the payment for admission, excluding duty- exceeds 8d. but does not exceed 8d. d.

" 8d. " " " " 9d. 1d.

" 9d. " " " " 9d. 1d.

" 9d. " " " " 11d. 2d.

" 11d. " " " " 1s. 0d. 3d.

" 1s. 0d. " " " " 1s. 2d. 5d.

" 1s. 2d. " " " " 1s. 3d. 6d.

" 1s. 3d. " " " " 1s. 5d. 7d.

" 1s. 5d. " " " " 1s. 7d. 9d.

" 1s. 7d. " " " " 1s. 8d. 10d.

" 1s. 8d. " " " " 1s. 10d. 11d.

" 1s. 10d. " " " " 1s. 11d. 1s. 1d.

" 1s. 11d. 1s. 1d. for the first 1s. 11d. and . for every additional d. or part of d.

18. Entertainments Duty-Rural Areas :-

Subsections (5) and (6) of section 16 of Finance Act, 1954 , shall have effect as if in each subsection "four years" were substituted for "two years".

19. Hydrocarbon Oils.-Miscellaneous Provisions :-

(1) Subject to compliance with such conditions as the Revenue Commissioners may think fit to impose, the duty of customs imposed by section 1 of Finance (Customs Duties) (No. 4) Act, 1931 , or the duty of customs imposed by section 21 of Finance Act, 1935 , shall not be charged or levied on any hydrocarbon oil removed on importation, or delivered from bonded warehouse, to the premises of a refiner of hydrocarbon oil for the purpose of undergoing a process of manufacture therein.

(2) Subject to compliance with such conditions as the Revenue Commissioners may think fit to impose, any hydrocarbon oil liable to a duty of excise may be removed for exportation, or for shipment as stores, from the premises of the manufacturer thereof without payment of duty.

(3) Whenever the Minister for Finance, after consultation with the Minister for Industry and Commerce, so thinks proper, the Revenue Commissioners may, subject to compliance with such conditions as they may think fit to impose, repay to any particular person any duty charged and levied under section 1 of Finance (Miscellaneous Provisions) Act, 1935 , and paid on any particular articles on delivery from the premises of a refiner of hydrocarbon oil or from bonded warehouse.

(4) Whenever the Minister for Finance, after consultation with the Minister for Industry and Commerce, so thinks proper, the Revenue Commissioners may, subject to compliance with such conditions as they may think fit to impose, authorise any person to take delivery from the premises of a refiner of hydrocarbon oil or from a bonded warehouse of any of the articles chargeable with the duty imposed by section 1 of Finance (Miscellaneous Provisions) Act, 1935 , without payment of that duty.

(5) (a) Whenever the Revenue Commissioners are satisfied that any hydrocarbon oil, other than lubricating oil, on which either the duty of customs or the duty of excise imposed by section 21 of Finance Act, 1935 , has been paid has been used in, or in connection with, the production of goods for export but has not been used for combustion in the engine of a

mechanically propelled vehicle, the Revenue Commissioners may, subject to compliance with such conditions as they may think fit to impose, repay to the person who produced the goods for export any such duty paid on the oil, less any rebate thereof allowed under the said section 21.

(b) In this section "production" includes any industrial process or operation.

(6) Whenever the Revenue Commissioners are satisfied that any hydrocarbon oil chargeable with the duty of excise imposed by section 21 of Finance Act, 1935, is intended for the purpose of undergoing a process of manufacture, or for the purpose of being incorporated with other substances as an ingredient of a manufactured product, the Revenue Commissioners may, subject to compliance with such conditions as they may think fit to impose, permit the oil to be delivered from the premises of a refiner of hydrocarbon oil or from a bonded warehouse without payment of that duty.

20. Confirmation Of Order :-

The Imposition of Duties (No.60) (Special Import Levies and Miscellaneous Customs Duties) Order, 1959 (SI. No. 63 of 1959), is hereby confirmed.

PART 3 Corporation Profits Tax

21. Continuance Of Certain Exemptions From Corporation Profits Tax :-

The exemptions from corporation profits tax specified in subsection (1) of section 33 of Finance Act, 1929, shall be given in respect of the period beginning on the 1st day of January, 1959, and ending on the 31st day of December, 1961.

PART 4 Purchased Life Annuities: Income Tax and Sur-tax

22. Capital Element In Certain Purchased Annuities :-

(1) A purchased life annuity (not being of a description excepted by subsection (8) of this section) shall, for the purposes of the provisions of the Income Tax Acts relating to tax on annuities and other annual payments, be treated as containing a capital element and, to the extent of the capital element, as not being an annual payment or in the nature of an annual payment; but the capital

element in such an annuity shall be taken into account in computing profits or gains or losses for other purposes of those Acts in any circumstances in which a lump sum payment would be taken into account.

(2) In the case of any purchased life annuity to which this section applies-

(a) the capital element shall be determined by reference to the amount or value of the payments made or other consideration given for the grant of the annuity,

(b) the proportion which the capital element in any annuity payment bears to the total amount of that payment shall be constant for all payments on account of the annuity,

(c) where neither the term of the annuity nor the amount of any annuity payment depends on any contingency other than the duration of a human life or lives, that proportion shall be the same proportion which the total amount or value of the consideration for the grant of the annuity bears to the actuarial value of the annuity payments as determined in accordance with subsection (3) of this section, and

(d) where paragraph (c) of this subsection does not apply, the said proportion shall be such as may be just, having regard to that paragraph and to the contingencies affecting the annuity.

(3) For the purposes of subsection (2) of this section-

(a) any entire consideration given for the grant of an annuity and for some other matter shall be apportioned as appears just (but so that a right to a return of premiums or other consideration for an annuity shall not be treated for this purpose as a distinct matter from the annuity),

(b) where it appears that the amount or value of the consideration purporting to be given for the grant of an annuity has affected, or has been affected by, the consideration given for some other matter, the aggregate amount or value of those considerations shall be treated as one entire consideration given for both and shall be apportioned under paragraph (a) of this subsection accordingly, and

(c) the actuarial value of any annuity payments shall be taken to be their value as at the date when the first of those payments begins to accrue, that value being determined by reference to the prescribed tables of mortality and without discounting any payment for the time to elapse between that date and the date it is to be made.

(4) Where a person making a payment on account of any life

annuity has been notified in the prescribed manner of any decision as to its being or not being a purchased life annuity to which this section applies or as to the amount of the capital element (if any), and has not been notified of any alteration of that decision, the notice shall be conclusive as to those matters for the purpose of determining the amount of tax which he is entitled or required to deduct from the payment, or for which he is liable in respect of it.

(5) Where a person making a payment on account of a purchased life annuity to which this section applies has not been notified in the prescribed manner of the amount of the capital element, the amount of tax which he is entitled or required to deduct from the payment, or for which he is liable in respect of it, shall be the same as if the annuity were not a purchased life annuity to which this section applies.

(6) Any person carrying on a business of granting annuities on human life shall be entitled to repayment of any tax borne by him by deduction or otherwise for any year of assessment up to the amount of tax which, if this section had not been passed, he would have been entitled to deduct and retain on making payments due in that year of assessment on account of life annuities and which in accordance with this section he has not deducted.

(7) For the purposes of this section, "life annuity" means an annuity payable for a term ending with (or at a time ascertainable only by reference to) the end of a human life, whether or not there is provision for the annuity to end during the life on the expiration of a fixed term or on the happening of any event or otherwise, or to continue after the end of the life in particular circumstances, and "purchased life annuity" means a life annuity granted for consideration in money or moneys worth in the ordinary course of a business of granting annuities on human life.

(8) This section shall not apply-

(a) to any annuity which would, apart from this section, be treated for the purposes of the provisions of the Income Tax Acts relating to tax on annuities and other annual payments as consisting to any extent in the payment or repayment of a capital sum,

8 & 9 Geo. 5, c. 40.

(b) to any annuity where the whole or part of the consideration for the grant of the annuity consisted of sums satisfying the conditions for relief from tax under section 41 of Finance Act, 1958 , or section 32 of the Income Tax Act, 1918,

(c) to any annuity purchased in pursuance of any direction in a will, or to provide for an annuity payable by virtue of a will or

settlement out of income of property disposed of by the will or settlement (whether with or without resort to capital), or

(d) to any annuity purchased under or for the purposes of any sponsored superannuation scheme as defined in subsection (10) of section 40 of Finance Act, 1958 , or any scheme approved under that section, or in pursuance of any obligation imposed, or offer or invitation made, under or in connection with any such scheme, or to any other annuity purchased by any person in recognition of another's services (or past services) in any office or employment.

(9) As respects tax for the year beginning on the 6th day of April, 1959, and subsequent years of assessment, this section shall extend to life annuities whenever purchased or commencing (and the references to section 32 of the Income Tax Act, 1918, and section 41 of Finance Act, 1958 , shall be construed accordingly); but for the purpose of subsections (4) and (5) of this section any notice given before the 6th day of October, 1959, of a decision as to an annuity being or not being a purchased life annuity to which this section applies or as to the amount of the capital element (if any), shall be treated as given on that day.

23. Supplementary Provisions For part IV :-

(1) Any question whether an annuity is a purchased life annuity to which section 22 of this Act applies, or what is the capital element in such an annuity, shall be determined by the inspector of taxes, but any person aggrieved by any decision of the said inspector on any such question may appeal within the prescribed time to the Special Commissioners.

(2) Save as otherwise provided in this Part of this Act, the procedure to be adopted in giving effect thereto shall be such as may be prescribed.

(3) The Revenue Commissioners may make regulations for prescribing anything which is to be prescribed under this Part of this Act; and the regulations may apply for the purposes of this Part of this Act or of the regulations any provision of the Income Tax Acts (with or without modifications), and in particular the provisions relating to the rehearing of an appeal and the statement of a case for the opinion of the High Court on a point of law.

(4) Regulations under subsection (3) of this section may in particular make provision as to the time limit for making any claim for relief from or repayment of tax under this Part of this Act and as to all or any of the following matters:

(a) the information to be given in connection with the determination of any question whether an annuity is a purchased life annuity to which section 22 of this Act applies, or what is the capital element in an annuity, and the persons who may be required to give any such information;

(b) the manner of giving effect to the decision on any such question, and the making of assessments for the purpose on the person entitled to the annuity notwithstanding anything in Rule 19 of the General Rules;

(c) the extent to which any decision on any such question is to be binding, and the circumstances in which it may be reviewed.

(5) If any person, for the purpose of obtaining for himself or any other person any relief from or repayment of tax under this Part of this Act, knowingly makes any false statement or false representation, he shall be liable to a penalty of five hundred pounds.

PART 5 Relief for certain Capital Expenditure: Income Tax, Sur-tax and Corporation Profits Tax

CHAPTER 1 Industrial Buildings and Structures

24. Interpretation (Chapter I Of Part V) :-

(1) In this Chapter-

"industrial building allowance" means an allowance made under Part IV of Finance (Miscellaneous Provisions) Act, 1956 ; "industrial building or structure" has the same meaning as, by virtue of section 17 of Finance (Miscellaneous Provisions) Act, 1956 , that expression has in Part IV of that Act.

(2) A person who has incurred expenditure on the construction of a building or structure shall be deemed, for the purposes of any provision of this Chapter referring to his interest therein at the time when the expenditure was incurred, to have had the same interest therein as he would have had if the construction thereof had been completed at that time.

(3) Without prejudice to any of the other provisions of this Part of this Act relating to the apportionment of sale, insurance, salvage or compensation moneys, the sum paid on the sale of the relevant interest in a building or structure, or any other sale, insurance, salvage or compensation moneys payable in respect of any building or structure, shall, for the purposes of this Chapter, be deemed to be reduced by an amount equal to so much thereof, as, on a just

apportionment, is attributable to assets representing expenditure other than expenditure in respect of which an allowance can be made under Part IV of Finance (Miscellaneous Provisions) Act, 1956 , or under this Chapter. (4) Section 19 of Finance (Miscellaneous Provisions) Act, 1956 , and subsection (3) of section 73 of this Act shall apply in relation to allowances and charges under this Chapter as they apply in relation to industrial building allowances for years of assessment beginning on or after the 6th day of April, 1959.

25. Annual Allowances (Industrial Buildings Or Structures)

:-

- (1) Subject to the provisions of this Part of this Act, where-
- (a) any person is, at the end of his basis period for any year of assessment, entitled to an interest in a building or structure to which this section applies,
 - (b) at the end of the said basis period, the building or structure is an industrial building or structure, and
 - (c) that interest is the relevant interest in relation to the capital expenditure incurred on the construction of that building or structure,
- an allowance (in this Chapter referred to as an annual allowance) equal to one-fiftieth of that expenditure shall be made to him for that year of assessment.
- (2) A building or structure is one to which this section applies, if, and only if, the capital expenditure incurred on the construction of it has been incurred on or after the 30th day of September, 1956.
- (3) Where, at any time on or after the 15th day of April, 1959, the interest in a building or structure which is the relevant interest in relation to any expenditure is sold while the building or structure is an industrial building or structure, the annual allowance in respect of that expenditure shall, in the case of years of assessment the basis periods for which end after the time of that sale,-
- (a) be computed by reference to the residue (as defined in the provisions of this Chapter relating to the writing off of expenditure) of that expenditure immediately after the sale, and
 - (b) be the fraction of the said residue the numerator of which is one and the denominator of which is the number of years of assessment comprised in the period which-
- (i) begins with the first year of assessment for which the buyer is entitled to an annual allowance in respect of the expenditure or would be so entitled if the building or structure had at all material

times continued to be an industrial building or structure, and
(ii) ends with the fiftieth year of assessment after that in which the building or structure was first used,
and so on for any subsequent sales.

(4) Notwithstanding anything in the preceding provisions of this section-

(a) no annual allowance shall be made for a year of assessment beginning before the commencement of this Part of this Act, and

(b) in no case shall the amount of an annual allowance made to a person for any year of assessment in respect of any expenditure exceed what, apart from the writing off falling to be made by reason of the making of that allowance, would be the residue of that expenditure at the end of his basis period for that year of assessment.

