CHAPTER 46.

An Act to grant certain duties of Customs and Inland Revenue (including Excise), to alter other duties, and to amend the law relating to Customs and Inland Revenue (including Excise) and the National Debt, and to make further provision in connection with finance. A.D. 1938.

[29th July 1938.]

Most Gracious Sovereign,

WE, Your Majesty's most dutiful and loyal subjects the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and grant unto Your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.

CUSTOMS AND EXCISE.

1.—(1) The rate of the customs duty chargeable under section two of the Finance Act, 1928, on hydrocarbon oils shall be increased from eightpence per gallon to ninepence per gallon. Increase of customs duty on hydrocarbon oils. 18 & 19 Geo. 5. c. 17.

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(2) The rate of any rebate allowed under subsection (3) of the said section on the delivery for home consumption of any oils other than light oils shall be increased from sevenpence per gallon to eightpence per gallon.

(3) This section shall be deemed to have had effect as from six o'clock in the evening on the twenty-sixth day of April nineteen hundred and thirty-eight.

Preference for home produced oils.

2.—(1) During the period of twelve years from the passing of this Act, the preference in respect of—

(*a*) light oils manufactured in the United Kingdom from indigenous materials (hereafter in this Act referred to as " home produced light oils "); and

(*b*) heavy oils manufactured as aforesaid and used in the United Kingdom as road fuel (hereafter in this Act referred to as " home produced road fuel oils ");

shall not be less than the appropriate rate per gallon for the time being in force.

(2) For the purposes of this section—

(*a*) the appropriate rate shall be—

(i) for the period ending on the fifth day of May nineteen hundred and forty-two, eightpence;

(ii) for the remainder of the said twelve years, eightpence, subject to any adjustments made in accordance with Part I of the First Schedule to this Act;

(*b*) the expression " preference " in respect of home produced light oils means—

(i) so long as no excise duty is payable in respect of home produced light oils, the rate per gallon of the customs duty payable in the United Kingdom on light oils;

(ii) if during the said twelve years any such excise duty is payable, the difference

between the rate per gallon of the excise duty so payable and the rate per gallon of the customs duty payable as aforesaid;

(*c*) the expression "preference" in respect of home produced road fuel oils means—

(i) so long as no excise duty is payable in respect of home produced road fuel oils, the rate per gallon of the customs duty payable in the United Kingdom on heavy oils used as road fuel;

(ii) if during the said twelve years any such excise duty is payable, the difference between the rate per gallon of the excise duty so payable and the rate per gallon of the customs duty payable as aforesaid;

(*d*) the expression "light oils" has the same meaning as in subsection (3) of section two of the Finance Act, 1928, except that it does not include turpentine;

(*e*) the expression "heavy oils" has the same meaning as in section two of the Finance Act, 1935; 25 & 26 Geo. 5. c. 24.

(*f*) the expression "indigenous materials" means coal, shale or peat indigenous to the United Kingdom, or products produced from those substances;

(*g*) the expression "road fuel" means fuel for mechanically propelled vehicles constructed or adapted for use on roads;

and in the First Schedule to this Act the expressions "light oils," "heavy oils", "indigenous materials" and "road fuel" have the meanings respectively assigned to them by the last four foregoing paragraphs.

(3) The provisions of Part II of the First Schedule to this Act shall have effect for the purpose of supplementing the provisions of this section and Part I of that Schedule.

(4) The British Hydrocarbon Oils Production Act, 1934, shall cease to have effect. 24 & 25 Geo. 5. c. 4.

3.—(1) There shall be charged, on all spirits used for making power methylated spirits, a duty of excise of ninepence for every gallon of the spirits so used. Excise duty on power methylated spirits.

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(2) The duty charged under this section shall be paid by the methylator immediately after the spirits have been used as aforesaid.

(3) There shall be allowed—

(*a*) on the exportation of any power methylated spirits from the United Kingdom; or

(*b*) on the shipment, or deposit in a bonded warehouse, of any such spirits for use as ships' stores; or

(*c*) on the loading into any aircraft of any such spirits for use on a voyage to a place outside the United Kingdom;

a drawback equal to the amount of the duty shown to the satisfaction of the Commissioners to have been paid under this section in respect of the spirits.

(4) The foregoing provisions of this section shall be deemed to have had effect as from the second day of May nineteen hundred and thirty-eight.

(5) The power of the Commissioners to make regulations with respect to methylated spirits under section sixteen of the Finance Act, 1921, shall include power to make regulations for securing the payment of the duty charged under this section.

11 & 12 Geo. 5. c. 32.

(6) In this section the expression " power methylated spirits " means spirits methylated in the manner prescribed for making power methylated spirits by regulations for the time being in force under section thirteen of the Finance Act, 1924 (which enables the Commissioners to prescribe what substances are to be mixed with spirits for the purpose of making power methylated spirits).

14 & 15 Geo. 5. c. 21.

Relief of fishing-boats and lifeboats from duties on oil and power methylated spirits.

4.—(1) Subsection (8) of section two of the Finance Act, 1928 (which provides for repayment of duty paid in respect of hydrocarbon oil used on fishing-boats) shall be extended as follows—

(*a*) an application may be made under the said subsection by the master instead of the owner of a fishing-boat;

(*b*) a fishing-boat entered in the fishing-boat register shall be treated as a fishing-boat within

the meaning of the said subsection if it is used for the purposes of fishing by any person gaining a substantial part of his livelihood by fishing, whether that person is the owner of the boat or not.

(2) The said subsection (8) and section seven of the Finance Act, 1930 (which provides for repayment of duty paid in respect of hydrocarbon oil used on lifeboats) shall be extended so as to apply to duty paid in respect of power methylated spirits as they apply to duty paid in respect of hydrocarbon oil. 20 & 21 Geo. 5. c. 28.

Increased customs duties on tea.

5.—(1) The duties of customs chargeable on tea under section one of the Finance Act, 1936, shall be at the following increased rates, that is to say :—

Tea not being an Empire product	-	the lb. 8*d.*
Tea being an Empire product	-	the lb. 6*d.*

26 Geo. 5. & 1 Edw. 8. c. 34.

(2) This section shall be deemed to have had effect as from the twenty-seventh day of April nineteen hundred and thirty-eight.

Amendment as respects duties on motor cars, musical instruments, clocks, films, &c.

6.—(1) As from the appointed day, section three of the Finance Act, 1925 (which imposes duties on motor cars, musical instruments, clocks, films, &c.) shall be repealed, and accordingly the enactments (which amend or relate to that section) set out in the Second Schedule to this Act shall also be repealed as from that day to the extent specified in the third column of that schedule.

15 & 16 Geo. 5. c. 36.

(2) The Treasury shall by order direct that as from the appointed day—

(*a*) there shall be charged under section three of the Import Duties Act, 1932, on all goods to which this section applies (except mouth-organs), an additional duty of such an amount as will, with the general ad valorem duty, amount to the rate of the duty chargeable thereon immediately before the appointed day under section three of the Finance Act, 1925; and 22 & 23 Geo. 5. c. 8.

(*b*) drawback of the duty or duties chargeable under Part I of the Import Duties Act, 1932, shall be allowed under the Second Schedule to that Act in respect of all goods to which this section applies.

(3) For the purpose of any order for the time being in force (whether made under the last foregoing subsection or otherwise) providing for the allowance of drawback

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of any duty or duties chargeable under Part I of the Import Duties Act, 1932, in respect of any goods to which this section applies, any duty paid in respect of any such goods before the appointed day under section three of the Finance Act, 1925, shall be deemed to have been chargeable under the said Part I.

22 & 23 Geo. 5. c. 53.

(4) Section five of the Import Duties Act, 1932, and section two of the Ottawa Agreements Act, 1932 (which exempt Empire goods from the general ad valorem duty and any additional duty), shall not apply to any goods to which this section applies; but, as from the appointed day, any such goods which, but for this subsection, would be exempt by virtue of those sections from the general ad valorem duty and any additional duty (hereafter in this section referred to as "Empire goods") shall, subject to the next following subsection—

(*a*) be charged with those duties at the preferential rate of two-thirds of the aggregate full rate of those duties applicable to the goods; or

(*b*) in the case of goods on which the general ad valorem duty alone is chargeable, be charged with that duty at the preferential rate of two-thirds of the full rate of that duty applicable to the goods.

(5) If at any time the Treasury are satisfied that any agreement set out in the First Schedule to the Ottawa Agreements Act, 1932, which is for the time being deemed to be in force for the purposes of that Act, requires that, in the case of goods of any class or description produced or manufactured in and consigned from the country the Government of which is a party to that agreement, any duty or duties charged at a preferential rate under the last foregoing subsection shall not be charged or shall be charged at a reduced preferential rate, the Treasury shall by order direct that that duty or those duties shall not be charged or shall be charged at that reduced preferential rate, as the case may be, on any goods of that class or description being Empire goods:

Provided that—

(*a*) the Treasury shall revoke any such order or any provision thereof directing that any such duty or duties shall not be charged on Empire goods of any class or description, if

and when they are satisfied that no such agreement so in force requires that the duty or duties shall not be charged on goods of that class or description produced or manufactured in and consigned from any country the Government of which is a party to any of the said agreements; and

(*b*) the Treasury shall revoke any such order or any provision thereof directing that any such duty or duties shall be charged on Empire goods of any class or description at a reduced preferential rate, if and when they are satisfied that no such agreement so in force requires that goods of that class or description produced or manufactured in and consigned from any country the Government of which is a party to any of the said agreements shall be charged at that reduced rate; and

(*c*) every such order shall provide that, in relation to any goods produced or manufactured in a country the Government of which is a party to one of the said agreements, the provisions of the order shall not in any case have effect at any time when that agreement is not deemed to be in force as aforesaid.

(6) Paragraph 4 of the Fifth Schedule to the Finance Act, 1933 (which enables the Commissioners to require proof that any goods are, under any provision of the Import Duties Act, 1932, exempt from duty or chargeable with duty at a rate less than the full rate), shall have effect as if the last two foregoing subsections were provisions of the Import Duties Act, 1932. 23 & 24 Geo. 5. c. 19.

(7) Any order made by the Treasury under this section shall be deemed for all purposes to have been made under the Import Duties Act, 1932:

Provided that an order made under paragraph (*a*) of subsection (2) of this section—

(*a*) for the purposes of section nineteen of that Act shall be deemed not to be an order imposing a duty of customs; and

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(*b*) for the purposes of proviso (*b*) to subsection (5) of the said section nineteen (which provides that an order may not be varied without a further recommendation so as to increase the rate of an additional duty above the rate specified in the original recommendation) shall be deemed to have been made on a recommendation of the Import Duties Advisory Committee specifying the rates of duty imposed by the order.

(8) For the purpose of this section, the expression "the appointed day" means the twentieth day of August nineteen hundred and thirty-eight, and the goods to which this section applies are all goods which immediately before the appointed day were chargeable with a duty of customs under section three of the Finance Act, 1925.

Customs duty on re-imported films.

7.—(1) No film printed, or produced by any other process, in the United Kingdom and exported therefrom shall, on its subsequent importation into the United Kingdom, be exempt from customs duty by virtue of section fourteen of the Import Duties Act, 1932 (which relates to the exemption of reimported goods) unless it is shown to the satisfaction of the Commissioners either—

(*a*) that no imported film was used in the printing or production of the film as aforesaid; or

(*b*) that the customs duty chargeable on all imported films so used has been duly paid; or

(*c*) if the film so printed or produced has previously been imported, that the customs duty chargeable thereon was duly paid and not drawn back.

(2) For the purposes of this section, the expression "film" means a positive cinematograph film (that is to say, a cinematograph film containing a picture for exhibition, whether developed or not) or a negative cinematograph film (that is to say, a cinematograph film containing a photograph, whether developed or not, from which positive cinematograph films can be printed), or a positive or negative sound track, whether developed or not.

Extension of period of stabilisation of imperial preference in case of sugar, &c. 16 & 17 Geo. 5. c. 22. 1 Edw. 8. & 1 Geo. 6. c. 54.

8.—(1) Subsection (1) of section seven of the Finance Act, 1926 (which as extended by section four of the Finance Act, 1936, and section two of the Finance Act, 1937, provides for the stabilisation of rates of imperial preference during a period ending on the nineteenth day of August nineteen hundred and thirty-eight) shall, in so far as it relates to the duties of customs chargeable on sugar, molasses, glucose and saccharin, have effect as if the said period were extended by two years:

Provided that the Treasury, if satisfied at any time within those two years that the international sugar agreement has been put into force, shall by order make a declaration to that effect, and thereupon the said subsection shall, in so far as it relates to the said duties, have effect as if the said period were further extended so as to expire on the thirty-first day of August nineteen hundred and forty-two.

(2) In this section the expression "the international sugar agreement" means the international agreement regarding the regulation of production and marketing of sugar which was signed in London on behalf of His Majesty's Government on the sixth day of May nineteen hundred and thirty-seven.

Continuance of exemption of radium compounds from customs duty. 11 & 12 Geo. 5. c. 47.

9. Radium compounds (which, by virtue of an order made under subsection (5) of section ten of the Finance Act, 1926, are exempt from the customs duty chargeable under Part I of the Safeguarding of Industries Act, 1921, until the first day of September nineteen hundred and thirty-eight) shall continue to be exempt from that duty on and after that date.

Exemption from customs duty of vehicles, vessels and aircraft temporarily imported.

10.—(1) The Treasury may make regulations providing for the exemption of the following goods, or any class or description thereof, from any duties of customs for the time being chargeable thereon, namely—

(*a*) any vehicle, vessel or aircraft imported into the United Kingdom by a person making only a temporary stay therein, and exported within such period as the regulations may provide; and

(*b*) any accessories or component parts required for any such vehicle, vessel or aircraft.

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(2) In this section the expression "vessel" includes a boat or other craft of any description.

(3) Different regulations may be made under this section as respects goods imported by sea, by air and by land respectively, and as respects vehicles, vessels and aircraft respectively.

Relief of air-raid protection works from duty on excise licences.

