

**FIRST SCHEDULE (PART II) OF THE GENERAL CONSUMPTION
TAX ACT WHICH IT IS PROPOSED TO AMEND**

GROUP 15. *Items under Certain Enactments*

Items which the Commissioner of Inland Revenue is satisfied are acquired in circumstances under which they are exempt from customs duty pursuant to the following enactments—

1. **The Bauxite and Alumina Industries (Encouragement) Act.**
2. **The Export Industry Encouragement Act.**
3. **The Hotels (Incentives) Act.**
4. **The Industrial Incentives Act.**
5. **The Industrial Incentives (Factory Construction) Act.**
6. **The Jamaica Export Free Zones Act.**
7. **The Motion Picture Industry (Encouragement) Act.**
8. **The Petroleum Act.**
9. **The Petroleum Refining Industry (Encouragement) Act.**
10. **The Resort Cottages (Incentives) Act.**

SECTION 2 OF THE INCOME TAX ACT WHICH
IT IS PROPOSED TO AMEND

2.—(1) In this Act, unless the context otherwise requires—

“approved association” means any association which is an approved association under the Agricultural Marketing Act, and any other association declared by the Minister to be an approved association for the purposes of this Act, so, however, that no association shall be so declared by the Minister to be an approved association for the purposes of this Act unless—

- (a) a substantial proportion of its members are engaged in the production of some article produced in the Island;
- or

... ..

“recognized stock exchange” means—

- (a) the Jamaica Stock Exchange;
- (b) any other stock exchange recognized by the Minister by order for the purposes of this Act, such recognition to be from such date as is specified in the order;

... ..

“unit holder”, in relation to a qualified unit trust scheme, means a holder of securities (as defined in the Unit Trusts Act) created in pursuance of the scheme, whether described as units or otherwise;

... ..

“approved public utility” means any undertaking which the Minister is satisfied renders such services to the community as to constitute the operation of a public utility and which he declares by order to be an approved public utility for the purposes of paragraph(s) of section 12;

... ..

SECTION 5 OF THE INCOME TAX ACT WHICH
IT IS PROPOSED TO AMEND

(6) In this section—

“specified financial institution” means—

- (a) the Bank of Jamaica;
- (b) a merchant bank;
- (c) a development bank;
- (d) an insurance company;

- (e) a building society licensed under the Building Societies Act;
- (f) a trust company; and
- (g) any other institution licensed under the Banking Act or the Financial Institutions Act, as the case may be.

SECTION 12 (5) (iii) OF THE INCOME TAX ACT WHICH IT IS PROPOSED TO AMEND

12. ...

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...

- (s) income derived as interest of money from—
 - (i) investments or deposits in a building society; or
 - (ii) investments in a scheme approved by the appropriate authority under the Housing Act; or
 - (iii) investments in an approved public utility or in an approved hotel enterprise or approved extension of a hotel within the meaning of the Hotels (Incentives) Act or a recognized resort cottage or a recognized extension under the Resort Cottages (Incentives) Act, made on or after the 1st day of January, 1963, by a person who—
 - (1) is not resident—
 - (A) in the island; or

...

...

...

SECTION 13 (1) (h) OF THE INCOME TAX ACT WHICH IT IS PROPOSED TO AMEND

13.—(1) For the purpose of ascertaining the chargeable income or statutory income, as the case may require, of any person, there shall be deducted all disbursements and expenses wholly and exclusively incurred by such person in acquiring the income—

- (i) where the income arises from emoluments specified in paragraph (c) of subsection (1) of section 5 during the year of assessment; and

- (ii) where the income arises from any other source, during such time as is provided for in section 6,

and such disbursements and expenses may include—

- (a) any sum paid by such person by way of interest upon any money borrowed by him, where the Commissioner is satisfied that the interest was paid on capital employed in acquiring the income:

Provided that—

- (A) the interest is paid to a person resident in this Island; or
- (B) the interest is paid to a person resident elsewhere then in this Island and that either—

...

...

...