26. Balancing Allowances And Balancing Charges (Industrial Buildings Or Structures) :-

(1) Where any capital expenditure has been incurred, on or after the 30th day of September, 1956, on the construction of a building or structure, and, on or after the 15th day of April, 1959, any of the following events occurs while the building or structure is an industrial building or structure:

(a) the relevant interest in the building or structure is sold,

(b) that interest, being a leasehold interest, comes to an end otherwise than on the person entitled thereto acquiring the interest which is reversionary thereon,

(c) the building or structure is demolished or destroyed, or, without being demolished or destroyed, ceases altogether to be used,
an allowance or charge (in this Chapter referred to as a balancing allowance or a balancing charge) shall, in the circumstances mentioned in this section, be made to, or, as the case may be, on, the person entitled to the relevant interest immediately before that event occurs, for the year of assessment (being a year beginning on or after the commencement of this Part of this Act) in his basis period for which that event occurs:

Provided that no balancing allowance or balancing charge shall be made to or on any person for any year of assessment by reason of any event occurring after the end of his basis period for the fiftieth year of assessment after that in which the building or structure was first used.

(2) Where there are no sale, insurance, salvage or compensation

moneys, or where the residue of the expenditure immediately before the event exceeds those moneys, a balancing allowance shall be made and the amount thereof shall be the amount of the said residue or, as the case may be, of the excess thereof over the said moneys.

(3) If the sale, insurance, salvage or compensation moneys exceed the residue, if any, of the expenditure immediately before the event, a balancing charge shall be made and the amount on which it is made shall be an amount equal to the excess, or, where the residue is nil, to the said moneys.

(4) If, for any of the relevant years of assessment (as defined for the purposes of this subsection) an annual allowance has not been made, subsections (2) and (3) of this section shall have effect subject to the modification that the amount of the balancing allowance, or, as the case may be, the amount on which the balancing charge is to be made, shall be reduced by applying thereto the fraction, the numerator of which is the number of the relevant years of assessment for which an annual allowance has been made in respect of the expenditure and the denominator of which is the total number of the relevant years of assessment.

In this subsection, "the relevant years of assessment" means all years of assessment after that in which the building or structure was first used for any purpose up to and including that in which the event takes place which gives rise to the allowance or charge:

Provided that where, before the said event but on or after the 15th day of April, 1959, the building or structure has been sold while an industrial building or structure, the said expression means all years of assessment for which either-

(a) an annual allowance is made by reason of the building or structure being an industrial building or structure at any time between the sale and the event, or, where there has been more than one such sale, between the last such sale and the event, or

(b) an annual allowance would have fallen to be made if the building or structure had been an industrial building or structure at all times between the sale, or, as the case may be, the last such sale, and the event.

(5) Notwithstanding anything in the preceding provisions of this section, in no case shall the amount on which a balancing charge is made on a person in respect of any expenditure on the construction of a building or structure exceed the amount of the industrial building allowance, if any, made to him in respect of that expenditure together with the amount of any annual allowances

made to him in respect of that expenditure for years of assessment his basis periods for which end on or before the date of the event which gives rise to the charge.

27. Writing Off Of Expenditure And Meaning Of "Residue Of Expenditure" :-

(1) Any expenditure incurred on the construction of any building or structure shall be treated for the purposes of this Chapter to be written off to the extent and as at the times hereafter specified in this section, and references in this Chapter to the residue of any such expenditure shall be construed accordingly.

(2) If an industrial building allowance is made in respect of the expenditure, the amount of that allowance shall be written off as at the time when the building or structure is first used.

(3) If, by reason of the building or structure being at any time an industrial building or structure, an annual allowance is made for any year of assessment in respect of the expenditure, the amount of that allowance shall be written off as at the said time;

Provided that where at the said time an event occurs which gives rise or may give rise to a balancing allowance or balancing charge, the amount directed to be written off by this subsection as at the said time shall be taken into account in computing the residue of that expenditure immediately before that event for the purpose of determining whether any and if so what balancing allowance or balancing charge is to be made.

(4) If, in the case of any year of assessment after that in which the building or structure is first used, no annual allowance falls to be made to any person in respect of the expenditure, then, subject to the provisions of this and the next succeeding subsection, an amount equal to one-fiftieth of the expenditure shall be treated as written off as at the end of the previous year of assessment;

Provided that-

(a) in the case of a year of assessment beginning on or after the commencement of this Part of this Act, this subsection shall not apply for any purpose if the building or structure was an industrial building or structure on the day preceding the beginning of the year of assessment, and

(b) where this subsection does apply in the case of a year of assessment beginning as aforesaid, the amount to be written off shall, if the building or structure has been sold on or after the 15th day of April, 1959, while an industrial building or structure, be the

amount which would have fallen to be written off if-

(i) the building or structure had been an industrial building or structure in use on the said preceding day for the purposes of a trade carried on by a person entitled to the relevant interest in the building or structure,

(ii) the basis period of that person for the year of assessment had ended on the said preceding day, and

(iii) an annual allowance had been made to him for the year of assessment accordingly.

(5) If, on the occasion of a sale, a balancing allowance is made in respect of the expenditure, there shall be written off as at the time of the sale the amount by which the residue of the expenditure before the sale exceeds the net proceeds of the sale.

(6) If, on the occasion of a sale, a balancing charge is made in respect of the expenditure, the residue of the expenditure shall be deemed for the purposes of this Chapter to be increased as at the time of the sale by the amount on which the charge is made.

28. Manner Of Making Allowances And Charges (Industrial Buildings Or Structures) :-

(1) Except in the cases mentioned in the following provisions of this section, any allowance or charge made to or on a person under the preceding provisions of this Chapter shall be made to or on him in charging the profits or gains of his trade.

(2) An annual allowance shall be made to a person for a year of assessment by way of discharge or repayment of tax if his interest is subject to any lease at the end of his basis period for that year of assessment.

(3) A balancing allowance shall be made to a person by way of discharge or repayment of tax if his interest is subject to any lease immediately before the event giving rise to the allowance.

(4) A balancing charge shall be made on a person under Case VI of Schedule D if his interest is subject to any lease immediately before the event giving rise to the charge.

(5) Any allowance which, under the preceding provisions of this section, is to be made by way of discharge or repayment of tax shall be available primarily against the following income:

(a) income charged to tax under Schedule A in respect of any premises which at any time in the year consist of or include an industrial building or structure,

(b) income charged to tax under Case III of Schedule D in respect

of any rent payable for any such premises as aforesaid, or
(c) income which is the subject of a balancing charge under this Chapter.

29. Meaning Of "The Relevant Interest" :-

(1) Subject to the provisions of this section, in this Chapter "the relevant interest" means, in relation to any expenditure incurred on the construction of a building or structure, the interest in that building or structure to which the person who incurred the expenditure was entitled when he incurred it.

(2) Where, when he incurs expenditure on the construction of a building or structure, a person is entitled to two or more interests in the building or structure, and one of those interests is an interest which is reversionary on all the others, that interest shall be the relevant interest for the purposes of this Chapter.

(3) An interest shall not cease to be the relevant interest for the purposes of this Chapter by reason of the creation of any lease or other interest to which that interest is subject, and where the relevant interest is a leasehold interest and is extinguished by reason of the surrender thereof, or on the person entitled thereto acquiring the interest which is reversionary thereon, the interest into which that leasehold interest merges shall thereupon become the relevant interest.

30. Special Provisions In Regard To Leases :-

(1) Where, with the consent of the lessor, a lessee of any building or structure remains in possession thereof after the termination of the lease without a new lease being granted to him, that lease shall be deemed for the purposes of this Chapter to continue so long as he remains in possession as aforesaid.

(2) Where, on the termination of a lease, a new lease is granted to the lessee consequent upon his being entitled by statute to a new lease or in pursuance of an option available to him under the terms of the first lease, the provisions of this Chapter shall have effect as if the second lease were a continuation of the first lease.

(3) Where, on the termination of a lease, the lessor pays any sum to the lessee in respect of a building or structure comprised in the lease, the provisions of this Chapter shall have effect as if the lease had come to an end by reason of the surrender thereof in consideration of the payment.

31. Temporary Disuse Of Industrial Buildings Of Structures

:-

(1) For the purpose of this Chapter, a building or structure shall not be deemed to cease altogether to be used by reason that it falls temporarily out of use on or after the 15th day of April, 1959, and where, immediately before any period of temporary disuse beginning on or after that day, a building or structure is an industrial building or structure, it shall be deemed to continue to be an industrial building or structure during the period of temporary disuse.

(2) Notwithstanding any other provision of this Part of this Act as to the manner of making allowances and charges, where by reason of the provisions of subsection (1) of this section a building or structure is deemed to continue to be an industrial building or structure while temporarily out of use, then, if-

(a) upon the last occasion upon which the building or structure was in use as an industrial building or structure, it was in use for the purposes of a trade which has since been permanently discontinued, or

(b) upon the last occasion upon which the building or structure was in use as an industrial building or structure, the relevant interest therein was subject to a lease which has since come to an end, any annual allowance or balancing allowance falling to be made to any person in respect of the building or structure during any period for which the temporary disuse continues after the discontinuance of the trade or the coming to an end of the lease shall be made by way of discharge or repayment of tax, and any balancing charge falling to be made on any person in respect of the building or structure during that period shall be made under Case VI of Schedule D.

(3) The reference in this section to the permanent discontinuance of a trade does not include a reference to the happening of any event which, by virtue of any provisions in Rule 11 of the Rules applicable to Cases I and II of Schedule D, is to be treated as equivalent to the discontinuance of the trade.

32. Amendment Of Repairs Allowance :-

(1) Subsection (1) of section 2 of the Finance Act, 1934, is hereby amended by the deletion of "mills, factories, or other similar premises" and the substitution therefor of "industrial buildings or

structures within the meaning of section 17 of Finance (Miscellaneous Provisions) Act, 1956, as amended by section 73 of the Finance Act, 1959, and, in relation to any such industrial building or structure, the said Rules 7 and 8 shall have effect as if one-third were substituted for one-sixth wherever it appears in the said rules".

(2) Rule 5 of the Rules applicable to Cases I and II of Schedule D is hereby amended by the deletion of the proviso to paragraph (2) and the insertion, after the said paragraph (2), of the following paragraph:

"(3) (a) Paragraph (2) of this rule shall not apply in the case of any premises which-

(i) is an industrial building or structure within the meaning of section 17 of Finance (Miscellaneous Provisions) Act, 1956, as amended by section 73 of the Finance Act, 1959, but

(ii) is not a building or structure to which section 25 of the Finance Act, 1959, applies.

(b) Where, in the case of premises valued under the Valuation Acts as a unit, a part is, and a part is not, a building or structure to which section 25 of the Finance Act, 1959, applies, the annual value of each part shall be arrived at by apportionment of the rateable valuation of the premises, and paragraph (c) of subsection (3) and subsection (4) of section 2 of Finance Act, 1958, shall apply to any such apportionment as they apply to an apportionment required by the said subsection (3)."

(3) Where an annual allowance in respect of a building or structure falls to be made in charging the profits or gains of a trade for any year of assessment and the basis period for that year of assessment falls wholly or partly before the commencement of this Part of this Act, then, for the purpose of determining the sum to be deducted on account of the annual value of the building or structure in estimating the profits or gains of the trade, the amount of the assessment of the building or structure for the purpose of tax under Schedule A shall be deemed to have been reduced for the purpose of collection as it would have been so reduced if this section had had effect for the whole of the basis period.

(4) Section 18 of the Finance Act, 1919, shall have effect as if-

(a) a reference to premises which-

(i) is an industrial building or structure, but

(ii) is not a building or structure to which section 25 of this Act applies,

were substituted for each of the references in subsections (1) and

(2) to mills, factories or similar premises and for the reference in subsection (3) to mills, factories and similar premises, and
(b) a reference to one-third of the annual value were substituted for each of the references to one-sixth of the annual value.

CHAPTER 2 Machinery and Plant

33. Interpretation (Chapter II Of Part V) :-

In this Chapter-

"initial allowance" means an allowance made under Part V of Finance Act, 1956 ; "scientific research allowance" means, in relation to any expenditure, the total amount of any allowances made in respect of that expenditure under subsection (3) of section 5 of Finance Act, 1946 , increased by the amount of any allowance made under paragraph (b) of subsection (4) of the said section 5 or, as the case may be, reduced by any amount treated as a trading receipt pursuant to paragraph (c) of the said subsection (4);

"wear and tear allowance" means a deduction allowed under Rule 6 of the Rules applicable to Cases I and II of Schedule D.

34. Balancing Allowances And Balancing Charges (Machinery And Plant) :-

(1) Subject to the provisions of this section, where, on or after the 15th day of April, 1959, any of the following events occurs in the case of any machinery or plant in respect of which an initial allowance or a wear and tear allowance has been made for any year of assessment to a person carrying on a trade:

(a) any event occurring after the setting up and before the permanent discontinuance of the trade whereby the machinery or plant ceases to belong to the person carrying on the trade (whether on a sale of the machinery or plant or in any other circumstances of any description),

(b) any event occurring as aforesaid whereby the machinery or plant (while continuing to belong to the person carrying on the trade) permanently ceases to be used for the purposes of a trade carried on by him,

(c) the permanent discontinuance of the trade, the machinery or plant not having previously ceased to belong to the person carrying on the trade,

an allowance or charge (in this Chapter referred to as a balancing

allowance or a balancing charge) shall, in the circumstances mentioned in this section, be made to, or, as the case may be, on, that person for the year of assessment (being a year beginning on or after the commencement of this Part of this Act) in his basis period for which that event occurs.

(2) Where there are no sale, insurance, salvage or compensation moneys or where the amount of the capital expenditure of the person in question on the provision of the machinery or plant still unallowed as at the time of the event exceeds those moneys, a balancing allowance shall be made, and the amount thereof shall be the amount of the expenditure still unallowed as aforesaid, or, as the case may be, of the excess thereof over the said moneys.

(3) If the sale, insurance, salvage or compensation moneys exceed the amount, if any, of the said expenditure still unallowed as at the time of the event, a balancing charge shall be made, and the amount on which it is made shall be an amount equal to the excess or, where the said amount still unallowed is nil, to the said moneys.

(4) Notwithstanding anything in subsection (3) of this section, in no case shall the amount on which a balancing charge is made on a person exceed the aggregate of the following amounts:

(a) the amount of the initial allowance, if any, made to him in respect of the expenditure in question,

(b) the amount of any wear and tear allowance made to him in respect of the machinery or plant in question,

(c) the amount of any scientific research allowance made to him in respect of the expenditure, and

(d) the amount of any balancing allowance previously made to him in respect of the expenditure.