11.—(1) Section twelve of the Finance Act, 1924 (which provides that the annual value of any premises for the purpose of the duty on any excise licence charged by reference to the annual value shall be the income tax value or, if no income tax value is applicable, an amount determined by the Commissioners), shall have effect subject to the following provisions:—

(*a*) in determining under paragraph (*b*) of subsection (1) of the said section the annual value of any premises where no income tax value is applicable, no regard shall be had—

(i) to any room or other part of the premises which has been added at any time after an excise licence was first granted in respect of the premises, or was included in the premises before an excise licence was first granted in respect thereof, solely for the purpose of affording protection in the event of hostile attack from the air, and is not occupied or used for any other purpose; or

(ii) to any structural alterations or improvements of the premises (not being the addition of any such room or other part as aforesaid) made, at any time after an excise licence was first granted in respect of the premises, solely for the purpose of affording such protection;

(*b*) in any case where—

(i) regard has been had to the matters aforesaid in estimating the income tax value of the premises; or

(ii) any part of the premises would, by reason that it is intended to be used and

occupied for the purpose of such protection as aforesaid and is not used or occupied for any other purpose, be exempt from income tax under Schedule A if it were not let;

the person applying for the excise licence may require the Commissioners to assess the annual value of the premises for the purposes of the duty as if there were no income tax value applicable.

(2) Where, in fixing the annual licence value of any premises under subsection (2) of section forty-four of the Finance (1909–10) Act, 1910 (which provides that the annual licence value shall be the amount by which the annual value of the premises as licensed premises exceeds the annual value which the premises would bear if they were not licensed premises), the annual value which any premises would so bear is taken to be the annual value of the site thereof cleared of buildings, no regard shall be had, in computing the annual value of the premises as licensed premises, to any of the matters referred to in paragraph (*a*) of the last foregoing subsection.

10 Edw. 7. & 1 Geo. 5. c. 8.

Amendments as respects brewing books.

12.—(1) Section twenty of the Inland Revenue Act, 1880, (which requires brewers for sale to keep a book containing particulars of brewing, hereafter in this section referred to as "the brewing book") shall have effect subject to the following provisions—

43 & 44 Vict. c. 20.

(*a*) the part of the brewer's entered premises in which the brewing book is to be kept shall be approved by the Commissioners; and accordingly paragraph (1) of the said section shall be amended by inserting the words "approved by the Commissioners" after the word "part";

(*b*) notwithstanding anything in paragraph (7) of the said section, a brewer may cancel any entry in the brewing book of the day and hour when his next brewing is intended to take place not less than two hours before the hour specified in the entry.

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(2) If any brewing by a brewer for sale does not take place on the day and at the hour entered in the brewing book, the brewer shall be liable to an excise penalty of one hundred pounds, unless he shows that the entry was duly cancelled in accordance with paragraph (*b*) of the last foregoing subsection or that the brewing did not take place on that day and at that hour by reason only of circumstances which he could not have prevented or forestalled.

Regulations as respects sugar kept by brewers for sale.

13.—(1) The Commissioners may make regulations as respects—

(*a*) the receipt, storage, removal and disposal of sugar by brewers of beer for sale; and

(*b*) the books and other documents relating to sugar to be kept by such brewers; and

(*c*) the powers of officers of Customs and Excise to inspect and take copies of any such book or other document and to take stock of the sugar in the possession of any such brewer.

(2) If any such brewer contravenes or fails to comply with the regulations made under this section, he shall be liable to an excise penalty of fifty pounds.

(3) If, on taking stock at any time, the proper officer of Customs and Excise finds that the quantity of any description of sugar in the possession of any such brewer differs from the quantity of that description which ought to be in his possession according to any book or other document kept by him under the said regulations, then—

(*a*) if the quantity in his possession exceeds the quantity which ought to be in his possession, the excess shall be forfeited;

(*b*) if the quantity in his possession is less by more than two per cent. than the quantity which ought to be in his possession, the deficiency above two per cent. shall, unless accounted for to the satisfaction of the Commissioners, be deemed to have been used in the brewing of beer without due entry in the brewing book, and duty shall be charged in respect thereof as if that deficiency had been so used.

(4) In this section the expression "sugar" includes cane sugar, saccharum, glucose, any other saccharine substance or extract, and syrup, and the expression "brewing book" means the book kept under section twenty of the Inland Revenue Act, 1880.

(5) Section seven of the Customs and Inland Revenue Act, 1885 (which relates to sugar kept by a brewer for sale) shall cease to have effect, and the reference to that section in subsection (3) of section eleven of the Finance Act, 1896 (which relates to the receipt of sugar by dealers in and retailers of beer) shall be construed as a reference to the regulations made under this section. 48 & 49 Vict. c. 51. 59 & 60 Vict. c. 28.

PART II.

INCOME TAX (CHARGE OF TAX AND MISCELLANEOUS).

Charge of tax, reliefs, &c.

14.—(1) Income tax for the year 1938–39 shall be charged at the standard rate of five shillings and sixpence in the pound, and, in the case of an individual whose total income exceeds two thousand pounds, at such higher rates in respect of the excess over two thousand pounds as Parliament may hereafter determine. Income Tax for 1938-39.

(2) All such enactments as had effect with respect to the income tax charged for the year 1937–38 shall have effect with respect to the income tax charged for the year 1938–39.

15. Income tax for the year 1937–38 in respect of the excess of the total income of an individual over two thousand pounds shall be charged at rates in the pound which respectively exceed the standard rate by amounts equal to the amounts by which the rates at which income tax was charged in respect of the said excess for the year 1936–37 respectively exceeded the standard rate for that year. Higher rates of income tax for 1937-38.

16.—(1) Where— Payment of Schedule A tax by instalments in certain cases.

(*a*) the tenant occupier of any land is authorised, under the provisions of Rule 1 of No. VIII of Schedule A, to make a deduction from the

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rent payable in respect of the land on account of the tax chargeable under that Schedule for any year of assessment; and

(*b*) the amount of the said deduction would exceed the next payment of rent from which it is authorised to be made;

he may, on giving notice to the collector in such form and within such time and containing such particulars as the Commissioners of Inland Revenue may require, pay the said tax for that year by two instalments as follows, that is to say—

(i) on or before the date or the last date on which the tax would, but for this section, be due and payable, the whole amount of the tax less the said excess;

(ii) on or before the expiration of three months from that date, the remainder of the tax.

(2) The provisions of the Income Tax Acts as to recovery of tax shall apply to each such instalment of tax in like manner as they apply to the whole amount of the tax.

(3) In this section the expression "land" means lands, tenements, hereditaments and heritages.

Relief of air-raid protection works from tax under Schedule A.

17.—(1) In estimating for the purposes of income tax under Schedule A the annual value of any building, no regard shall be had—

(*a*) to any room or other part of the building which has been added at any time after the building was first assessed to tax, or was included in the building before it was so assessed, solely for the purpose of affording protection in the event of hostile attack from the air, and is not occupied or used for any other purpose; or

(*b*) to any structural alterations or improvements of the building (not being the addition of any such room or other part as aforesaid) made, at any time after the building was first assessed to tax, solely for the purpose of affording such protection:

Provided that this subsection shall not apply if the building or any part thereof is let and the rent or any other consideration for the lease is greater than it would have been if the room or other part referred to in paragraph (*a*) had not been added or included, or the structural alterations or improvements referred to in paragraph (*b*) had not been made, as the case may be.

(2) If, in any year of assessment for which the annual value of any building has been estimated in accordance with paragraph (*a*) of the last foregoing subsection, any room or other part of the building to which no regard has been had by virtue of that paragraph is occupied or used for any purpose other than the purpose of affording such protection as aforesaid, an assessment or additional assessment shall be made so as to include in the annual value of the building the value of that room or other part.

(3) Exemption shall be granted from income tax under Schedule A in respect of any separate unit of assessment which is intended to be occupied and used solely for the purpose of affording such protection as aforesaid and is not occupied or used for any other purpose :

Provided that this subsection shall not apply to any unit of assessment the whole or part of which is let.

(4) In any case where—

(*a*) a deduction is to be allowed in respect of the depreciation of any premises, being mills, factories or other similar premises, under subsection (2) of section fifteen of the Finance Act, 1937 (which provides for a deduction in computing profits of an amount equal to the repairs allowance or the appropriate fraction of the rating value of the premises, whichever is the less); and

(*b*) the repairs allowance of the premises is less than it would have been if subsection (1) of this section had not been enacted;

there shall be computed the annual value of any room or other part, or any structural alterations or improvements, to which regard has not been had under the said subsection (1), and the amount of the deduction to be

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allowed as aforesaid shall be increased by the amount of the repairs allowance which would have been authorised in respect of the annual value as so computed if it had been separately assessed to tax under Schedule A.

Increase of reduced rate allowance. 17 & 18 Geo. 5. c. 10.

18. Subsection (2) of section forty of the Finance Act, 1927 (which, as amended by section twenty-two of the Finance Act, 1935, provides for the reduction of the tax remaining chargeable after the allowance of other reliefs by a sum equal to two-thirds of the amount so remaining chargeable or two-thirds of the tax on one hundred and thirty-five pounds, whichever is the less), shall have effect as if the words " twenty-three thirty-thirds " were substituted for the words " two-thirds " in both places where they occur.

Amendment as to relief in respect of life insurance premiums, &c. 8 & 9 Geo. 5. c. 40.

19. Subsection (3) of section thirty-two of the Income Tax Act, 1918 (which, as amended by section twenty-three of the Finance Act, 1935, provides in paragraph (*f*) thereof that in certain cases no allowance shall be given in respect of life insurance premiums and other payments at a rate of tax greater than one-third of the standard rate) shall have effect as if the words " ten thirty-thirds " were substituted in the said paragraph (*f*) for the words " one-third ".

Deduction in respect of children over sixteen undergoing training. 10 & 11 Geo. 5. c. 18.

20.—(1) Section twenty-one of the Finance Act, 1920 (which provides for a deduction in respect of children over the age of sixteen receiving full-time instruction at an educational establishment), shall have effect as if the references in subsections (1) and (2) thereof to a child receiving such instruction included references to a child undergoing training by any person (hereafter referred to as " the employer ") for any trade, profession or vocation in such circumstances that—

(*a*) the child is required to devote the whole of his time to the training for a period of not less than two years; and

(*b*) while the child is undergoing the training, the emoluments, if any, receivable by the child, or payable by the employer in respect of the child, do not exceed thirteen pounds a year, exclusive of any emoluments receivable or payable by way of return of any premium paid in respect of the training.

For the purpose of paragraph (*b*) of this subsection, where a premium has been paid in respect of the training of a child, all emoluments at any time receivable by the child, or payable by the employer in respect of the child, shall be deemed to be receivable or payable by way of return of the premium, unless and except to the extent that the amount thereof exceeds in the aggregate the amount of the premium.

(2) In this section the expression "emoluments" means any salary, fees, wages, perquisites, or profits or gains whatsoever, and includes the value of free board, lodging, or clothing.

(3) For the purpose of a claim in respect of a child undergoing training, the surveyor may require the employer to furnish particulars with respect to the training and the emoluments of the child in such form as may be prescribed by the Commissioners of Inland Revenue.

Deduction in certain cases in respect of dependent relatives. 24 & 25 Geo. 5. c. 29.

21. If any person proves that during any year of assessment he has a relative living with him—

(*a*) who in that year has been denied wholly or in part unemployment allowance under Part II of the Unemployment Act, 1934, or public assistance, on the ground that the relative was being maintained wholly or partly by him; and

(*b*) in respect of whom he is entitled to no deduction for that year under section twenty-two of the Finance Act, 1920;

he shall be entitled to a deduction from the amount of tax with which he is chargeable for that year equal to tax at the standard rate on the amount deemed to have been paid by him in that year towards such maintenance, but not exceeding tax on twenty-five pounds.

Increase of additional allowance in case of machinery and plant. 22 & 23 Geo. 5. c. 25.

22. Section eighteen of the Finance Act, 1932 (which provides for the allowance of an additional deduction in the case of machinery and plant equal to one-tenth of the amount of the deduction for wear and tear allowed under Rule 6 of the rules applicable to Cases I and II of Schedule D) shall have effect as if the words "one-fifth" were substituted for the words "one-tenth".

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PART II. —*cont.* Amendments of Schedule C and consequential amendments of Schedule D.

Provisions as respects dividends, interest, &c.

23.—(1) Where a banker or any other person in the United Kingdom, by means of coupons received from any other person or otherwise on his behalf, obtains payment of any dividends elsewhere than in the United Kingdom, the tax under Schedule C shall extend to the dividends, and the banker or other person so obtaining payment thereof shall be treated for the purpose of the paying agents rules as if he were intrusted with the payment thereof.

(2) Where—

(*a*) any banker in the United Kingdom sells or otherwise realises coupons for any dividends and pays over the proceeds to any person or carries them to his account; or

(*b*) any dealer in coupons in the United Kingdom purchases any such coupons as aforesaid otherwise than from a banker or another dealer in coupons;

the tax under Schedule C shall extend to the proceeds of the sale or other realisation, and the paying agents rules shall apply to those proceeds as if they were dividends to which those rules apply, and shall apply to the banker or dealer as if he had been intrusted with the payment thereof:

Provided that, where tax in respect of the proceeds of the sale or realisation of any such coupon has been accounted for under the said rules by any banker or dealer and the Special Commissioners are satisfied that the coupon has been subsequently paid in such manner that tax has been deducted from the payment under any of the rules applicable to Schedule C, the tax so deducted shall be repaid.

(3) For all the purposes of Schedule C, of Rule 1 of the rules applicable to Case III of Schedule D, and of this section, the expression "public revenue" shall, except where the context otherwise requires, include the public revenue of any Government whatsoever, and the revenue of any public authority or institution in any country outside the United Kingdom.