- (h) the amount of any loss sustained in a trade, profession or business carried on in the Island or in the ownership or occupation of any land situated in the Island—

- (i) which, if it had been profit, would have been assessable under this Act;
- (ii) during the year of assessment and previous years of assessment;

Provided that—

- (A) the total amount of such loss shall be reduced by any amount which has been allowed against the income of any previous year or in the year of assessment; and
- (B) in respect of any period prior to the 1st of January, 1987, the provisions of this Act in force immediately prior to that date shall apply in lieu of the preceding provisions of this paragraph;

...

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...

SECTION 13 (1) (n) OF THE INCOME TAX ACT WHICH IT IS PROPOSED TO AMEND

13.—(1)

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...

- (n) a reasonable amount for exhaustion, wear and tear of any building or structure used by the owner thereof for the purpose of acquiring the income from a trade, business, profession or vocation carried on by him;

Provided that if at any time the building or structure is sold, or the building or structure is demolished or destroyed, or without being demolished or destroyed, ceases to be used, an allowance or charge shall be made to the owner, and the provisions contained in paragraph 3 of Part 1 of the First Schedule shall *mutatis mutandis* apply:

Provided that if any allowance is made to an owner under this paragraph, no allowance under any other section of this Act in respect of exhaustion, wear and tear, shall be available to him;

... ..
SECTION 14A OF THE INCOME TAX ACT WHICH
IT IS PROPOSED TO REPEAL

14A.—(1) In ascertaining the chargeable income in respect of income tax for the year 1975, or any subsequent year of assessment, of any person who proves to the satisfaction of the Commissioner in the prescribed manner that—

- (a) during the period in respect of which the claim is being made he operated a factory (as defined in section 2 of the Factories Act); and
- (b) on or after the 1st day of September, 1975, he employed at that factory, additional workers, thereby increasing the number of individuals employed in that factory beyond the number of individuals so employed on the 31st day of July, 1975; and
- (c) the remuneration of those additional workers is deductible as an expense under subsection (1) of section 13; and
- (d) the additional workers aforesaid were employed in capacities other than managerial (including accounting), supervisory or any similar capacity; and
- (e) each additional worker was employed for not less than one full working week of at least forty hours and was paid at least the national minimum wage prescribed under the Minimum Wage Act; and
- (f) on or before the 31st day of January, 1976, he submitted to the Commissioner particulars of the workers employed at the factory concerned on the 31st day of July, 1975, certified by a registered public accountant and that the claim for deduction in respect of additional workers employed has also been certified by a registered public accountant.

there shall be deducted as a disbursement or expense wholly and exclusively incurred by such person in acquiring the said income an amount of \$10.00 per week in respect of each full working week of at least 40 working hours during which any such additional worker was employed, so, however, that the aforesaid amount shall not be deducted in respect of any worker, for a period of employment exceeding fifty-two weeks from the date of employment of such worker.

(2) Every claim for a deduction in respect of any additional worker employed as aforesaid being made in respect of any year of assessment, shall be delivered to the Commissioner on or before the 15th day of March in the year next following such year of assessment, so however, that the Commissioner may, on the application of any person, extend the time for delivery of that person's return to such later date as he may specify in writing.

(3) A Worker who was employed in a factory on the 31st day of July, 1975, who on or after the 1st day of September, 1975, is transferred to a factory operated by a person who is a connected person in so far as the operator of the first-mentioned factory is concerned, or between factories operated by the person to whom he was employed up to the 31st day of July, 1975, shall not be considered an additional worker employed on or after the 1st day of 1975, for the purposes of this section.

SECTION 15 OF THE INCOME TAX ACT WHICH
IT IS PROPOSED TO AMEND

15.—(1) Subject to the provisions of this Act, and for the purpose of ascertaining the chargeable income or statutory income, as the case may require, of any person, no deduction shall be allowed in respect of—

(a) domestic or private expenses;

... ..

(3) In subsection (2) agriculture includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding, livestock keeping, fish farming or the growing of trees for producing timber.