(5) Where, as respects any machinery or plant, an event falling within any of the paragraphs (a), (b) and (c) of subsection (1) of this section is followed by another event falling within any of those paragraphs, the later event shall not be treated as an event giving rise to a balancing allowance or balancing charge in respect of that machinery or plant.

35. Option In Case Of Replacement Of Machinery Or Plant :-

(1) Where machinery or plant in the case of which any of the events mentioned in subsection (1) of section 34 of this Act has occurred is replaced by the owner thereof and a balancing charge falls to be made on him by reason of that event, or, but for the provisions of this subsection, would have fallen to be made on him

by reason thereof, then, if by notice in writing to the inspector of taxes he so elects, the following provisions shall have effect:

(a) if the amount on which the charge would have been made is greater than the capital expenditure on providing the new machinery or plant-

(i) the charge shall be made only on an amount equal to the difference,

(ii) no initial allowance, no balancing allowance and no wear and tear allowance shall be made in respect of the new machinery or plant or the expenditure on the provision thereof, and

(iii) in considering whether any, and if so what, balancing charge falls to be made in respect of the expenditure on the new machinery or plant, there shall be deemed to have been made in respect of that expenditure an initial allowance equal to the full amount of that expenditure;

(b) if the capital expenditure on providing the new machinery or plant is equal to or greater than the amount on which the charge would have been made-

(i) the charge shall not be made,

(ii) the amount of any initial allowance in respect of the said expenditure and the amount of any wear and tear allowance shall be calculated as if the expenditure had been reduced by the amount on which the charge would have been made, and

(iii) in considering whether any, and if so what, balancing allowance or balancing charge falls to be made in respect of the new machinery or plant, there shall be deemed to have been granted in respect thereof an initial allowance equal to the amount on which the charge would have been made, in addition to any initial allowance actually granted in respect thereof.

(2) In relation to the estimation of the profits or gains of a trade, Rule 7 of the Rules applicable to Cases I and II of Schedule D-

(a) shall not have effect in the case of plant or machinery provided on or after the 15th day of April, 1959, and

(b) shall, in the case of the replacement on or after the 15th day of April, 1959, of machinery or plant provided before that date, have effect only if the person carrying on the trade by notice in writing to the inspector of taxes elects that it shall have effect in relation thereto,

and where any such election is made as is mentioned in paragraph (b) of this subsection, no balancing allowance shall be made in respect of the machinery or plant which is replaced.

(3) Where, in consequence of an election under subsection (2) of

this section, Rule 7 of the Rules applicable to Cases I and II of Schedule D has effect in the case of the replacement of any machinery or plant, the provisions of sections 41 and 42 of this Act shall apply for the purpose of determining the amount which is to be allowed to be deducted as expenses in estimating the profits or gains of the trade as they apply for the purpose of determining the amount of a balancing allowance.

36. Construction Of References To Amount Still Unallowed

:-

References in this Chapter to the amount still unallowed as at any time of any expenditure on the provision of machinery or plant shall be construed as references to the amount of that expenditure less-

- (a) any initial allowance made or deemed under this Chapter to have been made in respect thereof to the person who incurred it,
- (b) any wear and tear allowances made or deemed under this Chapter to have been made to him in respect of the machinery or plant on the provision of which the expenditure was incurred, being allowances for the year of assessment in the basis period for which the time in question falls or for any previous year of assessment,
- (c) any scientific research allowance made to him in respect of the expenditure, and
- (d) any balancing allowance made to him in respect of the expenditure.

37. Application To Partnerships :-

(1) Where, after the setting up and on or before the permanent discontinuance of a trade which at any time is carried on in partnership, any event occurs which gives rise or may give rise to a balancing allowance or balancing charge in respect of machinery or plant, any balancing allowance or balancing charge which, if the trade had at all times been carried on by one and the same person, would have fallen to be made to or on him in respect of that machinery or plant by reason of that event shall be made to or on the person or persons carrying on the trade in the year of assessment in the basis period for which that event occurs, and the amount of any such allowance or charge shall be computed as if that person or those persons had at all times been carrying on the trade and as if everything done to or by his or their predecessors in the carrying on thereof had been done to or by him or them:

Provided that in applying the provisions of subsection (4) of section

34 of this Act to any such balancing charge, the deductions and allowances allowed or made in respect of the machinery or plant for the year beginning on the 6th day of April, 1959, or for any earlier year of assessment shall not be taken to include deductions or allowances made to, or attributable to the shares of, persons who were not, either alone or in partnership with other persons, carrying on the trade at the beginning of the year beginning on the 6th day of April, 1959.

(2) In charging the profits or gains of a trade carried on in partnership, the same allowances, deductions and charges shall be allowed or made in respect of machinery or plant used for the purposes of that trade and belonging to one or more of the partners but not being partnership property as would fall to be allowed or made if the machinery or plant had at all material times belonged to all the partners and been partnership property and everything done by or to any of the partners in relation thereto had been done by or to all the partners.

(3) Notwithstanding anything in section 34 of this Act, a sale or gift of machinery or plant used for the purposes of a trade carried on in partnership, being a sale or gift by one or more of the partners to one or more of the partners, shall not be treated as an event giving rise to a balancing allowance or a balancing charge if the machinery or plant continues to be used after the sale or gift for the purposes of that trade.

(4) References in subsections (2) and (3) of this section to use for the purposes of a trade do not include references to use in pursuance of a letting by the partner or partners in question to the partnership or to use in consideration of the making to the partner or partners in question of any payment which may be deducted in computing the profits or gains of the trade.

38. Machinery Or Plant Used Partly For Non-Trading Purposes :-

Where an event occurs which gives rise or might give rise to a balancing allowance or balancing charge to or on any person and the machinery or plant concerned is machinery or plant which has been used by that person for the purposes of a trade carried on by him and has also been used for other purposes, then, in determining the amount of the allowance, or, as the case may be, the amount on which the charge is to be made, regard shall be had to all the relevant circumstances and, in particular, to the extent of

the use for the said other purposes, and there shall be made to or on him an allowance of such an amount, or, as the case may be, a charge on such an amount, as may be just and reasonable.

39. Calculation Of Balancing Allowances And Balancing Charge In Certain Cases :-

(1) Where an event occurs which gives rise or might give rise to a balancing allowance or balancing charge in respect of machinery or plant, the event is the permanent discontinuance of a trade, and at or about the time of the discontinuance there occurs in relation to the machinery or plant any event such as is mentioned in paragraphs (a) to (c) of the definition of "sale, insurance, salvage or compensation moneys" in section 67 of this Act, not being a sale at less than open-market price other than a sale to which section 62 of this Act applies, then, for the purpose of determining-

(a) whether the discontinuance gives rise to a balancing allowance or balancing charge, and, if so,

(b) the amount of the allowance or, as the case may be, the amount on which the charge is to be made,

the amount of the net proceeds, compensation, receipts or insurance moneys mentioned in the said paragraphs (a) to (c) which arise on the last-mentioned event shall be deemed to be an amount of sale, insurance, salvage or compensation moneys arising on the permanent discontinuance of the trade.

(2) (i) Subject to subsections (3) and (5) of this section, paragraph (ii) of this subsection shall have effect where an event occurs which gives rise or might give rise to a balancing allowance or balancing charge in respect of machinery or plant, and either-

(a) the event is the permanent discontinuance of the trade and immediately after the time of the discontinuance the machinery or plant continues to belong to the person by whom the trade was carried on immediately before the said time and the case is one not falling within subsection (1) of this section,

(b) the event is the permanent discontinuance of the trade and at the time of the discontinuance the machinery or plant is either sold at less than the open-market price, the sale not being one to which section 62 of this Act applies, or the machinery or plant is given away,

(c) the event is the sale of the machinery or plant at less than the open-market price, not being a sale to which the said section 62 applies, or is the gift of the machinery or plant, or

(d) the event is that, after the setting up and before the permanent discontinuance of the trade, the machinery or plant permanently ceases to be used for the purposes of a trade carried on by the person by whom the first-mentioned trade is being carried on, and so ceases either by reason of that persons transferring the machinery or plant to other use or, on a transfer of the trade which is not treated as involving a discontinuance thereof, by reason of the retention of the machinery or plant by the transferor.

(ii) For the purpose of determining whether a balancing allowance or balancing charge falls to be made and, if so, the amount of the allowance or, as the case may be, the amount on which the charge is to be made, the event shall be treated as if it had given rise to sale, insurance, salvage or compensation moneys of an amount equal to the open-market price of the machinery or plant.

(3) References in subsection (2) of this section to the sale of machinery or plant at less than the open-market price do not include references to the sale thereof in such circumstances that there is a charge to income tax under Schedule E by virtue of the provisions of Part IV of Finance Act, 1958 , and paragraph (ii) of that subsection shall not apply by reason of the gift of machinery or plant if the machinery or plant is given away in such circumstances as aforesaid.

(4) Subject to the provisions of subsection (5) of this section, where paragraph (ii) of subsection (2) of this section has effect by reason of the gift or sale of machinery or plant to any person, and that person receives or purchases it with a view to using it for the purposes of a trade carried on by him, then, in determining whether any, and if so what, wear and tear allowances, balancing allowances or balancing charges are to be made in connection with that trade the like consequences shall ensue as if the recipient or purchaser had purchased the machinery or plant at the open-market price.

(5) Where, in a case falling within subsection (4) of this section, the recipient or purchaser and the donor or seller by notice in writing to the inspector of taxes jointly so elect the following provisions shall have effect:

(a) paragraph (ii) of subsection (2) and subsection (4) of this section shall have effect as if for the references to the open-market price there were substituted references to that price or the amount of the expenditure on the provision of the machinery or plant still unallowed immediately before the gift or sale, whichever is the

lower;

(b) notwithstanding anything in this Chapter, such balancing charge, if any, shall be made on the recipient or purchaser on any event occurring after the date of the gift or sale as would have fallen to be made on the donor or seller if the donor or seller had continued to own the machinery or plant and had done all such things and been allowed all such allowances in connection therewith as were done by or allowed to the recipient or purchaser.

(6) In this section "open-market price", in relation to any machinery or plant, means the price which the machinery or plant would have fetched if sold in the open market at the time of the event in question.

40. Option In Case Of Succession Under Will Or Intestacy :-

Where a person succeeds to a trade as a beneficiary under the will or on the intestacy of a deceased person who carried on that trade, the following provisions shall, if the beneficiary by notice in writing to the inspector of taxes so elects, have effect in relation to any machinery or plant previously owned by the deceased person and used by him for the purposes thereof:

(a) the reference in section 63 of this Act to the price which the machinery or plant would have fetched if sold in the open market shall, in relation to the succession and any previous succession occurring on or after the death of the deceased, be deemed to be a reference to that price or the amount of the expenditure on the provision of the machinery or plant still unallowed immediately before the succession in question, whichever is the lower; and

(b) notwithstanding anything in that section, such balancing charge, if any, shall be made on the beneficiary on any event occurring after his succession as would have fallen to be made on the deceased if he had not died and had continued to own the machinery or plant and had done all such things and been allowed all such allowances in connection therewith as were done by or allowed to the beneficiary or the successor on any such previous succession as is mentioned in paragraph (a) of this section.

41. Wear And Tear Allowance To Be Deemed To Have Been Made In Certain Cases :-

(1) In determining whether any, and if so what, balancing allowance or balancing charge falls to be made to or on any person for any year of assessment in charging the profits or gains of a

trade, there shall be deemed to have been made to that person, for every previous year of assessment in which the machinery or plant belonged to him and which is a year of assessment to be taken into account for the purpose of this section, such wear and tear allowance or greater wear and tear allowance, if any, in respect of the machinery or plant as would have fallen to be made to him if all the conditions specified in subsection (3) of this section had been fulfilled in relation to every such previous year.

(2) There shall be taken into account for the purposes of this section every previous year of assessment in which the machinery or plant belonged to the person and-

(a) during which the machinery or plant was not used by the person for the purposes of the trade,

(b) during which the trade was not carried on by him,

(c) during which the trade was carried on by him in such circumstances that, otherwise than by virtue of Part II of Finance (Miscellaneous Provisions) Act, 1958 , the full amount of the profits or gains thereof was not liable to be charged to income tax,

(d) for which the whole or a part of the income tax chargeable in respect of the profits of the trade was not payable by virtue of Finance (Profits of Certain Mines) (Temporary Relief from Taxation) Act, 1956 , or (e) for which the income tax payable in respect of the profits of the trade was reduced by virtue of Part II or III of Finance (Miscellaneous Provisions) Act, 1956 . (3) The conditions referred to in subsection (1) of this section are:

(a) that the trade had been carried on by the person in question ever since the date on which he acquired the machinery or plant and had been so carried on by him in such circumstances that the full amount of the profits or gains thereof was liable to be charged to income tax,

(b) that the trade had at no time consisted wholly or partly of exempted trading operations within the meaning of Finance (Miscellaneous Provisions) Act, 1958 , (c) that the machinery or plant had been used by him solely for the purposes of the trade ever since that date, and

(d) that a proper claim had been duly made by him for wear and tear allowance in respect of the machinery or plant for every relevant year of assessment.

(4) Nothing in this section shall affect the provisions of subsection (4) of section 34 of this Act.

42. Subsidies Towards Wear And Tear :-

(1) Where-

(a) an event occurs which gives rise or might give rise to a balancing allowance or balancing charge to or on any person in respect of any machinery or plant provided or used by him for the purposes of a trade; and

(b) any sums (hereinafter in this section referred to as the said sums) which-

(i) are in respect of, or take account of, the wear and tear to the machinery or plant occasioned by its use for the purposes of the trade, and

(ii) do not fall to be taken into account as his income or in computing the profits or gains of any trade carried on by him, have been paid, or are or are to be payable, to him directly or indirectly,

then, in determining whether and, if so what, balancing allowance or balancing charge falls to be made to or on that person, there shall be deemed to have been made to him for the years of assessment during which the machinery or plant was used for the purposes of the trade wear and tear allowances in respect thereof the total amount of which is equal to the total amount of the said sums, over and above the wear and tear allowances, if any, which have been made to him in respect of the machinery or plant.

(2) Nothing in this section shall affect the provisions of subsection (4) of section 34 of this Act.