(4) Paragraph (*c*) of Rule 2 of the general rules applicable to Schedule C (which exempts ministers of foreign States) shall apply to any sums chargeable with tax by virtue of subsection (2) of this section as it applies to interest, and paragraph (*d*) of that rule (which exempts non-residents) shall apply to any sums chargeable with tax by virtue of any of the foregoing provisions of this section as it applies to the interest or dividends on any securities of a foreign State or British possession which are payable in the United Kingdom.

(5) Subsections (1) and (2) of this section shall apply for the purposes of Rule 7 of the miscellaneous rules applicable to Schedule D (which relates to interest, &c. from colonial and foreign companies) as they apply for the purposes of Schedule C, subject to the following modifications—

(*a*) references to Schedule D shall be substituted for references to Schedule C;

(*b*) references to dividends shall be construed as references to any such payments as are referred to in sub-paragraphs (*a*) and (*b*) of paragraph (1) of the said Rule 7.

(6) In this section—

(*a*) the expression "banker" includes a person acting as a banker and, notwithstanding anything in the paying agents rules, includes the Bank of England and the Bank of Ireland;

(*b*) the expressions "coupons" and "coupons for any dividends" include warrants for or bills of exchange purporting to be drawn or made in payment of any dividends;

(*c*) the expression "dividends" means any interest, annuities, dividends or shares of annuities payable elsewhere than in the United Kingdom (whether they are also payable in the United Kingdom or not) out of any public revenue other than the public revenue of the United Kingdom;

(*d*) the expression "paying agents rules" means the rules applicable to Schedule C as to interest,

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&c. with the payment of which persons other than the Bank of England, the Bank of Ireland and the National Debt Commissioners are intrusted.

(7) Rule 7 of the paying agents rules and paragraph (3) of Rule 7 of the miscellaneous rules applicable to Schedule D shall not have effect.

(8) Subject to the provisions of this subsection, the foregoing provisions of this section shall be deemed always to have had effect:

Provided that—

(*a*) nothing in this section shall affect—

(i) the determination of any commissioners or the judgment of any court made or given before the twenty-seventh day of April nineteen hundred and thirty-eight; or

(ii) any appeal from or case stated in respect of any such determination, or any appeal from any such judgment; or

(iii) any appeal against an assessment if notice of the appeal was given before that date; and

(*b*) nothing in this section shall apply to the proceeds of any sale or other realisation of coupons sold or realised at any time after the twenty-ninth day of July nineteen hundred and thirty-seven, and before the said twenty-seventh day of April, being coupons for any dividends or other payments payable at any time before the said twenty-seventh day of April in respect of which provision was not made for payment at the due date in accordance with the obligations undertaken by the debtor.

Provisions as respects transfers of income arising from securities.

24.—(1) Where in any year of assessment the owner of any securities (in this section referred to as "the owner") sells or transfers the right to receive any interest payable (whether before or after the sale or transfer) in respect of the securities without selling or transferring the securities, then, for all the purposes of the Income Tax Acts, that interest, whether it would or would not be

chargeable to tax apart from the provisions of this section—

(*a*) shall be deemed to be the income of the owner or, in a case where the owner is not the beneficial owner of the securities and some other person (hereafter in this section referred to as "a beneficiary") is beneficially entitled to the income arising from the securities, the income of the beneficiary; and

(*b*) shall be deemed to be the income of the owner or beneficiary for that year; and

(*c*) shall not be deemed to be the income of any other person:

Provided that, in the case of a sale or other realisation the proceeds whereof are chargeable to tax under Schedule C or Rule 7 of the miscellaneous rules applicable to Schedule D, the interest so deemed to be the income of the owner or beneficiary shall be deemed to be equal in amount to the amount of those proceeds.

(2) Nothing in the foregoing provisions of this section shall affect any provision of the Income Tax Acts authorising or requiring the deduction of tax from any interest which is deemed to be the income of the owner or beneficiary as aforesaid or from the proceeds of any subsequent sale or other realisation of the right to receive that interest:

Provided that the proceeds of any such subsequent sale or other realisation shall not, for any of the purposes of those Acts, be deemed to be the income of the seller or the person on whose behalf the right is otherwise realised.

(3) Where the securities are of such a character that the interest payable in respect thereof may be paid without deduction of tax, the owner or beneficiary shall be chargeable to tax at the standard rate under Case VI of Schedule D in respect of any interest which is deemed to be his income by virtue of this section, unless he shows that it has borne tax at the standard rate or that the proceeds of any sale or other realisation of the right to receive that interest have been charged to tax under Schedule C or the said Rule 7:

Provided that, in any case where, if the interest had been chargeable under Case IV or Case V of

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Schedule D, the computation of tax would have been made by reference to the amount received in the United Kingdom, the tax under Case VI shall be computed on the full amount of the sums which have been or will be received in the United Kingdom in the year of assessment or any subsequent year in which the owner remains the owner of the securities.

(4) For the purposes of this section—

(*a*) the expression "interest" includes dividends, annuities and shares of annuities; and

(*b*) the expression "securities" includes stocks and shares.

(5) The Commissioners of Inland Revenue may by notice in writing require any person to furnish them within such time as they may direct (not being less than twenty-eight days) in respect of all securities of which he was the owner at any time during the period specified in the notice, with such particulars as they consider necessary for the purposes of this section and for the purpose of discovering whether—

(*a*) tax has been borne in respect of the interest on all those securities; or

(*b*) the proceeds of any sale or other realisation of the right to receive the interest on the securities have been charged to tax under Schedule C or the said Rule 7;

and if that person without reasonable excuse fails to comply with the notice, he shall be liable to a penalty not exceeding fifty pounds, and, after judgment has been given for that penalty, to a further penalty of the like amount for every day during which the failure continues.

(6) The provisions of this section shall be deemed always to have had effect:

Provided that—

(*a*) nothing in this section shall affect—

(i) the determination of any commissioners or the judgment of any court made or given before the twenty-seventh day of April nineteen hundred and thirty-eight; or

(ii) any appeal from or case stated in respect of any such determination, or any appeal from any such judgment; or

(iii) any appeal against an assessment if notice of the appeal was given before that date; and

(*b*) nothing in this section shall apply to any sale or other realisation the proceeds whereof are not chargeable to tax by virtue of proviso (*b*) to subsection (8) of the last foregoing section.

Charge of tax on funding bonds issued in respect of interest on certain debts.

25.—(1) Where any funding bonds are issued to a creditor in respect of any liability to pay interest on any debt to which this section applies—

(*a*) the issue of the bonds shall be treated for all the purposes of the Income Tax Acts as if it were the payment of an amount of that interest equal to the value of the bonds at the time of the issue thereof; and

(*b*) the redemption of the bonds shall not be treated for those purposes as the payment of any amount of that interest.

(2) Where an issue of bonds is treated as aforesaid as if it were the payment of an amount of interest, and any person by or through whom the bonds are issued would be required, by virtue of any provision of the Income Tax Acts, to deduct tax from that amount of interest if it had been actually paid by or through him, the following provisions shall have effect—

(*a*) subject to the provisions of the next following paragraph, any such person—

(i) shall retain bonds the value whereof at the time of their issue is equal to tax on the said amount of interest at the standard rate for the year of assessment in which the bonds are issued; and

(ii) shall be acquitted in respect of any such retention in like manner as if he had deducted such tax from the interest; and

(iii) shall be chargeable with the said tax accordingly, but may tender the bonds so retained in satisfaction of that tax;

(*b*) where the Commissioners of Inland Revenue are satisfied that it is impracticable to retain bonds

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on account of tax under the last foregoing paragraph—

(i) they may relieve any such person from the obligation to retain bonds and account for tax under that paragraph on his furnishing to them a statement of the names and addresses of the persons to whom the bonds have been issued and the amount of the bonds issued to each such person; and

(ii) tax in respect of the amount of interest treated by virtue of this section as having been paid by the issue of the bonds shall be charged under Case VI of Schedule D for the year of assessment in which the bonds are issued on the persons receiving or entitled to the bonds.

(3) This section applies to any debt incurred, whether in respect of any money borrowed or otherwise, by any Government, public authority or public institution whatsoever, or by any body corporate whatsoever.

(4) For the purpose of this section, the expression "funding bonds" includes any bonds, stocks, shares, securities or certificates of indebtedness.

(5) Subject to the provisions of this subsection, the foregoing provisions of this section shall be deemed always to have had effect:

Provided that—

(*a*) nothing in this section shall affect—

(i) the determination of any commissioners or the judgment of any court made or given before the twenty-seventh day of April nineteen hundred and thirty-eight; or

(ii) any appeal from or case stated in respect of any such determination, or any appeal from any such judgment; or

(iii) any appeal against an assessment if notice of the appeal was given before that date; and

(*b*) nothing in this section shall apply to any funding bonds issued at any time after the twenty-ninth day of July nineteen hundred and thirty-seven and before the said twenty-seventh day of April.

Miscellaneous.

Valuation of trading stock on discontinuance of trades.

26.—(1) In computing for any purpose of the Income Tax Acts the profits or gains of a trade which has been discontinued, any trading stock belonging to the trade at the discontinuance thereof shall be valued as follows :—

(*a*) in the case of any such trading stock—

(i) which is sold or transferred for valuable consideration to a person who carries on or intends to carry on a trade in the United Kingdom; and

(ii) the cost whereof may be deducted by the purchaser as an expense in computing for any such purpose the profits or gains of that trade;

the value thereof shall be taken to be the amount realised on the sale or the value of the consideration given for the transfer;

(*b*) in the case of any other such trading stock, the value thereof shall be taken to be the amount which it would have realised if it had been sold in the open market at the discontinuance of the trade.

(2) Any question arising under paragraph (*a*) of the last foregoing subsection shall be determined as follows, for the purpose of computing as aforesaid the profits or gains of both the trades concerned :—

(*a*) in a case where the same body of General Commissioners have jurisdiction with respect to both the trades concerned, any such question shall be determined by those Commissioners, unless all parties concerned agree that it shall be determined by the Special Commissioners;

(*b*) in any other case, any such question shall be determined by the Special Commissioners;

(*c*) any such Commissioners shall determine the question in like manner as if it were an appeal to them against an assessment under Schedule D, and the provisions of the Income Tax Acts relating to such an appeal shall apply accordingly with any necessary modifications.

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PART II. —*cont.*

(3) Where, by virtue of any provision of Rule 11 of the rules applicable to Cases I and II of Schedule D, a trade is treated as having been discontinued for the purpose of computing tax, it shall also be so treated for the purpose of this section, but this section shall not apply in a case where a trade carried on by a single individual is discontinued by reason of his death.

(4) For the purposes of this section, the expression "trading stock," in relation to any trade, means property of any description, whether real or personal, being either—

(*a*) property such as is sold in the ordinary course of the trade or would be so sold if it were mature or if its manufacture, preparation or construction were complete; or

(*b*) materials such as are used in the manufacture, preparation or construction of any such property as is referred to in the last foregoing paragraph.

Losses of capital redemption business.

27.—(1) Where any person carries on capital redemption business in conjunction with business of any other class, the capital redemption business shall, for the purposes of the Income Tax Acts, be treated as a separate business from any other class of business carried on by that person.

(2) In ascertaining whether and to what extent any person has sustained a loss in the carrying on by him of capital redemption business, for the purpose either—

(*a*) of setting off the loss under Rule 13 of the rules applicable to Cases I and II of Schedule D against the profits of any other business carried on by him; or

(*b*) of giving relief in respect of the loss under section thirty-four of the Income Tax Act, 1918;

any income of that person derived from investments held in connection with the capital redemption business shall be treated as part of the profits arising to him from that business.

(3) In this section the expression "capital redemption business" means the business (not being life assurance business or industrial assurance business) of effecting and carrying out contracts of insurance, whether effected by the issue of policies, bonds or endowment certificates or otherwise, whereby in return for one or more premiums paid to the insurer, a sum or a series of sums is to become payable to the insured in the future.

(4) This section shall not apply to any capital redemption business, in so far as it consists of carrying out such contracts as aforesaid effected before the first day of January nineteen hundred and thirty-eight.

Amendments as respects avoidance of tax by transfer of income to persons abroad.

28.—(1) Section eighteen of the Finance Act, 1936 (which contains provisions for the purpose of preventing the avoiding by individuals of liability to income tax by means of transfers of assets by virtue or in consequence whereof, either alone or in conjunction with associated operations, income becomes payable to persons resident or domiciled out of the United Kingdom) shall be amended in accordance with the following provisions of this section.

(2) The proviso to subsection (1) shall cease to have effect and the following two subsections shall be inserted immediately after the said subsection (1):—

"(1A) Where, whether before or after any such transfer, such an individual receives or is entitled to receive any capital sum the payment whereof is in any way connected with the transfer or any associated operation, any income which, by virtue or in consequence of the transfer, either alone or in conjunction with associated operations, has become the income of a person resident or domiciled out of the United Kingdom shall, whether it would or would not have been chargeable to income tax apart from the provisions of this section, be deemed to be the income of that individual for all the purposes of the Income Tax Acts.

In this subsection the expression 'capital sum' means—

(*a*) any sum paid or payable by way of loan or repayment of a loan; and

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(*b*) any other sum paid or payable otherwise than as income, being a sum which is not paid or payable for full consideration in money or money's worth.

(1B) The last two foregoing subsections shall not apply if the individual shows in writing or otherwise to the satisfaction of the Special Commissioners either—

(*a*) that the purpose of avoiding liability to taxation was not the purpose or one of the purposes for which the transfer or associated operations or any of them were effected; or

(*b*) that the transfer and any associated operations were bona fide commercial transactions and were not designed for the purpose of avoiding liability to taxation."

(3) In paragraph (*d*) of subsection (3) of the said section, the following words shall be inserted after the word "income":—

"or may, in the event of the exercise of any "power vested in any other person, become "entitled to the beneficial enjoyment of the "income".

(4) After subsection (4) the following subsection shall be inserted:—

"(4A) For the purpose of this section any body corporate incorporated outside the United Kingdom shall be treated as if it were resident out of the United Kingdom whether it is so resident or not."