SECTION 30 (1) (b) and 30 (1A) OF THE INCOME TAX ACT WHICH
IT IS PROPOSED TO AMEND

30.—(1)

... ..
“(b) upon the chargeable income of categories of the bodies corporate subject to income tax specified in sub-paragraphs (1), (ii) and (iii), other than building societies or life assurance companies, tax at the following rates—

- (i) with effect from the 1st January, 2013, 33 $\frac{1}{3}$ cents in every dollar of the income of a regulated company;
- (ii) with effect from the 1st January, 2013, 25 cents in every dollar of the income of an unregulated company (other than a large unregulated company); and
- (iii) with effect from the 1st April, 2013, 30 cents in every dollar of the income of a large unregulated company;

... ..
“(1A)—(1) For the purpose of paragraph (b) of subsection (1), and subject to the provisions thereof—

“large unregulated company” means any unregulated company which has gross annual income of not less than \$500,000,000.00 in any year of assessment or, as the case may be, in the period of twelve months referred to in section 6(2);

“regulated company” includes a company that is regulated by any of the following entities—

- (a) the Financial Services Commission;
- (b) the Office of Utilities Regulation;
- (c) the Bank of Jamaica;
- (d) the Ministry with responsibility for finance;

“unregulated company” means any company that is not a regulated company.”;

SECTION 32 OF THE INCOME TAX ACT WHICH
IT IS PROPOSED TO AMEND

32. The amount of tax payable by a body corporate in any year of assessment shall be reduced by such amount as the Commissioner is satisfied is paid to a Collector of Taxes in that year in accordance with the Contractors Levy Act, being an amount representing the levy imposed under that Act and deducted from any payment to that body corporate as a contractor or sub-contractor.

SECTION 36 OF THE INCOME TAX ACT WHICH
IT IS PROPOSED TO AMEND

36.—(1) A distribution by a body corporate which is not in money shall be taken for the purposes of this Act to be of an amount equal to its market value at the time of the distribution, no regard being had to any effect of the distribution on the market value of existing shares or securities of the body corporate.

(2) References in this Act to the net amount of a distribution refer to its amount in money or as determined under subsection (1), and references to its gross amount refer to the net amount increased to a sum such that a deduction therefrom of $33\frac{1}{3}$ per centum in the case of a person other than an individual, or 25 per centum in the case of an individual, leaves the net amount:

Provided that where a distribution in money is made without deduction of tax the amount distributed shall be treated as the gross amount, and the net amount shall be the gross amount less $33\frac{1}{3}$ per centum in the case of a person other than an individual, or 25 per centum in the case of an individual.

SECTION 36D OF THE INCOME TAX ACT WHICH
IT IS PROPOSED TO REPEAL

36D.—(1) On the application of any person who is engaged, or proposes to engage, in a prescribed agricultural activity, the Minister may, subject to such terms and conditions as he thinks fit, by order published in the *Gazette*, designate that person an approved farmer for the purposes of this Act for such period as the Minister may specify in the order.

(2) If any term or condition imposed pursuant to subsection (1) is breached then, subject to subsection (3), the Minister may, by order published in the *Gazette*, revoke an order made under subsection (1) with effect from such date as he may determine.

(3) Before revoking an order pursuant to subsection (2), the Minister shall give the approved farmer an opportunity to explain the circumstances of his failure to comply with the term or condition.

(4) The revocation of an order pursuant to subsection (2), shall not affect any entitlement to relief from income tax which may have accrued in relation to the approved farmer prior to the revocation.

(5) Where in addition to engaging in a prescribed agricultural activity, an approved farmer engages in some other trade, business, profession, employment or vocation, he shall keep separate books of account relating to the prescribed agricultural activity.

(6) An approved farmer shall place in a separate account all profits and gains which have been relieved of income tax in accordance with the provisions of section 5 (6) and, where the approved farmer is a company, then if it intends to pay a dividend to its shareholders out of such profits or gains it shall pay such dividend out of the separate account.