43. Application To Lessors :-

(1) Where machinery or plant is let upon such terms that the burden of the wear and tear thereof falls directly upon the lessor, the preceding provisions of this Chapter shall apply in relation to the lessor as if the machinery or plant were, during the term of the letting, in use for the purposes of a trade carried on by him.

(2) For paragraph (5) of Rule 6 of the Rules applicable to Cases I and II of Schedule D there shall be substituted the following paragraph:-

"(5) Where machinery or plant is let upon such terms that the burden of the wear and tear thereof falls directly on the lessor, he shall be entitled, on making a claim to the inspector of taxes within twelve months after the end of the year of assessment, to an allowance on account of the wear and tear of the machinery or plant equal to the amount which might have been allowed if,

during the period of the letting, the machinery or plant were in use for the purposes of a trade carried on by him.",
and references to the said paragraph (5) in any Act passed before the commencement of this Part of this Act shall be construed as references to the paragraph substituted by this subsection.

44. Manner Of Making Allowances And Charges (Machinery And Plant) :-

(1) Any balancing allowance or balancing charge made to or on any person under the preceding provisions of this Chapter shall, unless it is made under or by virtue of section 43 of this Act, be made to or on that person in charging the profits or gains of his trade.

(2) Any wear and tear allowance or balancing allowance made under or by virtue of section 43 of this Act shall be made by way of discharge or repayment of tax and shall be available primarily against income from the letting of machinery or plant.

(3) Any balancing charge made under or by virtue of section 43 of this Act shall be made under Case VI of Schedule D.

45. Application To Professions, Etc., And Exception As Respects Lands :-

(1) The preceding provisions of this Chapter shall, with any necessary adaptations, apply in relation to professions, employments, vocations and offices, as they apply in relation to trades.

(2) Notwithstanding anything in Rule 5 or Rule 7 of Schedule B, none of the provisions of this Chapter shall apply in relation to the occupation of lands (including woodlands).

CHAPTER 3 Patents

46. Interpretation (Chapter Iii Of Part V) :-

(1) In this Chapter-

"income from patents" means-

(a) any royalty or other sum paid in respect of the user of a patent, and

(b) any amount on which tax is payable for any year of assessment by virtue of any of the provisions of this Chapter;

"the commencement of the patent" means, in relation to a patent, the date as from which the patent rights become effective;

"patent rights" means the right to do or authorise the doing of

anything which would, but for that right, be an infringement of a patent;

"Irish patent" means a patent granted under the laws of the State;

"the operative date" means the date of the commencement of this Part of this Act.

(2) In this Chapter, any reference to the sale of part of patent rights includes a reference to the grant of a licence in respect of the patent in question, and any reference to the purchase of patent rights includes a reference to the acquisition of a licence in respect of a patent:

Provided that if a licence granted by a person entitled to any patent rights is a licence to exercise those rights to the exclusion of the grantor and all other persons for the whole of the remainder of the term for which the rights subsist, the grantor shall be treated for the purposes of this Chapter as thereby selling the whole of the rights.

(3) Where, under section 130 of the Industrial and Commercial Property (Protection) Act, 1927, or any corresponding provisions of the law of any country outside the State, an invention which is the subject of a patent is made, used, or exercised or vended by or for the service of the State or the government of the country concerned, the provisions of this Chapter shall have effect as if the making, user, exercise or vending of the invention had taken place in pursuance of a licence, and any sums paid in respect thereof shall be treated accordingly.

(4) Any reference in this Chapter to the number of years comprised in a period shall be construed as a reference to the number of consecutive periods of twelve months, beginning with the day with which the period begins, which are comprised in the period, any odd period being treated as a complete twelve months:

Provided that nothing in this subsection shall be construed as affecting any reference in this Chapter to the number of complete years comprised in any period or which have elapsed since any date.

47. Annual Allowances For Capital Expenditure On Purchase Of Patent Rights :-

(1) Where, on or after the operative date, a person incurs capital expenditure on the purchase of patent rights, there shall, subject to and in accordance with the following provisions of this Chapter, be made to him for each of the relevant years of assessment, as

hereinafter denned, an allowance (in this Chapter referred to as an annual allowance) equal to the appropriate fraction, as hereinafter denned, of the amount of that expenditure:

Provided that no annual allowance shall be made to a person in respect of any expenditure unless-

(a) the allowance falls to be made to him in charging the profits or gains of his trade, or

(b) any income receivable by him in respect of the rights would be liable to income tax.

(2) The relevant years of assessment are, in the case of any person, the seventeen years of assessment beginning with the year of assessment in his basis period for which the expenditure was incurred:

Provided that-

(a) where the rights are purchased for a specified period, the preceding provisions of this subsection shall have effect with the substitution for the reference to seventeen years of a reference to seventeen years or the number of years comprised within that period, whichever is the less,

(b) where the rights purchased begin one complete year or more after the commencement of the patent and paragraph (a) of this proviso does not apply, the said-provisions shall have effect with the substitution for the reference to seventeen years of a reference to seventeen years less the number of complete years which, when the rights begin, have elapsed since the commencement of the patent, or, if seventeen complete years have elapsed as aforesaid, of a reference to one year, and

(c) any expenditure incurred on or after the operative date for the purposes of a trade by a person about to carry it on shall be treated for the purposes of this subsection as if it had been incurred by that person on the first day on which he does carry it on, unless, before the said first day, he has sold all the rights on the purchase of which the expenditure was incurred.

(3) The appropriate fraction is the fraction the numerator of which is one and the denominator of which is the number of the relevant years of assessment.

48. Effect Of Lapse Of Patent Rights, Sales, Etc :-

(1) Where, on or after the operative date, a person incurs capital expenditure on the purchase of patent rights and, before the end of the relevant years of assessment, any of the following events

occurs:

- (a) the rights come to an end without being subsequently revived;
- (b) he sells all those rights or so much thereof as he still owns;
- (c) he sells part of those rights and the net proceeds of the sale (so far as they consist of capital sums) are not less than the amount of the capital expenditure remaining unallowed;

no annual allowance shall be made to that person for the year of assessment in his basis period for which the event takes place or any subsequent year of assessment.

(2) Where, on or after the operative date, a person incurs capital expenditure on the purchase of patent rights and, before the end of the relevant years of assessment, either of the following events occurs:

- (a) the rights come to an end without being subsequently revived;
- (b) he sells all those rights, or so much thereof as he still owns, and the net proceeds of the sale (so far as they consist of capital sums) are less than the amount of the capital expenditure remaining unallowed;

there shall, subject to and in accordance with the following provisions of this Chapter, be made to him for the year of assessment, in his basis period for which the event takes place, an allowance (in this Chapter referred to as a balancing allowance) equal, if the event is the rights coming to an end, to the amount of the capital expenditure remaining unallowed, and, if the event is a sale, to the amount of the capital expenditure remaining unallowed less the net proceeds of the sale.

(3) Where a person who, on or after the operative date, has incurred capital expenditure on the purchase of patent rights sells all or any part of those rights and the net proceeds of the sale (so far as they consist of capital sums) exceed the amount of the capital expenditure remaining unallowed, if any, there shall, subject to and in accordance with the following provisions of this Chapter, be made on him for the year of assessment, in his basis period for which the sale takes place, a charge (in this Chapter referred to as a balancing charge) on an amount equal to the excess or, where the amount of the capital expenditure remaining unallowed is nil, to the said net proceeds.

(4) Where a person who, on or after the operative date, has incurred capital expenditure on the purchase of patent rights sells a part of those rights and subsection (3) of this section does not apply, the amount of any annual allowance made in respect of that expenditure for the year of assessment in his basis period for which

the sale takes place or any subsequent year of assessment shall be the amount arrived at by-

(a) subtracting the net proceeds of the sale (so far as they consist of capital sums) from the amount of the expenditure remaining unallowed at the time of the sale, and

(b) dividing the result by the number of the relevant years of assessment which remained at the beginning of the year of assessment in his basis period for which the sale takes place, and so on for any subsequent sales.

(5) References in the preceding provisions of this section to the amount of any capital expenditure remaining unallowed shall, in relation to any event, be construed as references to the amount of that expenditure less any annual allowances made in respect thereof for years of assessment before the year of assessment in the basis period for which that event occurs, and less also the net proceeds of any previous sale by the person who incurred the expenditure of any part of the rights acquired by the expenditure, so far as those proceeds consist of capital sums.

(6) Notwithstanding anything in the preceding provisions of this section, no balancing allowance shall be made in respect of any expenditure unless an annual allowance has been, or, but for the happening of the event giving rise to the balancing allowance, could have been, made in respect of that expenditure, and the total amount on which a balancing charge is made in respect of any expenditure shall not exceed the total annual allowances actually made in respect of that expenditure, less, if a balancing charge has previously been made in respect of that expenditure, the amount on which that charge was made.

49. Special Provision For Certain Capital Expenditure :-

Where within one year before the operative date a person has incurred capital expenditure on the purchase of patent rights for the purposes of a trade carried on or about to be carried on by him and has not sold any part of the said rights before the operative date, he shall be deemed for the purposes of sections 47 and 48 of this Act to have incurred the said expenditure on the operative date.

50. Charges On Capital Sums Received For Sale Of Patent Rights :-

(1) Where, on or after the operative date, a person resident in the

State sells any patent rights and the net proceeds of the sale consist wholly or partly of a capital sum, he shall, subject to the provisions of this Chapter, be charged to tax under Case VI of Schedule D, for the year of assessment in which the sum is received by him and for each of the five succeeding years of assessment, on an amount equal to one-sixth of that sum:

Provided that-

(a) if that person, by notice in writing served on the inspector of taxes not later than twelve months after the end of the year of assessment in which that sum was received, elects that the whole of that sum shall be charged to tax for the said year of assessment, it shall be charged to tax accordingly;

(b) if that person, by notice as aforesaid, applies to have the period for which he is to be charged determined as being other than the six years of assessment hereinbefore referred to (that is to say, the year of assessment in which that sum was received and the five succeeding years of assessment), then, if it appears to the Revenue Commissioners that hardship is likely to arise having regard to all the circumstances of the case unless a direction is given under this paragraph, they may direct that the charge shall be spread equally over a number of years of assessment other than six, of which the first shall be the year of assessment in which that sum was received.

(2) Where, on or after the operative date, a person not resident in the State sells any patent rights and the net proceeds of the sale consist wholly or partly of a capital sum, and the patent is an Irish patent, then, subject to the provisions of this Chapter-

(a) he shall be chargeable to tax in respect of that sum under Case VI of Schedule D, and

(b) Rule 21 of the General Rules shall apply to that sum as if it were an annual payment payable otherwise than out of profits or gains brought into charge to tax:

Provided that if, not later than twelve months after the end of the year of assessment in which the sum is paid, the person to whom it is paid, by notice in writing to the Revenue Commissioners, elects that the said sum shall be treated for the purpose of income tax for that year and for each of the five succeeding years as if one-sixth thereof, and no more, were included in his income chargeable to tax for all those years respectively, it shall be so treated, and all such repayments and assessments of tax for each of those years shall be made as are necessary to give effect to the election, so, however, that-

- (i) the election shall not affect the amount of tax falling to be deducted and accounted for under the said Rule 21,
- (ii) where any sum is deducted under the said Rule 21, any adjustments necessary to give effect to the election shall be made by way of repayment of tax, and
- (iii) the said adjustments shall be made year by year and as if one-sixth of the sum deducted had been deducted in respect of tax for each year, and no repayment of, or of any part of, that portion of the tax deducted which is to be treated as deducted in respect of tax for any year shall be made unless and until it is ascertained that the tax (other than sur-tax) ultimately falling to be paid for that year is less than the amount of tax (other than sur-tax) paid for that year.
- (3) Where the patent rights sold by a person, or the rights out of which the patent rights sold by a person were granted, were acquired by him by purchase and the price paid consisted wholly or partly of a capital sum, subsections (1) and (2) of this section shall apply as if any capital sum received by him when he sells the rights were reduced by the amount of that sum:
- Provided that-
- (a) where between the said purchase and the said sale he has sold part of the patent rights acquired by him and the net proceeds of that sale consist wholly or partly of a capital sum, the amount of the reduction falling to be made under this subsection in respect of the subsequent sale shall be itself reduced by the amount of that sum,
- (b) nothing in this subsection shall effect the amount of tax falling to be deducted and accounted for under Rule 21 of the General Rules by virtue of subsection (2) of this section, and, where any sum is deducted under the said Rule 21, any adjustment necessary to give effect to the provisions of this subsection shall be made by way of repayment of tax.
- (4) This section shall apply in relation to any sale of part of any patent rights as it applies in relation to sales of patent rights.

51. Patent Rights Sold Before The Operative Date :-

Nothing in the preceding provisions of this Chapter shall apply in relation to any patent rights if those rights, or any rights out of which they were granted, have been the subject of a sale before the operative date and the proceeds of the sale consisted wholly or partly of a capital sum:

Provided that, in relation to any patent rights to which section 49 of this Act applies, this section shall apply as if, for the reference to the operative date, there were substituted a reference to the date on which the said rights were purchased by the person who, by virtue of that section, is deemed to have purchased them on the operative date.

52. Relief For Expense :-

(1) In computing the profits or gains of any trade, there shall be allowed to be deducted as expenses any fees paid or expenses incurred on or after the operative date in obtaining, for the purposes of the trade, the grant of a patent or an extension of the term of a patent.

(2) Where-

(a) on or after the operative date, a person, otherwise than for the purposes of a trade carried on by him, pays any fees or incurs any expenses in connection with the grant or maintenance of a patent or the obtaining of an extension of a term of a patent, and

(b) those fees or expenses would, if they had been paid or incurred for the purposes of a trade, have been allowable as a deduction in estimating the profits or gains thereof,

there shall be made to him, for the year of assessment in which those expenses were paid or incurred, an allowance equal to the amount thereof.

(3) Where a patent is granted in respect of any invention, an allowance equal to so much of the net amount of any expenses incurred on or after the operative date by an individual who, whether alone or in conjunction with any other person, actually devised the invention as is properly ascribable to the devising thereof (not being expenses in respect of which, or of assets representing which, an allowance falls to be made under any other provision of the Income Tax Acts) shall be made to that individual for the year of assessment in which the expenses were incurred.