(5) The foregoing amendments of the said section eighteen shall take effect for the purpose of assessment to income tax for the year 1937–38 and subsequent years and shall apply in relation to transfers of assets and associated operations whether carried out before or after the commencement of that year:

Provided that, as respects income tax at the standard rate for the year 1937–38, the said section eighteen shall have effect as originally enacted, but surtax for that year shall be assessed and charged as if any income which would, but for this proviso, have been charged under the said section eighteen as amended by this section had in fact been so charged.

Amendment as to appeals under Schedule B in the case of nurseries and gardens.

29. Where the profits arising from lands occupied as nurseries or gardens have, in pursuance of Rule 8 of the rules applicable to Schedule B, been estimated according to the provisions and rules applicable to Schedule D but assessed under Schedule B, an appeal against the assessment may be made to the Special Commissioners instead of to the General Commissioners under section one hundred and forty-eight of the Income Tax Act, 1918; and accordingly subsection (1) of that section shall have effect as if the following paragraph were inserted immediately after paragraph (*b*) thereof:—

"(*c*) an assessment under Schedule B made in pursuance of Rule 8 of the rules applicable to that Schedule."

PART III.

INCOME TAX (ADMINISTRATION OF ESTATES).

Provisions as to limited interests in residue.

30.—(1) The following provisions of this section shall have effect in relation to a person who, during the period commencing on the death of a deceased person and ending on the completion of the administration of his estate (in this Part of this Act referred to as "the administration period") or during a part of that period, has a limited interest in the residue of the estate or in a part thereof.

(2) When any sum has been paid during the administration period in respect of that limited interest the amount thereof shall, subject to the provisions of the next following subsection, be deemed for all the purposes of the Income Tax Acts to have been paid to that person as income for the year of assessment in which that sum was paid, or, in the case of a sum paid in respect of an interest that has ceased, for the last year of assessment in which it was subsisting.

(3) On the completion of the administration of the estate—

(*a*) the aggregate amount of all sums paid before, or payable on, the completion of the administration in respect of that limited interest shall be deemed to have accrued due to that person from day to day during the administration period or the part thereof during which he had that

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interest, as the case may be, and to have been paid to him as it accrued due;

(*b*) the amount deemed to have been paid to that person by virtue of the foregoing paragraph in any year of assessment shall be deemed for all the purposes of the Income Tax Acts to have been paid to him as income for that year; and

(*c*) where the amount which is deemed to have been paid to that person as income for any year by virtue of this subsection is less or greater than the amount deemed to have been paid to him as income for that year by virtue of the last foregoing subsection, such adjustments shall be made as are hereafter provided in this Part of this Act.

(4) Any amount which is deemed to have been paid to that person as income for any year by virtue of this section shall—

(*a*) in the case of a United Kingdom estate, be deemed to be income of such an amount as would after deduction of standard tax for that year be equal to the amount deemed to have been so paid, and to be income that has borne standard tax;

(*b*) in the case of a foreign estate, be deemed to be income of the amount deemed to have been so paid, and shall be chargeable to standard tax under Case IV of Schedule D as if it were income arising from securities in a place out of the United Kingdom.

(5) Where a person has been charged to standard tax for any year by virtue of this section in respect of an amount deemed to have been paid to him as income in respect of an interest in a foreign estate and any part of the aggregate income of that estate for that year has borne United Kingdom income tax by deduction or otherwise, the tax so charged on him shall, on proof of the facts to the satisfaction of the General or Special Commissioners, be reduced by an amount bearing the same proportion thereto as the amount of the said income which has borne United Kingdom income tax,

less the tax so borne, bears to the amount of the said aggregate income, less the tax so borne:

Provided that, where relief has been so given, such part of the amount in respect of which he has been charged to standard tax as corresponds to the said proportion shall, for the purposes of surtax, be deemed to represent income of such an amount as would after deduction of standard tax be equal to that part of the amount charged.

Provisions as to absolute interests in residue.

31.—(1) The following provisions of this section shall have effect in relation to a person who, during the administration period or during a part of that period, has an absolute interest in the residue of the estate of a deceased person or in a part thereof.

(2) There shall be ascertained in accordance with the next succeeding section the amount of the residuary income of the estate for each whole year of assessment, and for each broken part of a year of assessment, during which—

(*a*) the administration period was current; and

(*b*) that person had that interest;

and the amount so ascertained in respect of any year or part of a year, or, in the case of a person having an absolute interest in a part of a residue, a proportionate part of that amount, is in this Part of this Act referred to as the "residuary income" of that person for that year of assessment:

Provided that, when the legacy duty charged on the residue, or on the part thereof in which that person has an absolute interest, as the case may be, has been paid in respect of income for any such year or part of a year as aforesaid, his residuary income for that year shall thereafter be treated for the purposes of surtax as reduced by the amount of that duty so far as paid in respect of such income.

(3) When any sum or sums has or have been paid during the administration period in respect of that absolute interest, the amount of that sum or the aggregate amount of those sums shall, subject to the provisions of the next following subsection, be deemed for all the purposes of the Income Tax Acts to have been paid to that person as income to the extent to which, and for the year or years of assessment for which, he would have been

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PART III. —*cont.*

treated for those purposes as having received income if he had had a right to receive in each year of assessment—

(*a*) in the case of a United Kingdom estate, his residuary income for that year less standard tax for that year, or

(*b*) in the case of a foreign estate, his residuary income for that year,

and that sum or the aggregate of those sums had been available for application primarily in or towards satisfaction of those rights as they accrued and had been so applied.

In the case of a United Kingdom estate, any amount which is deemed to have been paid to that person as income for any year by virtue of this subsection shall be deemed to be income of such an amount as would after deduction of standard tax for that year be equal to the amount deemed to have been so paid, and to be income that has borne standard tax.

(4) On the completion of the administration of the estate—

(*a*) the amount of the residuary income of that person for any year of assessment shall be deemed for all the purposes of the Income Tax Acts to have been paid to him as income for that year, and in the case of a United Kingdom estate shall be deemed to have borne tax by reference to the standard rate; and

(*b*) where the amount which is deemed to have been paid to that person as income for any year by virtue of this subsection is less or greater than the amount deemed to have been paid to him as income for that year by virtue of the last foregoing subsection, such adjustments shall be made as are hereafter provided in this Part of this Act.

(5) In the case of a foreign estate, any amount which is deemed to have been paid to that person as income for any year by virtue of this section shall be deemed to be income of that amount, and shall be chargeable to standard tax under Case IV of Schedule D as if it were income arising from securities in a place out of the United Kingdom.

(6) Where a person has been charged to standard tax for any year by virtue of this section in respect of

an amount deemed to have been paid to him as income in respect of an interest in a foreign estate and any part of the aggregate income of that estate for that year has borne United Kingdom income tax by deduction or otherwise, the tax so charged on him shall, on proof of the facts to the satisfaction of the General or Special Commissioners, be reduced by an amount bearing the same proportion thereto as the amount of the said income which has borne United Kingdom income tax bears to the amount of the said aggregate income.

Supplementary provisions as to absolute interests in residue.

32.—(1) The amount of the residuary income of an estate for any year of assessment shall be ascertained by deducting from the aggregate income of the estate for that year—

(*a*) the amount of any annual interest, annuity, or other annual payment for that year which is a charge on residue and the amount of any payment made in that year in respect of any such expenses incurred by the personal representatives as such in the management of the assets of the estate as, in the absence of any express provision in a will, would be properly chargeable to income, but excluding any such interest, annuity or payment allowed or allowable in computing the aggregate income of the estate; and

(*b*) the amount of any of the aggregate income of the estate for that year to which a person has on or after assent become entitled by virtue of a specific disposition either for a vested interest during the administration period or for a vested or contingent interest on the completion of the administration.

(2) In the event of its appearing, on the completion of the administration of an estate in the residue of which, or in a part of the residue of which, a person had an absolute interest at the completion of the administration, that the aggregate of the benefits received in respect of that interest does not amount to as much as the aggregate for all years of the residuary income of the person having that interest, his residuary income for each year shall be reduced for the purpose of the last foregoing section by an amount bearing the same proportion

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thereto as the deficiency bears to the aggregate for all years of his residuary income.

In this subsection the expression " benefits received " in respect of an absolute interest means the following amounts in respect of all sums paid before, or payable on, the completion of the administration in respect of that interest, that is to say—

(*a*) as regards a sum paid before the completion of the administration, in the case of a United Kingdom estate such an amount as would, after deduction of standard tax for the year of assessment in which that sum was paid, be equal to that sum, or in the case of a foreign estate the amount of that sum; and

(*b*) as regards a sum payable on the completion of the administration, in the case of a United Kingdom estate such an amount as would, after deduction of standard tax for the year of assessment in which the administration is completed, be equal to that sum, or in the case of a foreign estate the amount of that sum.

(3) In the application of the last foregoing subsection to a residue or a part of a residue in which a person other than the person having an absolute interest at the completion of the administration had an absolute interest at any time during the administration period, the aggregates therein mentioned shall be computed in relation to those interests taken together, and the residuary income of that other person also shall be subject to reduction thereunder.

Special provisions as to certain interests in residue.

33.—(1) Where the personal representatives of a deceased person have as such a right in relation to the estate of another deceased person such that, if that right were vested in them for their own benefit, they would have an absolute or limited interest in the residue of that estate or in a part thereof, they shall be deemed to have that interest notwithstanding that that right is not vested in them for their own benefit, and any amount deemed to be paid to them as income by virtue of this Part of this Act shall be treated as part of the aggregate income of the estate of the person whose personal representatives they are.

(2) Where different persons have successively during the administration period absolute interests in the residue

of the estate of a deceased person or in a part thereof, sums paid during that period in respect of the residue or of that part thereof, as the case may be, shall be treated for the purpose of this Part of this Act as having been paid in respect of the interest of the person who first had an absolute interest therein up to the amount of—

(*a*) in the case of a United Kingdom estate, the aggregate for all years of that person's residuary income less standard tax, or

(*b*) in the case of a foreign estate, the aggregate for all years of that person's residuary income,

and, as to any balance up to a corresponding amount, in respect of the interest of the person who next had an absolute interest therein, and so on.

(3) Where upon the exercise of a discretion any of the income of the residue of the estate of a deceased person for any period (being the administration period or a part thereof) would, if the residue had been ascertained at the commencement of that period, be properly payable to any person, or to another in his right, for his benefit, whether directly by the personal representatives or indirectly through a trustee or other person, the amount of any sum paid pursuant to an exercise of the discretion in favour of that person shall be deemed for all the purposes of the Income Tax Acts to have been paid to that person as income for the year of assessment in which it was paid, and the provisions of subsections (4) and (5) of section thirty of this Act shall have effect in relation to an amount which is deemed to have been paid as income by virtue of this subsection.

Provisions as to adjustments and furnishing of information.

34.—(1) Where, on the completion of the administration of an estate, any amount is deemed by virtue of this Part of this Act to have been paid to any person as income for any year of assessment and—

(*a*) that amount is greater than the amount that has previously been deemed to have been paid to him as income for that year by virtue of this Part of this Act; or

(*b*) no amount has previously been so deemed to have been paid to him as income for that year;

an assessment or additional assessment may be made upon him for that year and tax charged accordingly or,

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on a claim being made for the purpose, any relief or additional relief to which he may be entitled shall be allowed accordingly.

(2) Where, on the completion of the administration of an estate, any amount is deemed by virtue of this Part of this Act to have been paid to any person as income for any year of assessment, and that amount is less than the amount that has previously been so deemed to have been paid to him, then—

(*a*) if an assessment has already been made upon him for that year, such adjustments shall be made in that assessment as may be necessary for the purpose of giving effect to the provisions of this Part of this Act which take effect on the completion of the administration, and any tax overpaid shall be repaid ;

(*b*) if—

(i) any relief has been allowed to him by reference to the amount which has been previously deemed as aforesaid to have been paid to him as income for that year; and

(ii) the amount of that relief exceeds the amount of relief which could have been given by reference to the amount which, on the completion of the administration, is deemed to have been paid to him as income for that year;

the relief so given in excess may, if not otherwise made good, be charged under Case VI of Schedule D and recovered from that person accordingly.

(3) Notwithstanding anything contained in the Income Tax Acts, the time within which an assessment or additional assessment may be made for the purposes of this Part of this Act, or an assessment may be adjusted for those purposes, or a claim for relief may be made by virtue of this Part of this Act, shall not expire before the end of the third year following the year of assessment in which the administration of the estate in question was completed.

(4) The General or Special Commissioners may by notice in writing require any person being or having been a personal representative of a deceased person,

or having or having had an absolute or limited interest in the residue of the estate of a deceased person or in a part thereof, to furnish them (within such time as they may direct, not being less than twenty-eight days) with such particulars as they think necessary for the purposes of this Part of this Act, and if that person without reasonable excuse fails to comply with the notice, he shall be liable to a penalty not exceeding fifty pounds, and, after judgment has been given for that penalty, to a further penalty of the like amount for each day during which that failure continues.

Interpretation of Part III.

35.—(1) The following provisions of this section shall have effect for the purpose of the interpretation of the foregoing provisions of this Part of this Act.

(2) A person shall be deemed to have an "absolute interest" in the residue of the estate of a deceased person, or in a part thereof, if and so long as the capital of the residue or of that part thereof, as the case may be, would, if the residue had been ascertained, be properly payable to him, or to another in his right, for his benefit, or is properly so payable, whether directly by the personal representatives or indirectly through a trustee or other person.

(3) A person shall be deemed to have a "limited interest" in the residue of the estate of a deceased person, or in a part thereof, during any period, being a period during which he has not an absolute interest in the residue or in that part thereof, as the case may be, where the income of the residue or of that part thereof, as the case may be, for that period would, if the residue had been ascertained at the commencement of that period, be properly payable to him, or to another in his right, for his benefit, whether directly or indirectly as aforesaid.

(4) The expression "personal representatives" means, in relation to the estate of a deceased person, his personal representatives as defined in relation to England by section fifty-five of the Administration of Estates Act, 1925, and persons having in relation to the deceased under the law of another country any functions corresponding to the functions for administration purposes under the law of England of personal representatives as so defined, and references to personal representatives as such shall be construed as references to the personal representatives in their capacity as having such functions as aforesaid.