(4) The provisions of subsection (3) of this section shall apply in relation to expenses incurred before the operative date as if those expenses were incurred on that day, subject to the modification that, if the patent in question was granted one complete year or more before that day, the amount to be allowed shall be reduced by applying thereto the fraction the numerator of which is seventeen less the number of complete years comprised in the period beginning with the commencement of the patent and ending

immediately before the operative date and the denominator of which is seventeen.

53. Patent Income To Be Earned Income In Certain Cases :-

In considering, in relation to the year of assessment beginning on the operative date or any subsequent year of assessment, whether any, and if so what, relief is to be granted to an individual under section 16 of the Finance Act, 1920, or under subsection (2) of section 18 of that Act, any income from patent rights arising to an individual shall, where the patent was granted for an invention actually devised by him, whether alone or jointly with any other person, be deemed to be earned income:

Provided that where any part of the rights in question or of any rights out of which they were granted has at any time belonged to any other person, so much only of the said income shall be deemed to be earned income as is not properly attributable to the rights which have belonged to that other person.

54. Spreading Of Income Payments Over Several Years :-

(1) Where a royalty or other sum to which Rule 19 or Rule 21 of the General Rules applies is paid in respect of the user of a patent, and that user extended over a period of six complete years or more, the person receiving the payment may require that the income tax (including sur-tax) payable by him by reason of the receipt of that sum shall be reduced so as not to exceed the total amount of income tax (including sur-tax) which would have been payable by him if that royalty or sum had been paid in six equal instalments at yearly intervals, the last of which was paid on the date on which the payment was in fact made.

(2) Subsection (1) of this section shall apply in relation to a royalty or other sum where the period of the user is two complete years or more but less than six complete years as it applies to the royalties and sums mentioned in that subsection, but with the substitution for the reference to six equal instalments of a reference to so many equal instalments as there are complete years comprised in that period.

(3) In this section, any reference to the income tax (including sur-tax) payable by a person includes, in cases where the income of a wife is deemed to be the income of the husband, references to the income tax (including sur-tax) payable by his wife or her husband, as the case may be.

(4) Nothing in this section shall apply to any sum to which Rule 21 of the General Rules applies by virtue of section 50 of this Act.

55. Manner Of Making Allowances And Charges (Patents) :-

(1) An allowance or charge under any of the provisions of this Chapter shall be made to or on a person in charging the profits or gains of his trade if-

(a) he is carrying on a trade the profits or gains of which are, or, if there were any, would be, chargeable to tax under Case I of Schedule D for the year of assessment for which the allowance or charge is made, and

(b) at any time in his basis period for that year of assessment, the patent rights in question, or other rights out of which they were granted, were or were to be used for the purposes of that trade:

Provided that nothing in this subsection shall affect any of the preceding provisions of this Chapter allowing a deduction as expenses in computing the profits or gains of a trade or requiring a charge to be made under Case VI of Schedule D.

(2) Save as aforesaid, an allowance under this Chapter shall be made by way of discharge or repayment of tax and shall be available against income from patents, and a charge under this Chapter shall be made under Case VI of Schedule D.

56. Effect Of Deaths, Windings Up And Partnership Changes On Charges :-

(1) Where a person on whom, by reason of the receipt of a capital sum, a charge falls or would otherwise fall to be made under section 50 of this Act dies or, being a body corporate, commences to be wound up-

(a) no sums shall be charged under that section on that person for any year of assessment subsequent to that in which the death takes place or the winding up commences, and

(b) the amount falling to be charged for the year of assessment in which the death occurs or the winding up commences shall be increased by the total amounts which, but for the death or winding up, would have fallen to be charged for subsequent years:

Provided that, in the case of a death, the personal representatives may, by notice in writing served on the inspector of taxes not later than twenty-one days after notice has been served on them of the charge falling to be made by virtue of this section, require that the income tax (including sur-tax) payable out of the estate of the

deceased by reason of the increase provided for by this section shall be reduced so as not to exceed the total amount of income tax (including sur-tax) which would have been payable by him or out of his estate by reason of the operation of the said section 50 in relation to that sum, if, instead of the amount falling to be charged for the year in which the death occurs being increased by the whole amount of the sums charged for subsequent years, the several amounts falling to be charged for the years beginning with that in which the capital sum was received and ending with that in which the death occurred had each been increased by the said whole amount divided by the number of those years.

(2) Where, under the provisions of Chapter V of this Part of this Act, a charge under section 50 of this Act falls to be made on two or more persons jointly as being the persons for the time being parrying on a trade, and that trade is discontinued, the provisions of subsection (1) of this section shall have effect in relation to the discontinuance as they have effect where a body corporate commences to be wound up:

Provided that--

(a) the additional sum which, under the said subsection, falls to be charged for the year in which the discontinuance occurs shall be apportioned among the members of the partnership immediately before the discontinuance according to their respective interests in the partnership profits before the discontinuance, and each partner (or, if he is dead, his personal representatives) charged separately for his proportion, and

(b) each partner (or, if he is dead, his personal representatives) shall have the same right to require a reduction of the total income tax (including sur-tax) payable by him or out of his estate by reason of the increase as would have been exercisable by the personal representatives under the said subsection (1) in the case of a death, and the proviso to that subsection shall have effect accordingly, but as if references to the amount of income tax (including sur-tax) which would have been payable by the deceased or out of his estate in the event therein mentioned were a reference to the amount of income tax (including sur-tax) which would in that event have fallen to be paid or borne by the partner in question or out of his estate.

(3) In this section, any references to the income tax (including sur-tax) paid or borne or payable or falling to be paid or borne by a person include, in cases where the income of a wife is deemed to be income of the husband, references to the income tax (including

sur-tax) paid or borne, or payable or falling to be paid or borne, by his wife or her husband, as the case may be.

CHAPTER 4 Allowances for Expenditure on Dredging

57. Allowances For Expenditure On Dredging :-

(1) Subject to the provisions of this section, where a person for the purposes of any qualifying trade carried on by him incurs on or after the 30th day of September, 1956, capital expenditure on dredging, and either the trade consists of the maintenance or improvement of the navigation of a harbour, estuary or waterway or the dredging is for the benefit of vessels coming to, leaving or using any dock or other premises occupied by him for the purposes of the trade, then, there shall be made in respect of the expenditure to the person for the time being carrying on the trade-

(a) for the first relevant year of assessment, an initial allowance equal to one-tenth of the expenditure, and

(b) for that and each subsequent year of assessment (until the allowances made under this section in respect of the expenditure equal the amount of the expenditure), an annual allowance equal to one-fiftieth of the expenditure.

(2) If the trade is permanently discontinued in any year of assessment, then, for that year there shall be made to the person last carrying on the trade, in addition to any other allowance made to him, an allowance equal to the amount of the expenditure less the allowances made in respect of it under subsection (1) of this section for that and previous years of assessment.

(3) For the purposes of this section, a trade shall not be treated by virtue of Rule 11 of the Rules applicable to Cases I and II of Schedule D as discontinued on a change in the persons engaged in carrying it on.

(4) Any allowance under this section shall be made in charging the profits or gains of the trade, and if different persons are charged in respect of the trade for different parts of any year of assessment, any annual allowance for that year shall be apportioned between them in proportion to the length of the periods for which they are so charged, but, if it is the first relevant year of assessment, any initial allowance shall be made to the person first carrying on the trade in the year.

(5) Where expenditure is incurred partly for the purposes of a qualifying trade and partly for other purposes, subsection (1) of this section shall apply to so much only of that expenditure as on a

just apportionment ought fairly to be treated as incurred for the purposes of that trade.

(6) In this section "qualifying trade" means any trade or undertaking which, or a part of which, complies with any of the following conditions:

(a) the condition that it consists of the maintenance or improvement of the navigation of a harbour, estuary or waterway,

(b) any condition set out in the provisions of subsection (1) of section 17 of Finance (Miscellaneous Provisions) Act, 1956, but where part only of a trade or undertaking complies with those conditions, subsection (5) of this section shall apply as if the part which does and the part which does not comply were separate trades.

(7) Where a person incurs capital expenditure for the purposes of a trade or part of a trade not yet carried on by him but with a view to carrying it on, or incurs capital expenditure in connection with a dock or other premises not yet occupied by him for the purposes of a qualifying trade but with a view to so occupying the dock or premises, the foregoing provisions of this section shall apply as if he had been carrying on the trade or part of the trade or occupying the dock or premises for the purposes of the qualifying trade, as the case may be, at the time when the expenditure was incurred.

(8) For the purposes of this section, the first relevant year of assessment, in relation to expenditure incurred by any person, is the year in his basis period for which he incurs the expenditure or, in the case of expenditure for which allowances are to be made by virtue of subsection (7) of this section, the first year of assessment in his basis period for which he both carries on the trade or part of the trade for the purposes of which the expenditure was incurred and occupies for the purposes of that trade or part of the trade the dock or other premises in connection with which it was incurred.

(9) Where a person contributes a capital sum to expenditure on dredging incurred by another person, he shall, for the purposes of this section, be treated as incurring capital expenditure on that dredging equal to the amount of the contribution and the capital expenditure incurred by the other person on that dredging shall, for those purposes, be deemed to be reduced by the amount of the contribution.

(10) In this section "dredging" does not include things done otherwise than in the interests of navigation, but (subject to that) includes the removal of anything forming part of or projecting from the bed of the sea or of any inland water, by whatever means it is

removed and whether or not at the time of removal it is wholly or partly above water; and this section shall apply to the widening of an inland waterway in the interests of navigation as it applies to dredging.

(11) No allowance shall be made by virtue of this section in respect of any expenditure if for the same or any previous or subsequent year of assessment an allowance is or can be made in respect of it under Part IV of Finance (Miscellaneous Provisions) Act, 1956 , or Chapter I of this Part. (12) Notwithstanding any other provision of this section, no allowance under this section shall be made for any year of assessment beginning before the commencement of this Part of this Act but, in determining the allowances to be made under this section in any particular case, there shall be deemed to have been made in that case all such allowances (other than initial allowances) as could have been made if this section had always had effect.

CHAPTER 5 Miscellaneous and General

58. Manner Of Granting Allowances And Charging Tax In Certain Cases :-

(1) Any claim by a person for an allowance falling to be made to him under any of the provisions of this Part of this Act in charging the profits or gains of his trade shall be included in the annual statement required to be delivered under the Income Tax Acts of the profits or gains thereof, and the allowance shall be made as a deduction in charging those profits or gains, and paragraph (3) of Rule 6 of the Rules applicable to Cases I and II of Schedule D and section 4 of Finance Act, 1937 , shall apply in relation to the allowance as they apply in relation to deductions allowable in respect of wear and tear of machinery and plant.

(2) Any charge falling to be made under any of the provisions of this Part of this Act on a person for any year of assessment in charging the profits or gains of his trade shall be made by means of an assessment in addition to any other assessment falling to be made thereon for that year.

(3) The preceding provisions of this section shall apply in relation to professions, employments, vocations and offices as they apply in relation to trades.

59. Manner Of Granting, And Effect Of, Allowances Made By Way Of Discharge Or Repayment Of Tax :-

(1) Where, under any of the provisions of this Part of this Act, an allowance falls to be made to a person for any year of assessment which is to be given by way of discharge or repayment of tax, and is to be available, or available primarily, against a specified class of income, the amount of the allowance shall be deducted from or set off against income of his of that class for that year of assessment, and, if the amount to be allowed is greater than the amount of his income of that class for that year of assessment, the balance shall be deducted from or set off against his income of that class for the next year of assessment, and so on for subsequent years of assessment, and tax shall be discharged or repaid accordingly:

Provided that where the allowance is available primarily against income of the specified class and the amount of the allowance is greater than the amount of the persons income of that class for the first-mentioned year of assessment, he may, by notice in writing given to the inspector of taxes not later than one year after the end of the year of assessment, elect that the excess shall be deducted from or set off against his other income for that year of assessment, and it shall be deducted from or set off against that income and tax discharged or repaid accordingly and only the excess, if any, of the amount of the allowance over all his income for that year of assessment shall be deducted from or set off against his income of the specified class for succeeding years.

(2) Subsection (2) of section 5 of the Income Tax Act, 1918, shall apply in relation to the allowances mentioned in subsection (1) of this section as it applies in relation to the allowances and adjustments mentioned in that subsection.

(3) Any claim for such an allowance as is mentioned in subsection (1) of this section shall be made to and determined by the inspector of taxes, but any person aggrieved by any decision of the inspector of taxes on any such claim may, on giving notice in writing to the said inspector within twenty-one days after the notification to him of the decision, appeal to the Special Commissioners.

(4) The Special Commissioners shall hear and determine an appeal to them under subsection (3) of this section as if it were an appeal against an assessment to income tax, and the provisions of the Income Tax Acts relating to the rehearing of an appeal and the statement of a case for the opinion of the High Court on a point of law, shall, with the necessary modifications, apply accordingly.

(5) If any person, for the purpose of obtaining for himself or any

other person any relief from or repayment of tax in respect of such an allowance as is mentioned in subsection (1) of this section, knowingly makes any false statement or false representation, he shall be liable to a penalty of five hundred pounds.

60. Meaning Of "Basis Period" :-

(1) In this Part of this Act, "basis period" has the meaning assigned to it by the following provisions of this section.

(2) In the case of a person to or on whom an allowance or charge falls to be made in charging the profits or gains of his trade, his basis period for any year of assessment is 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 Act, the profits or gains of any other period are to be taken to be the profits or gains of the said period, that other period:

Provided that, in the case of any trade-

(a) where two basis periods overlap, the period common to both shall be deemed for the purpose of this subsection to fall in the first basis period only,

(b) where there is an interval between the end of the basis period for one year of assessment and the basis period for the next year of assessment, then, unless the secondmentioned year of assessment is the year of the permanent discontinuance of the trade, the interval shall be deemed to be part of the second basis period, and

(c) where there is an interval between the end of the basis period for the year of assessment preceding that in which the trade is permanently discontinued and the basis period for the year in which it is permanently discontinued, the interval shall be deemed to form part of the first basis period.

(3) Any reference in the proviso to subsection (2) of this section to the overlapping of two periods shall be construed as including a reference to the coincidence of two periods or to the inclusion of one period in another, and references to the period common to both of two periods shall be construed accordingly.

(4) Where an allowance or charge falls to be made under Chapter II of this Part of this Act to or on a person carrying on or holding a profession, employment, vocation or office, the provisions of the preceding subsections of this section shall apply as if the references to a trade included references to a profession, employment, vocation or office and as if the reference to Case I of Schedule D

included references to Case II of Schedule D and to Schedule E.

(5) In the case of any other person to or on whom an allowance or charge falls to be made under this Part of this Act, his basis period for any year of assessment is the year of assessment itself.

61. Apportionment Of Consideration And Exchanges And Surrenders Of Leasehold Interests :-

(1) Any reference in this Part of this Act to the sale of any property includes a reference to the sale of that property together with any other property and, where property is sold together with other property, so much of the net proceeds of the sale of the whole property as, on a just apportionment is properly attributable to the first-mentioned property shall, for the purposes of this Part of this Act, be deemed to be the net proceeds of the sale of the first-mentioned property, and references to expenditure incurred on the provision or the purchase of property shall be construed accordingly.

For the purposes of this subsection, all the property which is sold in pursuance of one bargain shall be deemed to be sold together, notwithstanding that separate prices are or purport to be agreed for separate items of that property or that there are or purport to be separate sales of separate items of that property.

(2) The provisions of subsection (1) of this section shall, with the necessary adaptations, apply in relation to other sale, insurance, salvage or compensation moneys as they apply in relation to the net proceeds of sales.

(3) This Part of this Act shall have effect as if any reference therein (including any reference in the preceding provisions of this section) to the sale of any property included a reference to the exchange of any property and, in the case of a leasehold interest, also included a reference to the surrender thereof for valuable consideration and any provisions of this Part of this Act referring to sales shall have effect accordingly with the necessary adaptations and, in particular, with the adaptations that references to the net proceeds of sale and to the price shall be taken to include references to the consideration for the exchange or surrender and references to capital sums included in the price shall be taken to include references to so much of the consideration as would have been a capital sum if it had taken the form of a money payment.

(4) As respects any year of assessment beginning on or after the commencement of this Part of this Act, the preceding provisions of

this section shall, with the necessary adaptations, have effect in relation to-

- (a) Rules 6 and 7 of the Rules applicable to Cases I and II of Schedule D, and
- (b) Part V of Finance Act, 1956 , as if the said Rules 6 and 7 and the said Part V were provisions of this Part of this Act.

62. Special Provisions As To Certain Sales :-

(1) The provisions of this section shall have effect in relation to sales of any property where either-

(a) the buyer is a body of persons over whom the seller has control, or the seller is a body of persons over whom the buyer has control, or both the seller and the buyer are bodies of persons and some other person has control over both of them, or

(b) it appears with respect to the sale or with respect to transactions of which the sale is one, that the sole or main benefit which, apart from the provisions of this section, might have been expected to accrue to the parties or any of them was the obtaining of an allowance or deduction under Rule 6 or Rule 7 of the Rules applicable to Cases I and II of Schedule D, Part V of Finance Act, 1956 , or any of the provisions of this Part of this Act. References in this subsection to a body of persons include references to a partnership.

(2) Where the property is sold at a price other than that which it would have fetched if sold in the open market, then, subject to the provisions of subsections (3) and (4) of this section, the like consequences shall ensue for the purposes of the enactments mentioned in subsection (1) of this section, in their application to the income tax of all persons concerned, as would have ensued if the property had been sold for the price which it would have fetched if sold in the open market.

(3) Where the sale is a sale of machinery or plant-

(a) no initial allowance shall be made to the buyer, and

(b) subject to the provisions of subsection (4) of this section, if the price which the property would have fetched if sold in the open market is greater than the amount which, for the purpose of determining whether any, and if so, what, balancing charge should be made on the seller in respect of the property under Chapter II of this Part of this Act, would be taken to be the amount of the capital expenditure incurred by the seller on the provision of the property, subsection (2) of this section shall have effect as if for

each of the references to the price which the property would have fetched if sold in the open market there were substituted a reference to the said amount:

Provided that this subsection shall not apply in relation to a sale of machinery or plant which was never used if the business or part of the business of the seller was the manufacture or supply of machinery or plant of that class and the sale was effected in the ordinary course of the sellers business.

(4) (a) Subject to subsection (5) of this section, where the sale is one to which paragraph (a) of subsection (1) of this section applies and paragraph (b) of that subsection does not apply, and the parties to the sale by notice in writing to the inspector of taxes so elect, the following provisions shall have effect:

(i) subsection (2) of this section shall have effect as if, for each of the references to the price which the property would have fetched if sold in the open market, there were substituted a reference to that price or to the sum hereinafter mentioned, whichever is the lower,

(ii) paragraph (b) of subsection (3) of this section shall not apply, and

(iii) notwithstanding anything in the preceding provisions of this section, such balancing charge, if any, shall be made on the buyer on any event occurring after the date of the sale as would have fallen to be made on the seller if the seller had continued to own the property and had done all such things and been allowed all such allowances or deductions in connection therewith as were done by or allowed to the buyer.

(b) The sum referred to in subparagraph (i) of paragraph (a) of this subsection is-

(i) in the case of an industrial building or structure, the residue of the expenditure on the construction of that building or structure immediately before the sale, computed in accordance with the provisions of section 27 of this Act, (ii) in the case of machinery or plant, the amount of the expenditure on the provision thereof still unallowed immediately before the sale, computed in accordance with the provisions of section 36 of this Act, (iii) in the case of patent rights, the amount of the capital expenditure on the acquisition thereof remaining unallowed, computed in accordance with the provisions of section 48 of this Act.

(5) An election under paragraph (a) of subsection (4) of this section may not be made if-

(a) any of the parties to the sale is not resident in the State at the

time of sale, and

(b) the circumstances are not at that time such that an allowance or charge under this Part of this Act falls or might fall to be made to or on that party in consequence of the sale, but, except as aforesaid, this section shall have effect in relation to a sale notwithstanding that it is not fully applicable by reason of the non-residence of a party to the sale or otherwise.

(6) In this section "control", in relation to a body corporate, means the power of a person to secure, by means of the holding of shares or the possession of voting power in or in relation to that or any other body corporate, or by virtue of any powers conferred by the articles of association or other document regulating that or any other body corporate, that the affairs of the first-mentioned body corporate are conducted in accordance with the wishes of that person and, in relation to a partnership, means the right to a share of more than one-half of the assets, or of more than one-half of the income, of the partnership.

63. Effect, In Certain Cases, Of Successions To Trades, Etc

:-

(1) Where, on or after the 15th day of April, 1959, a person succeeds to any trade, profession or vocation which until that time was carried on by another person and, by virtue of any of the provisions of Rule 11 of the Rules applicable to Cases I and II of Schedule D, the trade, profession or vocation is to be treated as discontinued, any property which, immediately before the succession takes place, was in use for the purposes of the discontinued trade, profession or vocation and, without being sold, is immediately after the succession takes place, in use for the purposes of the new trade, profession or vocation, shall, for the purposes of this Part of this Act, and of Rules 6 and 7 of the Rules applicable to Cases I and II of Schedule D, be treated as if it had been sold to the successor when the succession takes place, and as if the net proceeds of that sale had been the price which that property would have fetched if sold in the open market.

(2) Where, after the setting up and before the permanent discontinuance of a trade, profession or vocation which at any time is carried on in partnership anything is done for the purposes thereof, any allowance or charge which, if the trade, profession or vocation had at all times been carried on by one and the same person, would have fallen to be made to or on him under any of the

provisions of this Part of this Act, shall be made to or on the person or persons from time to time carrying on that trade, profession or vocation, and the amount of any such allowance or charge shall be computed as if that person or those persons had at all times been carrying on the trade, profession or vocation and as if everything done to or by his or their predecessors in the carrying on thereof had been done to or by him or them.

(3) In relation to machinery or plant this section shall have effect subject to the provisions of Chapter II of this Part of this Act.

64. Procedure On Apportionments Etc :-

(1) Where, under or by virtue of any provisions of this Part of this Act, any sum falls to be apportioned and, at the time of the apportionment, it appears that it is material as respects the liability to income tax (for whatever year of assessment) of two or more persons, any question which arises as to the manner in which the sum is to be apportioned shall be determined, for the purposes of the income tax of all those persons, by the Special Commissioners, in like manner as if it were an appeal against an assessment to income tax under Schedule D, and the provisions of the Income Tax Acts relating to such an appeal shall apply accordingly with any necessary modifications:

Provided that all the said persons shall be entitled to appear and be heard by the Special Commissioners or to make representations to them in writing.

(2) This section applies in relation to any determination for the purposes of this Part of this Act of the price which property would have fetched if sold in the open market as it applies in relation to apportionments.

65. Property Used For Purposes Of "Exempted Trading Operations" :-

(1) Where an event occurs which gives rise, or would, but for this section, give rise to a balancing allowance or balancing charge in respect of any property to or on a company in relation to which a certificate under subsection (2) of section 3 of Finance (Miscellaneous Provisions) Act, 1958 , has been given, then, whether the certificate is still in force or not, the following provisions of this section shall apply.

(2) If the property has been used by the company exclusively for the purposes of its exempted trading operations within the

meaning of Part II of the said Act, no balancing allowance or balancing charge shall be made.

(3) If the property has been used partly for the purposes of the companys exempted trading operations and partly for the purposes of its other trading operations, regard shall be had to all the relevant circumstances of the case and there shall be made to or on the company an allowance of such an amount, or, as the case may be, a charge on such an amount, as may be just and reasonable.

66. Interpretation Of Certain References To Expenditure, Etc :-

(1) References in this Part of this Act to capital expenditure and capital sums-

(a) in relation to the person incurring the expenditure or paying the sums, do not include any expenditure or sum which is allowed to be deducted in computing, for the purposes of income tax, the profits or gains of a trade, profession, office, employment or vocation carried on or held by him, and

(b) in relation to the person receiving the amounts expended or the sums in question, do not include references to any amounts or sums which fall to be taken into account as receipts in computing the profits or gains of any trade, profession, office, employment or vocation carried on or held by him,

and do not include, in relation to any such person as aforesaid, any expenditure or sum in the case of which a deduction of tax falls or may fall to be made, otherwise than by virtue of the provisions of Chapter III of this Part of this Act relating to charges on capital sums received for patent rights, under Rule 19 or Rule 21 of the General Rules.

(2) Any reference in this Part of this Act to the date on which expenditure is incurred shall be construed as a reference to the date when the sums in question become payable.

(3) Expenditure shall not be regarded for any of the purposes of this Part of this Act as having been incurred by any person in so far as it has been or is to be met directly or indirectly by the State, by any board established by statute or by any public or local authority: Provided that in considering whether any and, if so, what, balancing charge is to be made on a person under Chapter II of this Part of this Act in respect of any machinery or plant provided before the 15th day of April, 1959, this subsection shall not apply.

67. Other Provisions As To Interpretation :-

(1) In this Part of this Act, except where the context otherwise requires-

"income" includes any amount on which a charge to tax is authorised to be made under any of the provisions of this Part of this Act;

"lease" includes an agreement for a lease where the term to be covered by the lease has begun, and any tenancy, but does not include a mortgage, and "lessee", "lessor" and "leasehold interest" shall be construed accordingly;

"sale, insurance, salvage or compensation moneys" mean, in relation to an event which gives rise or might give rise to a balancing allowance or a balancing charge to or on any person-

(a) where the event is a sale of any property, the net proceeds to that person of the sale,

(b) where the event is the demolition or destruction of any property, the net amount received by him for the remains of the property, together with any insurance moneys received by him in respect of the demolition or destruction and any other compensation of any description received by him in respect thereof, in so far as that compensation consists of capital sums,

(c) as respects machinery or plant, where the event is the permanent loss thereof otherwise than in consequence of its demolition or destruction, any insurance moneys received by him in respect of the loss and any other compensation of any description received by him in respect thereof, in so far as that compensation consists of capital sums, and

(d) where the event is that a building or structure ceases altogether to be used, any compensation of any description received by him in respect of that event, in so far as that compensation consists of capital sums,

(2) Any reference in this Part of this Act to any building, structure, machinery or plant shall be construed as including a reference to a part of any building, structure, machinery or plant.

(3) The provisions of this Part of this Act shall apply in relation to a share in machinery or plant as they apply in relation to a part of machinery or plant, and for the purposes of those provisions a share in machinery or plant shall be deemed to be used for the purposes of a trade so long as, and only so long as, the machinery or plant is used for the purposes thereof.

(4) Any reference in this Part of this Act to the time of any sale shall be construed as a reference to the time of completion or the

time when possession is given, whichever is the earlier.

(5) Any reference in this Part of this Act to the setting up or permanent discontinuance of a trade includes, except where the contrary is expressly provided, a reference to the occurring of any event which, under any of the provisions of the Income Tax Acts, is to be treated as equivalent to the setting up or permanent discontinuance of a trade.

(6) Any reference in this Part of this Act to an allowance made or deduction allowed includes a reference to an allowance or deduction which would be made or allowed but for an insufficiency of profits or gains, or other income, against which to make it.

68. Consequential Amendments :-

(1) Finance Act, 1958 , is hereby amended as follows: (i) in subsection (8) of section 40 "or" shall be deleted at the end of paragraph (b) and there shall be added after paragraph (c):

"or

(d) income treated as earned income by virtue of section 53 of the Finance Act, 1959,";

(ii) in subsection (3) of section 41 , "or" before " Part V of Finance Act, 1957 " shall be deleted and "or Part V of the Finance Act, 1959," shall be inserted before "and references to income";

(iii) in clause (b) of subparagraph (3) of paragraph 5 of the Third Schedule, "or" before " Part V of Finance Act, 1957 " shall be deleted and "or Part V of the Finance Act, 1959," shall be inserted before "for any year of assessment".

(2) Subsection (2) of section 8 of Finance (Miscellaneous Provisions) Act, 1958 , is hereby amended by the addition at the end of the subsection of "or any annual allowances under Chapter or Chapter III, or Chapter IV of Part V of the Finance Act, 1959".