15 & 16 Geo. 5. c. 23.

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PART III. —*cont.*

(5) The expression "specific disposition" means a specific devise or bequest made by a testator, and includes the disposition of personal chattels made by section forty-six of the Administration of Estates Act, 1925, and any disposition having, whether by virtue of any enactment or otherwise, under the law of another country an effect similar to that of a specific devise or bequest under the law of England.

Real estate included (either by a specific or general description) in a residuary gift made by the will of a testator shall be deemed to be a part of the residue of his estate and not to be the subject of a specific disposition.

(6) The expression "charges on residue" means, in relation to the estate of a deceased person, the following liabilities properly payable thereout and interest payable in respect of those liabilities, that is to say,—

(*a*) funeral, testamentary and administration expenses and debts;

(*b*) general legacies (including in the case of an intestacy the sum of one thousand pounds charged by virtue of section forty-six of the Administration of Estates Act, 1925), demonstrative legacies and annuities; and

(*c*) any other liabilities of his personal representatives as such;

but, in the case of any such liabilities which, as between persons interested under a specific disposition or in such a legacy as aforesaid or in an annuity and persons interested in the residue of the estate, fall exclusively or primarily upon the property that is the subject of the specific disposition or upon the legacy or annuity, includes only such part (if any) of those liabilities as falls ultimately upon the residue.

(7) References to the "aggregate income of the estate" of a deceased person for any year of assessment shall be construed as references to the aggregate income from all sources for that year of the personal representatives of the deceased as such, treated as consisting of—

(*a*) any such income which is chargeable to United Kingdom income tax by deduction or otherwise, such income being computed at the amount on which that tax falls to be borne for that year, and

(*b*) any such income which would have been so chargeable if it had arisen in the United Kingdom to a person resident and ordinarily resident therein, such income being computed at the full amount thereof actually arising during that year, less such deductions as would have been allowable if it had been charged to United Kingdom income tax,

but excluding any income from property devolving on the personal representatives otherwise than as assets for payment of the debts of the deceased.

(8) The expressions "United Kingdom estate" and "foreign estate" mean respectively, as regards any year of assessment—

(*a*) an estate the income whereof comprises only income which either has borne United Kingdom income tax by deduction or in respect of which the personal representatives are directly assessable to United Kingdom income tax, not being an estate any part of the income of which is income in respect of which the personal representatives are entitled to claim exemption from United Kingdom income tax by reference to the fact that they are not resident, or not ordinarily resident, in the United Kingdom; and

(*b*) an estate other than a United Kingdom estate.

(9) In a case in which different parts of the estate of a deceased person are the subjects respectively of different residuary dispositions, this Part of this Act shall have effect in relation to each of those parts, with the substitution for references to the estate of references to that part of the estate, and for references to the personal representatives of the deceased as such of references to his personal representatives in their capacity as having the functions referred to in subsection (4) of this section in relation to that part of the estate.

(10) References to sums paid or payable in respect of an absolute or limited interest in the residue of the estate of a deceased person, or in a part thereof, shall, in the application of this Part of this Act for the purposes of surtax, be construed as excluding any sum paid or payable in discharge of any legacy duty charged in respect of that absolute or limited interest.

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PART III.
—*cont.*

(11) The expression "standard tax" means United Kingdom income tax at the standard rate.

(12) References to sums paid include references to assets that are transferred or that are appropriated by a personal representative to himself, and to debts that are set off or released; references to sums payable include references to assets as to which an obligation to transfer or a right of a personal representative to appropriate to himself is subsisting on the completion of the administration and to debts as to which an obligation to release or set off, or a right of a personal representative so to do in his own favour, is then subsisting; and references to amount shall be construed, in relation to such assets, as references to the value thereof at the date on which they were transferred or appropriated, or at the completion of the administration, as the case may require, and, in relation to such debts, as references to the amount thereof.

Application of Part III to Scotland and Northern Ireland.

36.—(1) For the purpose of the application of this Part of this Act to Scotland—

(i) any reference to the completion of the administration of an estate shall be construed as a reference to the date at which, after discharge of, or provision for, liabilities falling to be met out of the deceased's estate (including, without prejudice to the foresaid generality, debts, legacies immediately payable, and legal rights of surviving spouse or children) the free balance held in trust for behoof of the residuary legatees has been ascertained;

(ii) for paragraph (*b*) of subsection (1) of section thirty-two of this Act, the following paragraph shall be substituted—

"(*b*) the amount of any of the aggregate income of the estate for that year to which a person has become entitled by virtue of a specific disposition;"

(iii) the expression "real estate" means heritable estate;

(iv) for any reference to the sum of one thousand pounds charged by virtue of section forty-six of the Administration of Estates Act, 1925, there shall be substituted a reference to the sum of five hundred pounds to which a widow is entitled by

virtue of the Intestate Husband's Estate (Scotland) Act, 1911;

(v) the expression " charges on residue " shall include in addition to the liabilities specified in subsection (6) of the last foregoing section any sums required to meet claims in respect of legal rights by surviving spouse or children. 1 & 2 Geo. 5. c. 10.

(2) For the purpose of the application of this Part of this Act to Northern Ireland, for any reference to the sum of one thousand pounds charged by virtue of section forty-six of the Administration of Estates Act, 1925, there shall be substituted a reference to the sum of five hundred pounds to which a widow is entitled by virtue of section two of the Intestates' Estates Act, 1890. 53 & 54 Vict. c. 29.

Commencement of Part III.

37.—(1) This Part of this Act shall have effect, in relation to amounts deemed by virtue thereof to have been paid as income—

(*a*) in the case of amounts so deemed by virtue of section thirty of this Act, or by virtue of subsection (3) of section thirty-three of this Act, for the purpose of assessment to income tax and reliefs for the year 1937–38 and subsequent years; and

(*b*) in the case of amounts so deemed by virtue of section thirty-one of this Act, for the purpose of assessment to income tax and reliefs for the year 1938–39 and subsequent years;

and shall apply in relation to the estate of a deceased person whether he died before or after the commencement of the year 1937–38 or the year 1938–39, as the case may be:

Provided that no income shall be charged to standard tax by virtue of this Part of this Act for the year 1937–38 in a case to which paragraph (*a*) of this subsection applies, but surtax shall be assessed and charged as if any income which would, but for this proviso, have been charged as aforesaid had in fact been so charged.

(2) Section thirty of the Finance Act, 1922 (which relates to cases where a charity is entitled to a residue) shall not apply to income for the year 1938–39 or for any subsequent year. 12 & 13 Geo. 5. c. 17.

(3) Any relief given to any person before the commencement of this Act in respect of any income in respect of which that person is entitled to relief by virtue of this Part of this Act shall be taken as having been given on account of the relief to which he is so entitled.

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PART IV.

INCOME TAX (SETTLEMENTS).

Income arising under certain settlements to be treated as income of settlor.

38.—(1) If and so long as the terms of any settlement are such that—

(*a*) any person has or may have power, whether immediately or in the future, and whether with or without the consent of any other person, to revoke or otherwise determine the settlement or any provision thereof and, in the event of the exercise of the power, the settlor or the wife or husband of the settlor will or may cease to be liable to make any annual payments payable by virtue or in consequence of any provision of the settlement; or

(*b*) the settlor or the wife or husband of the settlor may, whether immediately or in the future, cease, on the payment of a penalty, to be liable to make any annual payments payable by virtue or in consequence of any provision of the settlement;

any sums payable by the settlor or the wife or husband of the settlor by virtue or in consequence of that provision of the settlement in any year of assessment shall be treated as the income of the settlor for that year and not as the income of any other person:

Provided that, where any such power as is referred to in paragraph (*a*) of this subsection cannot be exercised within the period of six years from the time when the first of the annual payments so referred to becomes payable, and the like annual payments are payable in each year throughout that period, the said paragraph (*a*) shall not apply so long as the said power cannot be exercised.

(2) If and so long as the terms of any settlement are such that—

(*a*) any person has or may have power, whether immediately or in the future, and whether with or without the consent of any other person, to revoke or otherwise determine the settlement or any provision thereof; and

(*b*) in the event of the exercise of the power, the settlor or the wife or husband of the settlor will or may become beneficially entitled to the

whole or any part of the property then comprised in the settlement or of the income arising from the whole or any part of the property so comprised;

any income arising under the settlement from the property comprised in the settlement in any year of assessment or from a corresponding part of that property, or a corresponding part of any such income, as the case may be, shall be treated as the income of the settlor for that year and not as the income of any other person:

Provided that, where any such power as aforesaid cannot be exercised within six years from the time when any particular property first becomes comprised in the settlement, this subsection shall not apply to income arising under the settlement from that property, or from property representing that property, so long as the power cannot be exercised.

(3) If and so long as the settlor has an interest in any income arising under or property comprised in a settlement, any income so arising during the life of the settlor in any year of assessment shall, to the extent to which it is not distributed, be treated for all the purposes of the Income Tax Acts as the income of the settlor for that year, and not as the income of any other person:

Provided that—

(*a*) if and so long as that interest is an interest neither in the whole of the income arising under the settlement nor in the whole of the property comprised in the settlement, the amount of income to be treated as the income of the settlor by virtue of this subsection shall be such part of the income which, but for this proviso, would be so treated as is proportionate to the extent of that interest; and

(*b*) where it is shown that any amount of the income which is not distributed in any year of assessment consists of income which falls to be treated as the income of the settlor for that year by virtue of either of the last two foregoing subsections, that amount shall be deducted from the amount of income which, but for this proviso, would be treated as his for that year by virtue of this subsection.

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(4) For the purpose of the last foregoing subsection, the settlor shall be deemed to have an interest in income arising under or property comprised in a settlement, if any income or property which may at any time arise under or be comprised in that settlement is, or will or may become, payable to or applicable for the benefit of the settlor or the wife or husband of the settlor in any circumstances whatsoever:

Provided that the settlor shall not be deemed to have an interest in any income arising under or property comprised in a settlement—

(*a*) if and so long as that income or property cannot become payable or applicable as aforesaid except in the event of—

(i) the bankruptcy of some person who is or may become beneficially entitled to that income or property; or

(ii) any assignment of or charge on that income or property being made or given by some such person; or

(iii) in the case of a marriage settlement, the death of both the parties to the marriage and of all or any of the children of the marriage; or

(iv) the death under the age of twenty-five or some lower age of some person who would be beneficially entitled to that income or property on attaining that age; or

(*b*) if and so long as some person is alive and under the age of twenty-five during whose life that income or property cannot become payable or applicable as aforesaid except in the event of that person becoming bankrupt or assigning or charging his interest in that income or property.

(5) The provisions of Part I of the Third Schedule to this Act shall have effect as respects the recovery by a settlor of tax with which he becomes chargeable, and the recovery from a settlor of any additional relief to which he becomes entitled, by virtue of this section.

(6) No repayment shall be made under section twenty-five of the Income Tax Act, 1918 (which relates to relief from tax in respect of income accumulated under trusts) on account of tax paid in respect of any income which by virtue of this section has been treated as the income of a settlor.

(7) The foregoing provisions of this section shall apply for the purposes of assessment to income tax for the year 1937–38 and subsequent years and shall apply in relation to any settlement, wherever made and whether made before or after the passing of this Act:

Provided that—

(*a*) for the year 1937–38 no income shall be charged to tax at the standard rate by virtue of this section, but surtax shall be assessed and charged as if any income which would, but for this proviso, have been charged as aforesaid had in fact been so charged; and

(*b*) for the purpose of granting relief from tax at the standard rate in respect of any income which for the year 1937–38 is treated as the income of a settlor by virtue of subsection (1) or subsection (2) of this section but would be treated as the income of some other person but for that subsection, that income shall be treated as the income of that other person; and

(*c*) the provisions of this subsection shall have effect, in relation to a settlement made before the twenty-seventh day of April nineteen hundred and thirty-eight, subject to the provisions of Part II of the Third Schedule to this Act, and in that Part of that Schedule this section is referred to as "the relative section".

Disallowance of deduction from total income of certain sums paid by settlor.

39.—(1) Where, by virtue or in consequence of any settlement to which this section applies, the settlor pays directly or indirectly in any year of assessment to the trustees of the settlement any sums which would, but for this subsection, be allowable as deductions in computing his total income for that year for the purposes of surtax, those sums shall not be so allowable to the extent to which the aggregate amount thereof falls within the amount of income arising under the settlement in that year which has not been distributed, less—

(*a*) so much of any income arising under the settlement in that year which has not been distributed as is shown to consist of income which has been treated as the income of the settlor by virtue of subsection (1) or subsection (2) of the last foregoing section; and

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(*b*) the amount of income so arising in that year which is treated as the income of the settlor by virtue of subsection (3) of the last foregoing section.

(2) For the purpose of the last foregoing subsection, any sum paid in any year of assessment by the settlor to any body corporate connected with the settlement in that year shall be treated as if it had been paid to the trustees of the settlement in that year by virtue or in consequence of the settlement.

(3) No relief shall be given under any of the provisions of the Income Tax Acts on account of tax paid in respect of so much of any income arising under a settlement in any year of assessment as is equal to the aggregate amount of any sums paid by the settlor in that year which are not allowable as deductions by virtue of this section.

(4) This section shall apply to any settlement (wherever made) made after the twenty-sixth day of April nineteen hundred and thirty-eight, and where income arising under any settlement (wherever made) made on or before that date is treated as the income of the settlor by virtue of subsection (1) or subsection (2) of the last foregoing section but ceases to be so treated by reason of any variation of the terms of the settlement made after that date, or would have been so treated but for such a variation, this section shall apply to that settlement as from the date when the variation takes effect.

(5) In this section references to sums paid by a settlor shall include references to sums paid by the wife or husband of the settlor.

Sums paid to settlor otherwise than as income.