69. Allowances And Charges In Relation To Corporation Profits Tax :-

(1) Where any of the following allowances:

(a) an allowance under Rule 6 of the Rules applicable to Cases I and II of Schedule D,

(b) an allowance under subsection (3), or paragraph (b) of subsection (4), of section 5 or section 6 of Finance Act, 1946, (c) an allowance under Part V of Finance Act, 1956 , in respect of expenditure incurred after the commencement of this Part of this Act,

(d) an allowance under Part IV of Finance (Miscellaneous Provisions) Act, 1956 , in respect of expenditure incurred after the commencement of this Part of this Act,

(e) an annual allowance or a balancing allowance under Chapter I , II or III of this Part of this Act, or (f) an initial allowance, annual allowance or other allowance under Chapter IV of this Part of this Act, is made to any company for the purposes of income tax for any year of assessment and the allowance is related to any business carried on by that company, the appropriate amount shall be deducted in computing the profits of the business for the purposes of corporation profits tax for any accounting period (being an accounting period ending on or after the commencement of this Part of this Act) any part of which falls within that year of assessment.

(2) For the purposes of subsection (1) of this section, an allowance shall be treated as related to a business if, and only if, either-

(a) it is made in charging the profits or gains of a trade which is, or is comprised in, that business,

(b) it is made in charging the profits or gains of a trade and is so made in respect of, or of expenditure on, property used for the purposes of a part of the trade which is, or is comprised in, that business, or

(c) it is an allowance made by way of discharge or repayment of tax under or by virtue of any of the provisions of this Part of this Act and is in respect of, or of expenditure on, property the rent of which is included in the profits of the business for the purposes of corporation profits tax for any period or would have been so included if there had been any such rent.

(3) Where any of the following charges:

(a) a balancing charge under Chapter I , II or III of this Part of this Act, or

(b) a charge under section 50 of this Act, is made on any company for the purposes of income tax for any year of assessment, and the charge is related to a business, the appropriate amount shall be treated as a trading receipt in computing the profits of the business for the purposes of corporation profits tax for any accounting period any part of which falls within that year of assessment.

(4) For the purposes of subsection (3) of this section, a charge shall be treated as related to a business if, and only if, either-

(a) it is made in charging the profits or gains of a trade which is, or is comprised in, that business,

(b) it is made in charging the profits or gains of a trade and is a

balancing charge in respect of, or of expenditure on, property used for the purposes of a part of the trade which is, or is comprised in, that business,

(c) it is a balancing charge in respect of, or of expenditure on, property the rent of which is included in the profits of the business for the purposes of corporation profits tax for any accounting period or would have been so included if there had been any such rent, or

(d) it is a charge under section 50 of this Act and the patent rights in question have at any time been used for the purposes of the business.

(5) In subsections (1) and (3) of this section "the appropriate amount" shall be construed as follows:

(a) in a case in which the business commenced or discontinued during the year of assessment in question, the said expression-

(i) if no more than one accounting period of the business falls, whether wholly or partly within the year of assessment, means the whole amount of the allowance or, as the case may be, the whole amount on which the charge is made, and

(ii) if more than one accounting period of the business falls, whether wholly or partly, within the year of assessment, means, in relation to each such accounting period, the portion of the allowance, or, as the case may be, the portion of the amount on which the charge is made, which bears to the whole thereof the same proportion as the length of the said accounting period, so far as included in the said year of assessment, bears to the total length of all such accounting periods, so far as so included;

(b) in any other case, the said expression-

(i) where the year of assessment in question and the accounting period in question coincide, means the whole amount of the allowance, or, as the case may be, the whole amount on which the charge is made, and

(ii) where part only of the year of assessment falls within that accounting period, means such portion of the allowance or, as the case may be, such portion of the amount on which the charge is made as is apportioned to that part of the year of assessment which falls within that accounting period.

(6) Where the profits of a business are not chargeable or not wholly chargeable to income tax, the like deductions and additions shall be made under subsections (1) and (3) of this section in computing the profits of the business for the purposes of corporation profits tax (being deductions and additions in respect of matters in respect of which no deductions or additions otherwise fall to be made under

those subsections respectively) as would have fallen to be made for income tax purposes if the profits of the business had been so chargeable or wholly so chargeable.

(7) Where, under this section, an amount falls to be apportioned to a part of a year of assessment or accounting period, the apportionment shall be made by reference to the number of months or fractions of months contained in that part, and in the remainder, of that year or period.

(8) In this section-

(a) "business" means any trade or business or any undertaking of a similar character the profits whereof are profits to which Part V of the Finance Act, 1920, applies, and

(b) any reference to an allowance made for any year of assessment does not include a reference to any amount carried forward from any previous year of assessment.

(9) In relation to any accounting period ending on or after the commencement of this Part of this Act-

(a) paragraph (e) of the proviso to subsection (2) of section 53 of the Finance Act, 1920, shall cease to have effect in so far as it is inconsistent with the provisions of this section, and

(b) section 27 of Finance Act, 1956 , and section 20 of Finance (Miscellaneous Provisions) Act, 1956 , shall cease to have effect as respects expenditure incurred after such commencement.

PART 6 Amendment of Finance (Miscellaneous Provisions) Act, 1956, and Training of Local Staff before Commencement of Trading Income Tax, Sur-tax and Corporation profits Tax.

70. Interpretation (Part Vi) :-

In this Part of this Act "the Act" means Finance (Miscellaneous Provisions) Act, 1956 .

71. Amendment Of Part Iii Of The Act (Repairs To Ships, Greeting Cards). :-

(1) In the case of a company carrying on the trade of building or repairing ships, the following provisions shall apply for the purposes of relief from income tax and corporation profits tax under Part III of the Act:

(a) repairs carried out within the State to a ship shall be regarded as the manufacture within the State of goods and, to the extent to which any such repairs have been carried out within the State to a

ship which is wholly owned by persons who are not ordinarily resident in the State, the ship shall be regarded as goods which are manufactured within the State and exported by the person who manufactures them and any amount receivable in payment for repairs carried out within the State to a ship shall be regarded as an amount receivable from the sale of goods;

(b) where, as respects any year of assessment or any accounting period, the company, by notice in writing given to the inspector of taxes within twelve months after the end of that year or period, so elects, the Act shall apply in the case of that year or period-

(i) as if all ships built by the company within the State had been exported by the company,

(ii) as if all ships to which repairs were carried out by the company within the State were, to the extent of such repairs, goods exported by the company, and

(iii) as if amounts receivable by the company in payment for the building within the State or of the repair within the State of ships were amounts receivable from the sale of goods exported by the company out of the State.

(2) In paragraphs (a) and (b) of subsection (1) of this section, any reference to repair or building, as well as including a reference to repair or building effected on or after the 6th day of April, 1959, also includes a reference to repair or building effected before that day.

(3) Each of the references to books contained in paragraph (d) of subsection (2); of section 56 of Finance Act, 1958 , shall be construed as including a reference to greeting cards.

(4) This section shall have effect-

(a) in relation to income tax, for any year of assessment beginning on or after the 6th day of April, 1959, and

(b) in relation to corporation profits tax, for any accounting period or part of an accounting period subsequent to the 5th day of April, 1959, and, in the case of corporation profits tax, the Revenue Commissioners may, for the purposes of this section in relation to any-such part of an accounting period, make such apportionments as may be appropriate.

72. Amendment Of Part Iii Of The Act (Adjustment Of Certain Amounts). :-

(1) This section shall take effect for the purposes of relief from income tax or corporation profits tax under Part III of the Act, and

in this section "the company" means a company claiming relief pursuant to that Part.

(2) Where it appears to the Revenue Commissioners that, in the case of goods of a particular class, the relationship between the amount receivable from the sale in any period of goods exported and the amount receivable from the sale in that period of goods not exported is affected by the payment by the company of any duty in respect of the goods or the materials used in their manufacture, the Revenue Commissioners may direct that subsection (3) or subsection (4) of this section, whichever appears to them to be appropriate, shall apply in arriving at an amount receivable from the sale in that period of such goods, and where any such direction has been given, any relief to the company by reference to the sale of goods in that period shall be computed in accordance with it.

(3) (a) An amount receivable from the sale of goods exported out of the State shall be deemed to be increased by the amount of any drawback, rebate or repayment of duty, being duty payable in the State, received by the company in respect of such goods and to be reduced by the amount of any duty paid in any territory outside the State by the company in respect of the import of such goods into that territory.

(b) An amount receivable from the sale of goods not exported shall be deemed to be increased by the amount of any rebate or repayment of duty, being duty payable in the State, received by the company in respect of such goods.

(4) (a) An amount receivable from the sale of goods exported out of the State shall be deemed to be reduced by the amount of any duty paid in any territory outside the State by the company in respect of the import of such goods into that territory.

(b) An amount receivable from the sale of goods not exported shall be deemed to be reduced by the amount of any duty, being duty payable in the State, paid by the company in respect of such goods.

(5) The Revenue Commissioners may by notice in writing require the company to furnish them with such information or particulars as may be necessary for the purpose of giving effect to this section, and subsection (1) of section 12 and subsection (1) of section 13 of the Act shall have effect as if the matters of which proof is required by those subsections included the information or particulars specified in a notice under this subsection.

(6) This section shall have effect as from the passing of the Act, and relief from tax in relation to the period between such passing

and the passing of this Act may be given accordingly either by repayment or otherwise as the Revenue Commissioners think proper.

73. Amendment Of Part Iv Of The Act :-

(1) Section 17 of the Act is hereby amended-

(i) by the addition at the end of subsection (1) of the word "or" and the following paragraph:

"(c) for the purposes of a dock undertaking."

(ii) by the insertion after subsection (3) of the following subsection:

"(3A) In this section dock includes any harbour, wharf, pier or jetty or other works in or at which vessels can ship or unship merchandise or passengers, not being a pier or jetty primarily used for recreation, and a dock undertaking shall be construed accordingly."

(2) Section 19 of the Act shall have effect as if paragraph (b) and the proviso to that paragraph were deleted and the following paragraphs inserted in lieu thereof:

"(b) any expenditure on the provision of machinery or plant or on any asset which is treated for any year of assessment as machinery or plant, or

(c) any expenditure in respect of which an allowance is or may be made, for the same or for any previous or subsequent year of assessment, under subsection (3) of section 5 or under section 6 of Finance Act, 1946 (No. 15 of 1946)." (3) Where capital expenditure is incurred on preparing, cutting, tunnelling or levelling land for the purposes of preparing the land as a site for the installation of machinery or plant, the machinery or plant shall, as regards that expenditure, be treated, for the purposes of Part IV of the Act, as a building or structure.

(4) In relation to industrial building allowances for years of assessment beginning on or after the 6th day of April, 1959, other than amounts carried forward from any year of assessment ended before that date, this section shall have effect as from the commencement of the Act.

74. Training Of Local Staff Before Commencement Of Trading :-

(1) Where, before the day (being the 6th day of April, 1959, or a later day) of the setting up or commencement of a trade consisting of the production for sale of manufactured goods, a person who is

about to carry on the trade incurs or has incurred expenditure on the recruitment and training, with a view to their employment in the trade, of persons all or a majority of whom are Irish citizens-

(a) for the year of assessment in which that day occurs and each of the next two years of assessment, there shall be made to him an allowance equal to one-third of that expenditure, and such allowance shall be made as a deduction in charging the profits or gains of the trade,

(b) in the case of a company, that expenditure shall be treated for the purposes of corporation profits tax as if one-thirty-sixth thereof had been incurred in each of the thirty-six consecutive months the first of which is that beginning with that day,

(c) paragraph (3) of Rule 6 of the Rules applicable to Cases I and II of Schedule D and section 4 of Finance Act, 1937 , shall apply in relation to an allowance under paragraph (a) of this subsection as they apply in relation to a deduction allowable in respect of wear and tear of machinery or plant.

(2) For the purposes of this section-

(a) expenditure shall not include any expenditure incurred by a person in respect of which no deduction would have been allowable to him, in computing the profits or gains of the trade under the Rules applicable to Cases I and II of Schedule D, if it had been incurred on or after the day of the setting up or commencement of the trade,

(b) expenditure shall not be regarded as having been incurred, by a person in so far as it has been or is to be met directly or indirectly by the State, by any board established by statute or by any public or local authority.

(3) For the purposes of this section, the date on which any expenditure is incurred shall be taken to be the date on which the sum in question becomes payable.

(4) Any claim by a person for an allowance under this section shall be included in the annual statement required to be delivered under the Income Tax Acts of the profits or gains of his trade and shall be accompanied by a certificate signed by the claimant, which shall be deemed to form part of the claim, stating that the expenditure was incurred on the recruitment and training, with a view to their employment in the trade, of persons all or a majority of whom are Irish citizens and giving such particulars as show that the allowance falls to be made.

PART 7 Stamp Duties

75. Stamp Duty On Policies Of Insurance :-

(1) In the First Schedule to the Stamp Act, 1891, before the head of charge "Policy of Life Insurance" there shall be inserted the following-

"Policy of Insurance other than Life Insurance and the head of charge "Policy of Sea Insurance" and the head of charge beginning "Policy of Insurance against Accident" shall be omitted.

(2) The following shall be exempt from all stamp duties:

(a) cover notes, slips and other instruments usually made in anticipation of the issue of a formal policy, not being instruments relating to life insurance;

(b) instruments embodying alterations of the terms or conditions of any policy of insurance other than life insurance;

and an instrument exempted by virtue of paragraph (a) of this subsection shall not be taken for the purposes of the Stamp Act, 1891, to be a policy of insurance.

(3) An instrument shall not be charged with duty exceeding sixpence by reason only that it contains or relates to two or more distinct matters each falling within the head of charge inserted by subsection (1) of this section.

(4) In consequence of subsection (1) of this section, the Stamp Act, 1891, shall be amended as follows:

(a) sections 92 to 97 shall cease to have effect;

(b) section 100 shall have effect as if the exceptions therein as to sea insurance were omitted;

(c) section 116 shall apply in relation to all policies of insurance other than life insurance, and the second part of the Second Schedule shall have effect accordingly;

and the said section 100 shall not apply in relation to an insurance or a policy effecting an insurance if the insurance is such that a policy effecting it is exempt from all stamp duties.

(5) Paragraphs (2) to (5) of section 23 of the Marine Insurance Act, 1906, and subsection (2) of section 25 thereof shall cease to have effect.

(6) Notwithstanding the repeal of section 93 of the Stamp Act, 1891, a contract for such insurance as is mentioned in section 506 of the Merchant Shipping Act, 1894, shall continue to be admissible in evidence although not embodied in a marine policy as required by section 22 of the Marine Insurance Act, 1906.

(7) This section shall come into operation on the 1st day of August, 1959, and shall not have effect with respect to any instrument

executed before that day.