40.—(1) Any capital sum paid directly or indirectly in any relevant year of assessment by the trustees of a settlement to which this section applies to the settlor shall—

(*a*) to the extent to which the amount of that sum falls within the amount of income available up to the end of that year, be treated for all the purposes of the Income Tax Acts as the income of the settlor for that year;

(*b*) to the extent to which the amount of that sum exceeds the amount of income available up to

the end of that year but falls within the amount of the income available up to the end of the next following year, be treated for the purposes aforesaid as the income of the settlor for the next following year;

and so on.

(2) For the purpose of the last foregoing subsection, the amount of income available up to the end of any year shall, in relation to any capital sum paid as aforesaid, be taken to be the aggregate amount of income arising under the settlement in that year and any previous relevant year which has not been distributed, less—

(*a*) the amount of any other capital sums paid to the settlor in any relevant year before that sum was paid; and

(*b*) so much of any income arising under the settlement in that year and any previous relevant year which has not been distributed as is shown to consist of income which has been treated as income of the settlor by virtue of subsection (1) or subsection (2) of section thirty-eight of this Act; and

(*c*) any income arising under the settlement in that year and any previous relevant year which has been treated as the income of the settlor by virtue of subsection (3) of section thirty-eight of this Act; and

(*d*) any sums paid by virtue or in consequence of the settlement, to the extent that they are not allowable, by virtue of the last foregoing section, as deductions in computing the settlor's income for that year or any previous relevant year; and

(*e*) an amount equal to tax at the standard rate on—

(i) the aggregate amount of income arising under the settlement in that year and any previous relevant year which has not been distributed, less

(ii) the aggregate amount of the income and sums referred to in paragraphs (*b*), (*c*) and (*d*) of this subsection.

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(3) For the purpose of this section, any capital sum paid to the settlor in any year of assessment by any body corporate connected with the settlement in that year shall be treated as having been paid by the trustees of the settlement in that year.

(4) Where the whole or any part of any sum is treated by virtue of this section as income of the settlor for any year, it shall be treated as income of such an amount as, after deduction of tax at the standard rate for that year, would be equal to that sum or that part thereof.

(5) This section applies to any settlement wherever made and whether made before or after the commencement of this Act, and in this section—

(*a*) the expression " capital sum " means—

(i) any sum paid by way of loan or repayment of a loan; and

(ii) any other sum paid otherwise than as income, being a sum which is not paid for full consideration in money or money's worth;

but does not include any sum which could not have become payable to the settlor except in one of the events specified in the proviso to subsection (4) of section thirty-eight of this Act;

(*b*) the expression " relevant year " means any year of assessment after the year 1937–38;

(*c*) references to sums paid to the settlor include references to sums paid to the wife or husband of the settlor.

Supplementary provisions as to settlements.

41.—(1) The provisions of Part III of the Third Schedule to this Act shall have effect for the purpose of carrying this Part of this Act into effect and otherwise for supplementing the provisions thereof.

(2) Paragraph (*a*) of subsection (1) of section twenty of the Finance Act, 1922, shall cease to have effect, and shall be deemed to have ceased to have effect for the purpose of assessment to surtax for the year 1937–38.

(3) Subject to the last foregoing subsection, the provisions of this Part of this Act shall be in addition to and not in derogation of any other provisions of the Income Tax Acts.

(4) For the purposes of this Part of this Act—

(*a*) the expression "income arising under a settlement" includes—

(i) any income chargeable to income tax by deduction or otherwise, and any income which would have been so chargeable if it had been received in the United Kingdom by a person domiciled, resident and ordinarily resident in the United Kingdom; and

(ii) where the amount of the income of any body corporate has been apportioned under section twenty-one of the Finance Act, 1922, for any year or period, or could have been so apportioned if the body corporate were incorporated in any part of the United Kingdom, so much of the income of the body corporate for that year or period as is equal to the amount which has been or could have been so apportioned to the trustees of or a beneficiary under the settlement;

but, where the settlor is not domiciled, or not resident, or not ordinarily resident, in the United Kingdom in any year of assessment, does not include income arising under the settlement in that year in respect of which the settlor, if he were actually entitled thereto, would not be chargeable to income tax by deduction or otherwise by reason of his not being so domiciled, resident or ordinarily resident;

(*b*) the expression "settlement" includes any disposition, trust, covenant, agreement or arrangement, and the expression "settlor" in relation to a settlement means any person by whom the settlement was made;

(*c*) a person shall be deemed to have made a settlement if he has made or entered into the settlement directly or indirectly, and in particular (but without prejudice to the generality of the foregoing words of this paragraph) if he has provided or undertaken to provide funds directly or indirectly for the purpose of the settlement, or has made with any other person a reciprocal arrangement for that other person to make or enter into the settlement;

(*d*) income arising under a settlement in any year of assessment shall be deemed not to have been

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distributed if and to the extent that it exceeds the aggregate amount of—

(i) the sums paid in that year by the trustees of the settlement to any persons (not being a body corporate connected with the settlement and not being the trustees of another settlement made by the settlor or the trustees of the settlement) in such manner that they fall to be treated in that year, otherwise than by virtue of the last preceding section, as the income of those persons for the purposes of income tax, or would fall to be so treated if those persons were domiciled, resident and ordinarily resident in the United Kingdom and the sums had been paid to them therein; and

(ii) any expenses of the trustees of the settlement paid in that year which, in the absence of any express provision of the settlement, would be properly chargeable to income, in so far as such expenses are not included in the sums mentioned in the last foregoing sub-paragraph; and

(iii) in a case where the trustees of the settlement are trustees for charitable purposes, the amount by which any income arising under the settlement in that year in respect of which exemption from tax may be granted under section thirty-seven of the Income Tax Act, 1918, or section thirty of the Finance Act, 1921, exceeds the aggregate amount of any such sums or expenses as aforesaid paid in that year which are properly chargeable to that income;

(*e*) a body corporate shall be deemed to be connected with a settlement in any year of assessment if any of the income thereof for any year or period ending in that year of assessment—

(i) has been apportioned to the trustees of or a beneficiary under the settlement under section twenty-one of the Finance Act, 1922, or could have been so apportioned if the body corporate had been incorporated in the United Kingdom; or

(ii) could have been so apportioned if the income of the body corporate for that year or period had not been distributed to the members thereof and, in the case of a body corporate incorporated outside the United Kingdom, if the body corporate had been incorporated in the United Kingdom.

PART V.

NATIONAL DEFENCE CONTRIBUTION.

Further provisions as to subsidiary companies.

42.—(1) For the purposes of this section and section twenty-two of the Finance Act, 1937 (which provides for the amalgamation for the purposes of the national defence contribution of the profits or losses of bodies corporate with the profits or losses of their subsidiaries), a body corporate shall be deemed to be a subsidiary of another body corporate if and so long as not less than three quarters of its ordinary share capital is owned by that other body corporate, whether directly or through another body corporate or other bodies corporate, or partly directly and partly through another body corporate or other bodies corporate.

(2) The amount of ordinary share capital of one body corporate owned by a second body corporate through another body corporate or other bodies corporate, or partly directly and partly through another body corporate or other bodies corporate, shall be determined in accordance with the provisions of Part I of the Fourth Schedule to this Act.

(3) In this section and Part I of the said Schedule references to ownership shall be construed as references to beneficial ownership, and the expression "ordinary share capital", in relation to a body corporate, means all the issued share capital (by whatever name called) of the body corporate, other than capital the holders whereof have a right to a dividend at a fixed rate or a rate fluctuating in accordance with the standard rate of income tax, but have no other right to share in the profits of the body corporate.

(4) The provisions of subsection (1) of the said section twenty-two relating to the giving of a notice by a principal company as respects a subsidiary shall have effect subject to the provisions of Part II of the Fourth Schedule to this Act, and the time within which

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PART V. —*cont.*

such a notice may be given in respect of any chargeable accounting period shall be extended to six months from the end of that period or such longer time as the Commissioners of Inland Revenue may in any case allow.

(5) Where any interest, annuity or other annual payment, or any royalty or rent, is paid by one body corporate resident, or carrying on a trade or business, in the United Kingdom to another body corporate, whether so resident or carrying on a trade or business or not, and one of those bodies corporate is a subsidiary of the other, or both are subsidiaries of a third body corporate, then, for the purposes of the national defence contribution—

(*a*) notwithstanding anything in section twenty of, or paragraph 4 of the Fourth Schedule to, the Finance Act, 1937, no deduction shall be allowed in respect of the payment in computing the profits of the trade or business carried on by the body corporate making the payment; and

(*b*) notwithstanding anything in paragraph 7 of that Schedule, the payment shall not be included in computing the profits of the trade or business carried on by the body corporate to which it is made.

(6) This section shall be deemed to have had effect as from the date on which Part III of the Finance Act, 1937, came into operation:

Provided that where, within six months from the passing of this Act, or such longer time as the Commissioners of Inland Revenue may in any case allow, a notice is duly given under the said section twenty-two, as amended by this section, as respects any chargeable accounting period which ended before the passing of this Act, the notice shall have effect for the purposes of that section as if it had been given within six months from the end of that period.

Amendment as respects carrying forward of losses.

43.—(1) No loss sustained in a trade or business shall be carried forward and deducted or set off under sub-paragraph (2) of paragraph 2 of the Fourth Schedule to the Finance Act, 1937, if and to the extent that that loss has been deducted from or set off against the profits arising from another trade or business in computing those profits for the purposes of the national defence contribution.

(2) Where, in computing for the purposes of the national defence contribution the profits arising from the trade or business carried on by a principal company (including profits treated as so arising by virtue of section twenty-two of the said Act), those profits have been diminished by a loss sustained, or treated as aforesaid as having been sustained, in that trade or business, that loss shall, to the extent to which those profits have been thereby diminished, be treated for the purpose of this section as having been deducted from the profits arising from another trade or business in computing them as aforesaid.

(3) This section shall be deemed to have had effect as from the date on which Part III of the Finance Act, 1937, came into operation.

Increase of deduction for wear and tear.

44. Sub-paragraph (1) of paragraph 3 of the Fourth Schedule to the Finance Act, 1937 (which provides for the deduction in respect of any accounting period of a sum representing the diminution in value by reason of wear and tear during that period of plant or machinery, plus ten per cent. of that sum) shall have effect, in respect of any accounting period beginning after the thirty-first day of March nineteen hundred and thirty-eight, and in respect of such part of any accounting period as falls after that date, as if the words " twenty per cent." were substituted for the words " ten per cent.".

Limitation of amount of investment income to be included in profits of certain assurance businesses.

45.—(1) In the case of any assurance business to which this section applies carried on by a body corporate, the amount of income arising from investments or other property to be included, by virtue of paragraph 7 of the Fourth Schedule to the Finance Act, 1937, in the profits of the business for any period for which the accounts of the business are made up shall not exceed such a sum as bears to the investment income the same proportion as one-and-a-half times the net premium revenue bears to the value of the investments.

(2) In this section, in relation to any such business and any such period—

(*a*) the expression " investment income " means the aggregate amount of income arising from investments and other property which would, but for this section, have been included in the

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PART V. —*cont.*

profits of the business for that period by virtue of the said paragraph 7;

(*b*) the expression "net premium revenue" means the aggregate amount of the premiums received, less any re-insurance premiums paid, for the purposes of the business in that period or, in a case where the period is less than twelve months, a sum which bears the same proportion to that amount as twelve months bears to the length of that period; and

(*c*) the expression "value of the investments" means the average value over that period of all the investments and other property held in that period by the body corporate, other than investments and property held in connection with any assurance business to which this section does not apply.

(3) This section applies to all assurance business, except life assurance business within the meaning of the Assurance Companies Act, 1909, and capital redemption business as defined in subsection (3) of section twenty-seven of this Act.

9 Edw. 7. c. 49.

(4) In relation to any such period beginning before the first day of April nineteen hundred and thirty-eight, references in this section to income arising from investments and other property shall be construed as not including income so arising before that date.

Extension of time for making certain claims.

46. Paragraph 12 of the Fourth Schedule to the Finance Act, 1937 (which enables an individual to claim, within one month from the end of a chargeable accounting period, that he shall be treated as respects that period as if he were a company for certain purposes of the national defence contribution), shall have effect and shall be deemed always to have had effect as if the following sub-paragraph were substituted for sub-paragraph (2) thereof:—

"(2) Any claim under this paragraph shall be made by notice in writing to the Commissioners of Inland Revenue within six months from the end of the chargeable accounting period in question, or such longer time as the Commissioners may in any case allow."

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ESTATE DUTY.

Estate duty on cesser by death of a limited interest in unascertained residue. 57 & 58 Vict. c. 30.

47.—(1) The following provisions of this section shall have effect for the purpose of the operation of Part I of the Finance Act, 1894 (in this Part of this Act referred to as "the principal Act") in relation to the death of a person on whose death an interest in the residue of the estate of a testator or intestate, or in a part thereof, is limited to cease, and who dies before the completion of the administration of the estate.

(2) Such an interest shall, until the completion of the administration, be deemed to be an interest in the unadministered estate of the testator or intestate, as for the time being held by his personal representatives subject to outstanding charges on residue and to any adjustments between capital and income remaining to be made in a due course of administration, and in the property (if any) representing ascertained residue.

(3) Such an interest shall be deemed to have become an interest in possession on the date as from which the income of the residue would have been attributable to that interest if the residue had been ascertained immediately after the death of the testator or intestate.

(4) Where such an interest is an interest in a part only of the residue of an estate, the references in the foregoing provisions of this section to the unadministered estate, to residue and to charges on residue, shall be construed as references to a corresponding part thereof.

(5) In this section—

(*a*) the expression "unadministered estate" means all the property for the time being held by the personal representatives of a testator or intestate as such, excluding property devolving on the personal representatives otherwise than as assets for payment of his debts and property that is the subject of a specific disposition;

(*b*) the expression "ascertained residue" means property which, having ceased to be held by

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PART VI. —*cont.*

the personal representatives as such, is held as part of the residue;

(*c*) the expressions "personal representatives," "charges on residue" and "specific disposition" have the meanings assigned to them respectively by Part III of this Act;

(*d*) references to personal representatives as such shall be construed as provided in the said Part III.