76. Amendment Of Section 19 (1) (B) Of Finance Act, 1952

:-

(1) Paragraph (b) of subsection (1) of section 19 of Finance Act, 1952 , is hereby amended by the substitution of the following subparagraphs for subparagraphs (i) to (v):

"(i) the transferor was entitled to the entire beneficial interest in the relevant property,

(ii) the entire beneficial interest in the relevant property became vested in the transferee,

(iii) at the time of the execution of the instrument the transferor and transferee were associated with each other to the extent that either was the beneficial owner of not less than ninety per cent, of the issued share capital of the other or that not less than ninety per cent, of the issued share capital of each of them was in the beneficial ownership of a third body corporate, and

(iv) the conveyance or transfer was not made in pursuance of or in connection with an arrangement whereunder either the consideration was to be provided directly or indirectly by a person other than a body corporate which at the time of the execution of the instrument was associated with either the transferor or the transferee to the extent described in subparagraph (iii) of this paragraph, or the beneficial interest in the relevant property was previously conveyed or transferred directly or indirectly by such a person as aforesaid."

(2) The reference to paragraph (6) of subsection (1) of section 19 of Finance Act, 1952 , in paragraph (a) of that subsection and the reference thereto in paragraph (a) of subsection (4) of that section shall each be construed as a reference to the said paragraph (6) as amended by subsection (1) of this section.

PART 8 Miscellaneous and General

77. Capital Services Redemption Account :-

(1) In this section-

"the principal section" means section 22 of the Finance Act, 1950;

"the 1958 amending section" means section 61 of Finance Act, 1958 ; "the ninth additional annuity" means the sum charged on the Central Fund under subsection (4) of this section;

"the Minister", "the Account" and "capital services" have the same

meanings respectively as they have in the principal section.

(2) Subsection (4) of the 1958 amending section shall, in relation to the twenty-nine successive financial years commencing with the financial year ending on the 31st day of March, 1960, have effect with the substitution of "645,872 " for "717,012".

(3) Subsection (6) of the 1958 amending section shall have effect with the substitution of "409,742" for "528,332".

(4) A sum of 780,192 to redeem borrowings, and interest thereon, in respect of capital services shall be charged annually on the Central Fund or the growing produce thereof in the thirty successive financial years commencing with the financial year ending on the 31st day of March, 1960.

(5) The ninth additional annuity shall be paid into the Account in such manner and at such times in the relevant financial year as the Minister may determine.

(6) Any amount of the ninth additional annuity, not exceeding 504,682 in any financial year, may be applied towards defraying the interest on the public debt.

(7) The balance of the ninth additional annuity shall be applied in any one or more of the ways specified in subsection (6) of the principal section.

78. Amendment Of Section 31 (3) Of Finance Act, 1940 :-

Subsection (3) of section 31 of Finance Act, 1940 , is hereby amended by the substitution in paragraph (d) of "three per cent, per annum " for "two and seven-eighths per cent, per annum".

79. Amendment Of Section 2 Of Finance (Profits Of Certain Mines) (Temporary Relief From Taxation) Act, 1956 :-

Section 2 of Finance (Profits of Certain Mines) (Temporary Relief from Taxation) Act, 1956 , is hereby amended by the substitution therein of "within the period of ten years" for "within the period of five years".

80. Repeals :-

(1) The enactments specified in the Fourth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(2) Subsection (1) of this section-

(a) in the case of the enactments specified in Part I of the Fourth

Schedule to this Act, shall come into operation on the 1st day of August, 1959,

(b) in the case of the enactments specified in Part II of that Schedule, shall come into operation on the 1st day of August, 1959, and shall not have effect with respect to instruments executed before that day, and

(c) in the case of the enactments specified in Part III of that Schedule, shall come into operation on the 1st day of April, 1960.

81. Care And Management Of Taxes And Duties :-

All taxes and duties imposed by this Act are hereby placed under the care and management of the Revenue Commissioners.

82. Short Title, Construction And Commencement :-

(1) This Act may be cited as the Finance Act, 1959.

(2) Parts I and IV of this Act and the First Schedule thereto shall be construed together with the Income Tax Acts.

(3) Part II of this Act, so far as it relates to duties of customs, shall be construed together with the Customs Acts and, so far as it relates to duties of excise, shall be construed together with the Statutes which relate to the duties of excise and the management of those duties.

(4) Parts V and VI of this Act shall, so far as they relate to income tax (including sur-tax), be construed together with the Income Tax Acts and shall, so far as they relate to corporation profits tax, be construed together with Part V of the Finance Act, 1920, and the enactments amending or extending that Part.

(5) Part VII of this Act shall be construed together with the Stamp Act, 1891, and the enactments amending or extending that Act.

(6) Parts I and IV of this Act and the First and Second Schedules thereto shall be deemed to come into force and shall take effect as on and from the 6th day of April, 1959.

(7) Part V of this Act shall come into operation on the 6th day of April, 1960.

(8) Any reference in this Act to any other enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment, including this Act.

SCHEDULE 1

FIRST SCHEDULE

Purchase and Sale of Securities: Appropriate Amount in respect of the Interest.

Sections 7 to 9 . 1. For the purposes of section 7 of this Act, the appropriate amount in respect of the interest is the appropriate proportion of the net interest receivable by the first buyer.

2. For the purposes of sections 8 and 9 of this Act, the appropriate amount in respect of the interest is the gross amount corresponding with the appropriate proportion of the net interest receivable by the first buyer.

3. (1) For the purposes of paragraphs 1 and 2 of this Schedule, the appropriate proportion is the proportion which-

(a) the period beginning with the first relevant date and ending with the day before the day on which the first buyer bought the securities, bears to-

(b) the period beginning with the first relevant date and ending with the day before the second relevant date.

(2) In subparagraph (1) of this paragraph-

"the first relevant date" means-

(a) in case the securities have not been quoted in the official list of the Dublin Stock Exchange at a price excluding the value of the interest payment last payable before the interest receivable by the first buyer or, the securities having been so quoted, the date of the quotation was not the earliest date on which they could have been so quoted if an appropriate dealing in the securities had taken place-the said earliest date, and

(b) in any other case-the date on which the securities have been first so quoted;

"the second relevant date" means-

(a) in case the securities have not been quoted in the official list of the Dublin Stock Exchange at a price excluding the value of the interest receivable by the first buyer or, the securities having been so quoted, the date of the quotation was not the earliest date on which they could have been so quoted if an appropriate dealing in the securities had taken place-the said earliest date, and

(b) in any other case-the date on which the securities have been first so quoted.

(3) Where the interest receivable by the first buyer was the first interest payment payable in respect of the securities, sub-paragraph (1) of this paragraph shall have effect with the substitution, for the references to the first relevant date, of the beginning of the period for which the interest was payable:

Provided that, where the capital amount of the securities was not fully paid at the beginning of the said period and one or more instalments of capital were paid during that period-

(a) the interest shall be treated as divided into parts, calculated by reference to the amount of the interest attributable to the capital paid at or before the beginning of the said period and the amount thereof attributable to each such instalment, and

(b) treating each of the said parts as interest payable for the said period or, where the part was calculated by reference to any such instalment, as interest payable for the part of the said period beginning with the payment of the instalment, there shall be calculated, in accordance with the foregoing provisions of this paragraph, the amount constituting the appropriate proportion of each part, and

(c) the appropriate proportion of the interest for the purposes of paragraphs 1 and 2 of this Schedule shall be the proportion thereof constituted by the sum of the said amounts.

(4) In relation to securities which are not the subject of quotations in the official list of the Dublin Stock Exchange, sub-paragraph (1) of this paragraph shall have effect with the substitution for the periods therein mentioned of such periods as in the opinion of the Special Commissioners correspond therewith in the case of the securities in question.

4. Where the securities are of a description such that the bargain price is increased, where interest is receivable by the buyer, by reference to gross interest accruing before the bargain date, the foregoing paragraphs shall not apply, but, for the purposes of each of the said sections, the appropriate amount in respect of the interest shall be the amount of the increase in the bargain price.

SCHEDULE 2

SECOND SCHEDULE

AGREEMENT BETWEEN THE GOVERNMENT OF IRELAND AND THE GOVERNMENT OF THE UNITED KINGDOM WITH RESPECT TO CERTAIN EXEMPTIONS FROM TAX.

Section 10 . The Government of Ireland and the Government of the United Kingdom, Considering the Agreement of the 14th April, 1926, between the Government of the Irish Free State and the British Government, in pursuance of which exemptions from tax are conferred on persons resident in one only of the countries from tax under the law of the other, Considering that doubts have arisen as to the effect on the said exemptions of the provisions of subsection (2) of Section four of the United Kingdom Finance (No. 2) Act, 1955 (hereinafter called "the Act of 1955") and subsection (2) of Section fifty-one of the Irish Finance Act, 1958 (hereinafter called "the Act of 1958") (which relate to purchases of shares by persons exempted from tax),

Desiring to remove these doubts for the year 1959-60 and subsequent years,

Have agreed as follows:-

Article 1.

(1) The said exemptions fall within, and are subject to, the said provisions of the Act of 1955 and the Act of 1958.

(2) Subject as aforesaid the said Agreement of 1926 as amended by Agreements made on the 25th April, 1928, and the 21st July, 1947, continues in force.

(3) Paragraph (1) of this Article does not relate to cases where the dividend in respect of which exemption is claimed is one on a holding of shares or stock acquired by the person claiming exemption, or regarded as having been acquired by him, before the eighth day of April, nineteen hundred and fifty-nine except in so far as that dividend is one falling within subsection (2) of the said Section four or subsection (2) of the said Section fifty-one by reason (directly or indirectly) that in respect of another dividend, received by a body corporate other than the person claiming exemption from a holding of shares or stock acquired, or regarded as acquired, by the body corporate on or after the said eighth day of April, a deduction is to be made in determining the income of that body corporate arising after a given date; but this paragraph is without prejudice to any question as to the application of the said provisions of the Act of 1955 and the Act of 1958 in circumstances to which paragraph (1) of this Article does not relate.

Article 2.

This Agreement shall become effective on the exchange of notes confirming that the necessary steps have been taken to give it the force of law in Ireland and the United Kingdom, and thereafter shall remain effective only so long as it has the force of law in both countries.

Dated this fourth day of April, 1959.

For the Government of Ireland. For the Government of the United Kingdom.

SÉAMAS Ó RIAIN. D. HEATHCOAT AMORY

SCHEDULE 3

THIRD SCHEDULE

Duties on Tobacco.

Part I. Customs.

Unmanufactured:-

If Stripped or Stemmed:-

Containing 10 lbs. or more of moisture in every 100 lbs. weight thereof the lb. 2 6
2

Containing less than 10 lbs. of moisture in every 100 lbs. weight thereof the lb. 2
11 3

If Unstripped or Unstemmed:-

Containing 10 lbs. or more of moisture in every 100 lbs. weight thereof the lb. 2 6
1

Containing less than 10 lbs. of moisture in every 100 lbs. weight thereof the lb. 2
11 2

Part II Excise

Unmanufactured :-

Containing 10 lbs. or more of moisture in every 100 lbs. weight thereof the lb. 2 5 0

Containing less than 10 lbs. of moisture in every 100 lbs. weight the lb. 2 10 0

Part III. Preferential Rates of Customs Duties on Unmanufactured Tobacco.

Unmanufactured:-

If Stripped or Stemmed:-

Containing 10 lbs. or more of moisture in every 100 lbs. weight thereof the lb. 2 4
7

Containing less than 10 lbs. of moisture in every 100 lbs. weight thereof the lb. 2 9
7

If Unstripped or Unstemmed:-

Containing 10 lbs. or more of moisture in every 100 lbs. weight thereof the lb. 2 4
7

Containing less than 10 lbs. of moisture in every 100 lbs, weight thereof the lb. 2 9
6

SCHEDULE 4

FOURTH SCHEDULE

Enactments repealed.

Part I.

No. 11 of 1928. Finance Act, 1928 .

Section 26 . No. 20 of 1932. Finance Act, 1932 .

Paragraph (b) of subsection (3) of section 25 . No. 15 of 1933. Finance Act, 1933.
Section 19.

No. 31 of 1934. Finance Act, 1934 .

Section 20 . No. 28 of 1935. Finance Act, 1935 .

Section 25 . No. 31 of 1936. Finance Act, 1936. Section 12.

No. 25 of 1938. Finance Act, 1938. Paragraphs (a), (b) and (c) of subsection (1)
and subsection (2) of section 22.

No. 18 of 1939. Finance Act, 1939. Section 17.

No. 18 of 1950. Finance Act, 1950. Section 7.

No. 21 of 1953. Finance Act, 1953. Section 5.

No. 22 of 1956. Finance Act, 1956 .

Section 18 .

Part II. Session and Chapter Short Title Extent of Repeal

54 & 55 Vic., c. 39. The Stamp Act, 1891. Sections 92 to 97; in subsection (1) of
section 98, the words from "against accident; and" to "a policy of insurance" and
from "or as compensation" to the end; subsection (2) of section 98; in section 99,
the words "sea insurance or"; in section 100, the words "other than a sea
insurance" and the words "other than a policy of sea insurance"; in the First

Schedule, the head of charge "Policy of Sea Insurance" and the head of charge beginning "Policy of Insurance against Accident".

58 & 59 Vic., c. 16. The Finance Act, 1895. Section 13.

59 & 60 Vic., c. 28. The Finance Act, 1896. Section 13.

62 & 63 Vic., c. 9. The Finance Act, 1899. Section 11.

1 Edw. 7, c. 7. The Finance Act, 1901. Section 11.

3 Edw. 7, c. 46. The Revenue Act, 1903. Section 8.

6 Edw. 7, c. 41. The Marine Insurance Act, 1906. In section 21, the words "although it be unstamped"; paragraphs (2) to (5) of section 23; subsection (2) of section 25.

7 Edw. 7, c. 13. The Finance Act, 1907. Section 8.

2 & 3 Geo. 5, c. 8. The Finance Act, 1912. Section 8.

10 & 11 Geo. 5, c. 18. The Finance Act, 1920. Subsection (1) of section 40; in subsection (2) of section 40 the words "ninety-eight"; section 41.

Part III. Number and Year Short Title Extent of Repeal

No. 15 of 1946. Finance Act, 1946 .

Subsection (13) of section 6 . No. 20 of 1957. Finance Act, 1957 .

Subsection (4) of section 2 .