(6) In the application of this section to Scotland—

(*a*) references to the completion of the administration of an estate shall be construed as provided in the said Part III;

(*b*) for subsection (2) the following subsection shall be substituted:—

"(2) Such an interest shall, until the completion of the administration, be deemed to be an interest in the estate of the testator or intestate, as for the time being held by his personal representatives subject to outstanding charges on residue and to any adjustments between capital and income remaining to be made in a due course of administration."

(7) This section shall have effect, and shall be deemed always to have had effect, whether the person on whose death such an interest is limited to cease died before or dies after the commencement of this Act:

Provided that, in a case where that person died before the commencement of this Act and no estate duty was paid in respect of the cesser of that interest before the commencement of this Act, any question as to the operation of Part I of the Finance Act, 1894, in relation to his death shall be determined without regard to the provisions of this section.

Amendment as respects settled property.

48. Subsection (3) of section five of the principal Act (which provides that, in the case of settled property, where the interest of any person under the settlement fails or determines by reason of his death before it becomes an interest in possession, and subsequent limitations under the settlement continue to subsist, the property shall not be deemed to pass on his death)

shall have effect, in the case of a person dying after the passing of this Act, as if there had been inserted at the end thereof the words " by reason only of the failure or determination of that interest ".

Amendments as respects property transferred to, and shares in, certain companies.

49.—(1) In relation to a person dying after the passing of this Act, sections thirty-four to thirty-eight of the Finance Act, 1930 (which charge estate duty where property has been transferred to certain companies and provide for the valuation of shares in such companies) shall have effect subject to the provisions of this section.

(2) For the purpose of determining the rate of estate duty, property which is deemed to pass on the death of any such person by virtue of the provisions of section thirty-four or section thirty-five of the said Act shall not be an estate by itself, but shall be aggregated with other property which is to be aggregated under section four of the principal Act; and accordingly subsection (7) of the said section thirty-four and subsection (3) of the said section thirty-five shall cease to have effect.

(3) For the purpose of the definition of " the value of the total assets of the company " contained in section thirty-eight of the said Act, the deduction to be made in respect of any debentures, debenture stock or preference shares of the company shall, instead of being the par or redemption value thereof, whichever is the greater, be the principal value thereof ascertained in accordance with the provisions of subsection (5) of section seven of the principal Act; and accordingly paragraph (i) of that definition shall be amended by substituting the words " the principal value so ascertained " for the words " the par or redemption value, whichever is the greater ".

PART VII.

MISCELLANEOUS AND GENERAL.

Restriction of relief from stamp duty on transfers from one associated company to another.

50.—(1) Section forty-two of the Finance Act, 1930 (which relieves from stamp duty any instrument the effect whereof is to convey or transfer a beneficial interest in property from one associated company to another, in this section respectively referred to as the " transferor " and " transferee ") shall not apply to any such instrument, unless it is shown to the satisfaction of the Commissioners of Inland Revenue that the instrument

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PART VII. —*cont.*

was not executed in pursuance of or in connection with an arrangement whereunder—

(*a*) the consideration for the transfer or conveyance was to be provided directly or indirectly by a person other than a company which at the time of the execution of the instrument was associated with either the transferor or the transferee; or

(*b*) the beneficial interest in the property was previously conveyed or transferred directly or indirectly by such a person as aforesaid.

(2) For the purpose of this section, a company shall be deemed to be associated with another company if, but not unless, both are companies with limited liability, and either—

(i) one of them is the beneficial owner of not less than ninety per cent. of the issued share capital of the other; or

(ii) not less than ninety per cent. of the issued share capital of each of them is in the beneficial ownership of a third company with limited liability.

Repeal of stamp duties in respect of honours and dignities. 54 & 55 Vict. c. 39.

51. Stamp duty shall cease to be chargeable under the following headings in the First Schedule to the Stamp Act, 1891, namely, "DOCKET made on passing any instrument under the Great Seal," "GRANT or LETTERS PATENT," and "WARRANT under the sign manual."

Extension of relief in respect of land tax. 61 & 62 Vict. c. 10.

52. Section twelve of the Finance Act, 1898 (which, as amended by section sixty-three of the Finance Act, 1920, and section fifty-four of the Finance Act, 1927, provides that if, before land tax is paid, the owner of the land produces a certificate that his income does not exceed one hundred and sixty pounds or four hundred pounds, the whole or one-half of the tax, as the case may be, shall not be collected), shall be amended by inserting immediately after subsection (1) thereof the following subsection:—

"(1A) Where any such owner, who has paid or borne land tax for any year for which that tax is assessed, produces any such certificate as aforesaid to the collector of land tax not later than the end of the twelve months next following

the end of that year, he shall be entitled to be repaid such amount of the tax so paid or borne by him as would not have been collected if the certificate had been produced before the tax was paid."

Provisions as to permanent annual charge for the National Debt.

53.—(1) The permanent annual charge for the National Debt for the financial year ending on the thirty-first day of March nineteen hundred and thirty-nine shall be the sum of two hundred and thirty million pounds instead of the sum of three hundred and fifty-five million pounds.

(2) The Treasury may at any time, if they think fit, raise money in any manner in which they are authorised to raise money under and for the purposes of subsection (1) of section one of the War Loan Act, 1919, for providing any sums required during the said financial year for the purposes mentioned in paragraph (*a*) or paragraph (*b*) of subsection (4) of section twenty-three of the Finance Act, 1928, and the amount required by the said subsection (4) to be issued from the permanent annual charge for the National Debt for the purposes aforesaid in that year shall be decreased by the amount raised under this subsection.

9 & 10 Geo. 5. c. 37.

(3) Any securities created and issued to raise money under the last preceding subsection shall be deemed for all purposes to have been created and issued under subsection (1) of section one of the War Loan Act, 1919.

Prolongation of currency of certain savings certificates. 21 & 22 Geo. 5. c. 28.

54. Proviso (*b*) to subsection (1) of section forty-three of the Finance Act, 1931 (which prohibits the prolongation beyond the thirty-first day of March nineteen hundred and forty of the currency of any savings certificate issued on or before the thirty-first day of March nineteen hundred and twenty-two) shall cease to have effect.

Short title, construction, extent and repeals. 39 & 40 Vict. c. 36.

55.—(1) This Act may be cited as the Finance Act, 1938.

(2) Part I of this Act, so far as it relates to duties of customs, shall be construed as one with the Customs Consolidation Act, 1876, and so far as it relates to duties of excise shall be construed as one with the Acts which relate to the duties of excise and to the management of those duties; and in that Part of this Act the expression "the Commissioners" means the Commissioners of Customs and Excise.

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PART VII. —*cont.*

(3) Parts II, III and IV of this Act shall be construed as one with the Income Tax Acts.

(4) Part VI of this Act shall be construed as one with the Finance Act, 1894.

(5) Any reference in this Act to any other enactment shall be construed as a reference to that enactment as amended by any subsequent enactment, including (unless the context otherwise requires) this Act.

(6) Such of the provisions of this Act as relate to matters with respect to which the Parliament of Northern Ireland has power to make laws shall not extend to Northern Ireland.

(7) The enactments set out in the Fifth Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule.

SCHEDULES.

FIRST SCHEDULE.

Section 2.

SUPPLEMENTARY PROVISIONS AS RESPECTS PREFERENCE FOR BRITISH HYDROCARBON OILS.

PART I.

ADJUSTMENT OF APPROPRIATE RATE OF PREFERENCE.

1. On or before the thirty-first day of March in the year nineteen hundred and forty-two and each of the eight next following years, the Board of Trade shall lay before both Houses of Parliament a certificate signed by the President or any Secretary of the Board stating, according to the information before the Board—

(*a*) the average value per gallon of all motor spirit imported into the United Kingdom in the year nineteen hundred and thirty-seven as declared by the importers on importation (in this Part of this Schedule referred to as the " datum price of motor spirit ");

(*b*) the average value per gallon of all motor spirit so imported in the last preceding calendar year as so declared (in this Part of this Schedule referred to as the " previous year's price of motor spirit ");

(*c*) the average value per gallon of all gas oil so imported in the year nineteen hundred and thirty-seven as so declared (in this Part of this Schedule referred to as the " datum price of gas oil ");

(*d*) the average value per gallon of all gas oil so imported in the last preceding calendar year as so declared (in this Part of this Schedule referred to as the " previous year's price of gas oil ");

(*e*) the number of gallons of home produced light oils delivered for home consumption during the last preceding calendar year (in this Part of this Schedule referred to as the " light oil home production figure ");

(*f*) the aggregate number of gallons of imported light oils and home produced light oils delivered for home consumption during the last preceding calendar year (in this Part of this Schedule referred to as the " light oil consumption figure ");

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1ST SCH. —*cont.*

(*g*) the number of gallons of heavy oils manufactured in the United Kingdom from indigenous materials which have been delivered for home consumption for use as road fuel during the last preceding calendar year (in this Part of this Schedule referred to as the "road fuel home production figure");

(*h*) the aggregate number of gallons of the oils referred to in the last preceding paragraph and of imported heavy oils delivered for home consumption for use as road fuel during the last preceding calendar year (in this Part of this Schedule referred to as the "road fue consumption figure").

2. If any such certificate shows that the previous year's price of motor spirit exceeds the datum price of motor spirit by one penny or more, the appropriate rate per gallon as respects home produced light oils for the following preference year shall be eightpence less the authorised deduction, that is to say, one half-penny for the first penny of the said excess and an additional half-penny for each additional half-penny of the said excess.

3. If any such certificate shows that the light oil home production figure amounts to twenty per cent. or more of the light oil consumption figure, the appropriate rate per gallon as respects home produced light oils for the following preference year shall be eightpence less the authorised deduction, that is to say, one penny plus an additional one penny for each additional five per cent. beyond twenty per cent. of the light oil consumption figure which the light oil home production figure amounts to or exceeds.

4. If any such certificate shows both that the previous year's price of motor spirit exceeds the datum price of motor spirit by one penny or more and that the light oil home production figure amounts to twenty per cent. or more of the light oil consumption figure, the appropriate rate per gallon as respects home produced light oils for the following preference year shall be eightpence less the authorised deductions to be made under both the last foregoing paragraphs.

5. If any such certificate shows that the previous year's price of gas oil exceeds the datum price of gas oil by one penny or more, the appropriate rate per gallon as respects home produced road fuel oils for the following preference year shall be eightpence less the authorised deduction, that is to say, one half-penny for the first penny of the said excess and an additional half-penny for each additional half-penny of the said excess.

6. If any such certificate shows that the road fuel home production figure amounts to twenty per cent. or more of the road fuel consumption figure, the appropriate rate per gallon as respects home produced road fuel oils for the following preference year shall be eightpence less the authorised deduction, that is to say,

one penny plus an additional one penny for each additional five per cent. beyond twenty per cent. of the road fuel consumption figure which the road fuel home production figure amounts to or exceeds.

7. If any such certificate shows both that the previous year's price of gas oil exceeds the datum price of gas oil by one penny or more and that the road fuel home production figure amounts to twenty per cent. or more of the road fuel consumption figure, the appropriate rate per gallon as respects home produced road fuel oils for the following preference year shall be eightpence less the authorised deductions to be made under both the last foregoing paragraphs.

8. For the purposes of this Part of this Schedule—

(*a*) average values shall be computed in pence to three places of decimals;

(*b*) the expression "calendar year" means the twelve months beginning on the first day of January;

(*c*) the expression "following preference year", in relation to any certificate, means the twelve months beginning on the sixth day of May next after the certificate is laid before Parliament, or in the case of a certificate so laid in the year nineteen hundred and fifty, the period beginning on the sixth day of May in that year and ending at the expiration of twelve years from the passing of this Act.

PART II.

POWER TO OBTAIN INFORMATION.

1. It shall be the duty of all persons engaged in the manufacture in the United Kingdom of either—

(*a*) home produced light oils; or

(*b*) heavy oils manufactured from indigenous materials and capable of being used as road fuel;

to furnish to the Board of Trade in such manner and form as the Board may direct, such particulars, statistics and other information with respect to—

(i) the quantities of such oils manufactured, and the types and quantities of the materials from which they are so manufactured; and

(ii) the quantities of such light oils delivered for home consumption; and

(iii) the quantities of such heavy oils delivered for home consumption for use as road fuel;

as the Board may at any time require.

2. If any person fails to comply with any requirements of the Board made under this Part of this Schedule, he shall be

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1ST SCH. —*cont.*

liable on summary conviction to a fine not exceeding one hundred pounds and to a further fine not exceeding twenty pounds for every day during which the failure continues.

3. Except for the purposes of paragraph 1 of Part I of this Schedule, no information furnished to the Board under this Part of this Schedule may be published in such a form as to disclose information in regard to a particular undertaking unless the owner of the undertaking consents to the publication thereof.

Section 6.

SECOND SCHEDULE.

ENACTMENTS RELATING TO CERTAIN CUSTOMS DUTIES REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
15 & 16 Geo. 5. c. 36.	The Finance Act, 1925	In section eleven the words "section three" and the words "(whether under this "Act or under the Finance "(No. 2) Act, 1915)"; the First Schedule; paragraph 3 of Part III of the Second Schedule; and in Part III of the Third Schedule the words "Goods on which a duty is "imposed by section 3 of "this Act . . . Two thirds "of the full rate".
16 & 17 Geo. 5. c. 22.	The Finance Act, 1926	Section three.
17 & 18 Geo. 5. c. 10.	The Finance Act, 1927	Sections three and four.
18 & 19 Geo. 5. c. 17.	The Finance Act, 1928	Sections seven and eight.
23 & 24 Geo. 5. c. 19.	The Finance Act, 1933	Subsections (1), (2), (4) and (5) of section thirteen; in subsection (2) of section twenty the words "a duty "of customs chargeable "under section three of the "Finance Act, 1925, and"; section twenty-one; the Fourth Schedule; and Part I of the Sixth Schedule.
1 Edw. 8. & 1 Geo. 6. c. 54.	The Finance Act, 1937	Subsection (4) of section three.
1 & 2 Geo. 6. c. 17.	The Cinematograph Films Act, 1938.	Subsection (5) of section twenty-five.

THIRD SCHEDULE.

Sections 38 to 41.

SUPPLEMENTARY PROVISIONS AS TO SETTLEMENTS.

PART I.

ADJUSTMENTS BETWEEN THE SETTLOR AND TRUSTEES.

1. Where by virtue of any provision of section thirty-eight of this Act any income tax becomes chargeable on and is paid by a settlor, he shall be entitled—

(*a*) to recover from any trustee, or other person to whom income arises under the settlement, the amount of the tax so paid; and

(*b*) for that purpose to require the Commissioners concerned to furnish to him a certificate specifying the amount of income in respect of which he has so paid tax and the amount of tax so paid.

2. Any certificate furnished under the last foregoing paragraph shall be conclusive evidence of the facts stated therein.

3. Where any person obtains, in respect of any allowance or relief, a repayment of income tax in excess of the amount of the repayment to which he would, but for the provisions of the said section, have been entitled, an amount equal to the excess shall be paid by him to the trustees or other person to whom income arises under the settlement, or where there are two or more such persons shall be apportioned among those persons, as the case may require.

4. If any question arises as to the amount of any payment or as to any apportionment to be made under the last foregoing paragraph, that question shall be decided by the General Commissioners whose decision thereon shall be final.

5. Any income which is treated by virtue of any provision of the said section as income of a settlor shall be deemed for the purpose of this Schedule to be the highest part of his income.

PART II.

SPECIAL PROVISIONS AS RESPECTS SETTLEMENTS MADE BEFORE 27TH APRIL, 1938.

1. Subject to the provisions of this Part of this Schedule, in the case of a settlement made before the twenty-seventh day of April nineteen hundred and thirty-eight, subsection (1) of the relative section shall not, by reason only of the provisions of paragraph (*a*) thereof, apply to sums payable by the settlor by

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3RD SCH. —*cont.*

virtue or in consequence of any provision of the settlement in a year to which this Part of this Schedule applies, if—

(*a*) at the expiration of three months from the date of the passing of this Act—

(i) no person has or can have any such power as is referred to in the said paragraph (*a*); and

(ii) the settlor has not received and is not entitled to receive any consideration in respect of the release or disclaimer of any such power; or

(*b*) the like annual payments have been payable by the settlor by virtue or in consequence of that provision of the settlement in each of the seven years of assessment ending with a year to which this Part of this Schedule applies; or

(*c*) before the expiration of three months from the date of the passing of this Act—

(i) the settlement, or the provision by virtue or in consequence whereof the annual payments are payable, has been revoked; and

(ii) a new settlement has been made by the settlor by virtue or in consequence whereof the settlor is liable to make the like annual payments and cannot, except in the event of his death, cease to be liable to make those payments before the expiration of six years from the date when the first of the annual payments payable by virtue or in consequence of the revoked settlement became payable:

Provided that, where any income arising under the settlement in a year to which this Part of this Schedule applies has not been distributed, the foregoing provisions of this paragraph shall have effect as if there were substituted for the reference to sums payable by the settlor in that year a reference to the amount, if any, by which the sums so payable in that year exceed the income arising under the settlement in that year which has not been distributed.

2. Subject to the provisions of this Part of this Schedule, in the case of a settlement made before the twenty-seventh day of April nineteen hundred and thirty-eight, income arising under the settlement in any year to which this Part of this Schedule applies which would, but for this paragraph, be treated by virtue of subsection (2) of the relative section as the income of the settlor and not as the income of any other person, shall not be so treated or, in a case where any income arising under the settlement in that year has not been distributed, shall not be so treated to the extent that it exceeds the amount of income arising under the settlement in that year which has not been distributed

if, at the expiration of three months from the date of the passing of this Act—

(*a*) no person has or can have any such power as is referred to in the said subsection (2); and

(*b*) the settlor has not received and is not entitled to receive any consideration in respect of the release or disclaimer of any such power.

3. The foregoing provisions of this Part of this Schedule shall not apply to any settlement if, in any year to which this Part of this Schedule applies, any capital sum within the meaning of section forty of this Act has been paid to the settlor directly or indirectly by the trustees of the settlement or any body corporate connected with the settlement in that year.

4. Notwithstanding that the payments payable by virtue or in consequence of any such new settlement as is referred to in sub-paragraph (*c*) (ii) of paragraph 1 of this Part of this Schedule are payable to or applicable for the benefit of another person for a period which cannot exceed six years from the date when the settlement was made, they shall not be treated as the income of the settlor by virtue of paragraph (*b*) of subsection (1) of section twenty of the Finance Act, 1922.

5. Paragraphs 1 and 2 of this Part of this Schedule shall not apply to any income which would have been treated as the income of the settlor for any purpose by virtue of paragraph (*a*) of subsection (1) of section twenty of the Finance Act, 1922, but for the provisions of this Act relating to that paragraph.

6. In this Part of this Schedule references to the settlor, except where that expression first occurs in paragraph 2, include references to the wife or husband of the settlor.

7. The years to which this Part of this Schedule applies are the year 1937–38 and the year 1938–39.

PART III.

MISCELLANEOUS.

1. Tax chargeable at the standard rate by virtue of sections thirty-eight or forty of this Act shall be charged under Case VI of Schedule D.

2. In computing the liability to income tax of a settlor chargeable by virtue of any of the provisions of section thirty-eight of this Act, the same deductions and reliefs shall be allowed as would have been allowed if the income treated as his by virtue of that provision had been received by him.

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3RD SCH. —*cont.*

3. In computing the liability to income tax of a settlor chargeable by virtue of section forty of this Act, the same deductions and reliefs shall be allowed as would have been allowed if the amount treated as his income by virtue of that section had been received by him as income.

4. The General or Special Commissioners may by notice in writing require any person, being a party to a settlement, to furnish them (within such time as they may direct, not being less than twenty-eight days) with such particulars as they think necessary for the purposes of any of the provisions of Part IV of this Act, and if that person without reasonable excuse fails to comply with the notice he shall be liable to a penalty not exceeding fifty pounds and, after judgment has been given for that penalty, to a further penalty of the like amount for every day during which the failure continues.

5. Without prejudice to the provisions of the last foregoing paragraph, if any party to a settlement fails to furnish any particulars required under the last foregoing paragraph, or if the General or Special Commissioners are not satisfied with any particulars furnished under that paragraph, they may make an estimate of the amount of income which by virtue of any of the provisions of sections thirty-eight or forty of this Act, is to be treated as the income of the settlor.

FOURTH SCHEDULE.

Section 42.

PROVISIONS RELATING TO SUBSIDIARY COMPANIES FOR PURPOSE OF NATIONAL DEFENCE CONTRIBUTION.

PART I.

PROVISIONS FOR DETERMINING AMOUNT OF CAPITAL HELD THROUGH OTHER BODIES CORPORATE.

1. Where, in the case of a number of bodies corporate, the first directly owns ordinary share capital of the second and the second directly owns ordinary share capital of the third, then, for the purposes of this Schedule, the first shall be deemed to own ordinary share capital of the third through the second, and, if the third directly owns ordinary share capital of a fourth, the first shall be deemed to own ordinary share capital of the fourth through the second and third, and the second shall be deemed to own ordinary share capital of the fourth through the third, and so on.

2. In this Part of this Schedule—

(*a*) any number of bodies corporate of which the first directly owns ordinary share capital of the next and the next directly owns ordinary share capital of the next but one and so on, and, if they are more than three, any three or more of them, are referred to as " a series ";

(*b*) in any series—

(i) that body corporate which owns ordinary share capital of another through the remainder is referred to as " the first owner ";

(ii) that other body corporate the ordinary share capital of which is so owned is referred to as " the last owned body corporate ";

(iii) the remainder, if one only, is referred to as an " intermediary " and, if more than one, referred to as " a chain of intermediaries ";

(*c*) a body corporate in a series which directly owns ordinary share capital of another body corporate in the series is referred to as an " owner ";

(*d*) any two bodies corporate in a series of which one owns ordinary share capital of the other directly, and not through one or more of the other bodies corporate in the series, are referred to as being directly related to one another.

3. Where every owner in a series owns the whole of the ordinary share capital of the body corporate to which it is directly related, the first owner shall be deemed to own through the intermediary or chain of intermediaries the whole of the ordinary share capital of the last owned body corporate.

4. Where one of the owners in a series owns a fraction of the ordinary share capital of the body corporate to which it is directly related, and every other owner in the series owns the whole of the ordinary share capital of the body corporate to which it is directly related, the first owner shall be deemed to own that fraction of the ordinary share capital of the last owned body corporate through the intermediary or chain of intermediaries.

5. Where—

(*a*) each of two or more of the owners in a series owns a fraction, and every other owner in the series owns the whole, of the ordinary share capital of the body corporate to which it is directly related; or

(*b*) every owner in a series owns a fraction of the ordinary share capital of the body corporate to which it is directly related;

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the first owner shall be deemed to own through the intermediary or chain of intermediaries such fraction of the ordinary share capital of the last owned body corporate as results from the multiplication of those fractions.

6. Where the first owner in any series owns a fraction of the ordinary share capital of the last owned body corporate in that series through the intermediary or chain of intermediaries in that series, and also owns another fraction or other fractions of the ordinary share capital of the last owned body corporate, either—

(*a*) directly; or

(*b*) through an intermediary or intermediaries which is not a member or are not members of that series; or

(*c*) through a chain or chains of intermediaries of which one or some or all are not members of that series; or

(*d*) in a case where the series consists of more than three bodies corporate, through an intermediary or intermediaries which is a member or are members of the series, or through a chain or chains of intermediaries consisting of some but not all of the bodies corporate of which the chain of intermediaries in the series consists;

then, for the purpose of ascertaining the amount of the ordinary share capital of the last owned body corporate owned by the first owner, all those fractions shall be aggregated and the first owner shall be deemed to own the sum of those fractions.

PART II.

PROVISIONS AS RESPECTS NOTICES.

1. No principal company, being itself a subsidiary of another principal company, may give a notice as respects a subsidiary of itself, if and so long as a notice previously given as respects that principal company by that other principal company is in force.

2. Subject to the provisions of the next following paragraph, no principal company may give a notice as respects a subsidiary—

(*a*) if and so long as a notice previously given as respects that subsidiary by another principal company is in force; or

(*b*) if and so long as a notice previously given by that subsidiary as respects a subsidiary of itself is in force.

3. Notwithstanding anything in the last foregoing paragraph, where a notice previously given by a principal company (hereafter referred to as the "first subsidiary") as respects a subsidiary (hereafter referred to as the "second subsidiary") is in force, and both the first subsidiary and the second subsidiary

are subsidiaries of another principal company (hereafter referred to as the "first principal company"), the first principal company may give a notice as respects both the first subsidiary and the second subsidiary, but not as respects one or the other alone:

Provided that, where a notice previously given by the first subsidiary as respects one or more other subsidiaries besides the second subsidiary is in force, the first principal company may not give a notice under this paragraph unless—

(*a*) that other subsidiary or all those other subsidiaries are subsidiaries of the first principal company; and

(*b*) the first principal company gives a notice as respects that other subsidiary or all those other subsidiaries as well as the first and second subsidiaries.

4. Where a notice is duly given by the first principal company under the last foregoing paragraph, the notice previously given by the first subsidiary as respects the second subsidiary and any other subsidiary shall cease to be in force.

5. Where a notice is given simultaneously by two or more bodies corporate, the notice given by such one of them as may be agreed upon between them or, in default of agreement, may be determined by the Commissioners of Inland Revenue, shall be treated for the purpose of this Part of this Schedule as having been given before the other notice or notices.

6. For the purpose of this Part of this Schedule, the expression "notice" means a notice under subsection (1) of section twenty-two of the Finance Act, 1937, and a notice duly given under that subsection by a principal company as respects a subsidiary shall, subject to paragraph 4 of this Part of this Schedule, be deemed to continue in force so long as the subsidiary continues to be a subsidiary of the principal company.

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FIFTH SCHEDULE.

Section 55.

MISCELLANEOUS ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
48 & 49 Vict. c. 51.	The Customs and Inland Revenue Act, 1885.	Section seven.
54 & 55 Vict. c. 39.	The Stamp Act, 1891	In the First Schedule, the words "DOCKET made on passing any instrument under the Great Seal of the United Kingdom . . . . . 0 2 0," the words "CONGÉ D'ÉLIRE *see* GRANT," the words from "GRANT or LETTERS PATENT," to "And *see* section 74," and the words "WARRANT "under the sign manual of "Her Majesty . . . . 0 10 0."
8 & 9 Geo. 5. c. 40.	The Income Tax Act, 1918.	Rule 7 of the rules applicable to Schedule C as to interest, &c. with the payment of which persons other than the Bank of England, the Bank of Ireland and the National Debt Commissioners are intrusted; paragraph (3) of Rule 7 of the miscellaneous rules applicable to Schedule D.
12 & 13 Geo. 5. c. 17.	The Finance Act, 1922	In subsection (1) of section twenty, paragraph (*a*) and the words from "Provided that" to "made the disposition" where they secondly occur and the word "also"; and section thirty.
20 & 21 Geo. 5. c. 28.	The Finance Act, 1930.	Subsection (7) of section thirty-four and subsection (3) of section thirty-five.

A.D. 1938.

5TH SCH. —*cont.*

Session and Chapter.	Short Title.	Extent of Repeal.
21 & 22 Geo. 5. c. 28.	The Finance Act, 1931.	Proviso (*b*) to subsection (1) of section forty-three.
24 & 25 Geo. 5. c. 4.	The British Hydrocarbon Oils Production Act, 1934.	The whole Act.
26 Geo. 5. & 1 Edw. 8. c. 34.	The Finance Act, 1936.	The proviso to subsection (1) of section eighteen.
1 Edw. 8. & 1 Geo. 6. c. 54.	The Finance Act, 1937.	Paragraphs (*a*) and (*b*) of subsection (3) of section twenty-two; and section thirty.

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