(7) Notwithstanding the provisions of section 15 (2), an approved farmer may set off any loss incurred in connection with a prescribed agricultural activity against profits or gains arising from any other trade, business, profession, employment or vocation carried on by him.

(8) A shareholder of a company that is an approved farmer shall, if he is resident in Jamaica, be relieved from income tax on any dividend paid by such company in accordance with subsection (6).

(9) Where such shareholder as aforesaid is not resident in Jamaica but—

- (a) is resident in a country in relation to which an order under section 83 is in force; and
- (b) is liable to income tax in respect of such dividends in the country in which he is resident,

then, he shall be relieved from so much of the income tax in respect of the dividends aforesaid as the Commissioner is satisfied exceeds his liability in respect thereof in the country in which he is resident.

(10) Any relief from income tax under this section is not allowable in respect of any such shareholder as aforesaid who is resident in a country in relation to which an order under section 83 is not in force.

(11) The relief from income tax granted under this section shall not, as regards the rate of tax from which a shareholder is relieved, exceed the rate of tax which, but for the relief granted under section 5 (6) to approved farmers, would have been payable by the company on the profits or gains out of which the dividend is paid.

(12) Except as is otherwise provided in this section, the provisions of this Act regarding the deduction of income tax from dividends and the refund of income tax to shareholders shall apply to dividends paid by a company that is an approved farmer.

(13) Nothing in this section or in section 5 (6) shall be construed as exempting an approved farmer from making any return to the Commissioner or from complying with the provisions of this Act in any other respect so as to establish the liability, if any, of the approved farmer to income tax.

(14) In this section "prescribed agricultural activity" means such activity as the Minister may by order prescribe.

SECTION 38 (1), 39 (1) AND 48A (1) OF THE INCOME TAX ACT
WHICH IT IS PROPOSED TO AMEND

38.—(1) Where a body corporate subject to income tax makes a distribution the gross amount of it shall be treated as income of the person beneficially entitled to receive it, and the body corporate shall subject to the provisions of this section, deduct from the gross amount income tax at $33\frac{1}{3}$ per centum in the case of a distribution to a person other than an individual, or 25 per centum in the case of a distribution to an individual, and pay it over to the Commissioner of Inland Revenue or such person as he may direct:

Provided that where the distribution is made to a person resident in Jamaica, tax shall be deducted—

- (a) with effect from the 1st June, 2012 until the 31st March, 2013, at the rate of five per cent;
- (b) with effect from the 1st April, 2013, at the rate of fifteen per cent."

39.—(1) Where a body corporate as trustee under a qualified unit trust scheme, makes an income payment to a unit holder or a joint unit holder it shall deduct income tax at $33\frac{1}{3}$ per centum if the unit holder is not an individual, or at 25 per centum if the unit holder is an individual, and pay it over to the Commissioner of Inland Revenue or such person as he may direct:

Provided that the Commissioner of Income Tax may authorize the payment to be made without deduction of tax where he is satisfied that the unit holder or the joint unit holder is not liable to tax—

...

...

...

48A.—(1) Subject to the provisions of this Act, where—

- (a) any person (hereinafter referred to as "the investor") makes an investment with any insurance company other than in relation to a specified policy; and
- (b) interest arising from such investment is paid or credited by the insurance company to the investor,

the insurance company shall, subject to the provisions of this Act, deduct from that payment or credit, tax at the rate of 25 cents in the dollar if the investor is an individual, or 33¹/₃ cents in the dollar if the investor is any other person.

... ..
FIRST SCHEDULE OF THE INCOME TAX ACT
WHICH IT IS PROPOSED TO AMEND

FIRST SCHEDULE
ALLOWANCES FOR CERTAIN CAPITAL EXPENDITURE

PART 1. *Industrial Buildings and Structures, etc.*

1.—(1) Where an owner incurs capital expenditure on the construction, alteration or purchase of a building or structure which is to be an industrial building or structure occupied for the purposes of a trade carried on by him, there shall be made to such owner who incurred such expenditure for this year of assessment in his basis period for which such expenditure was incurred, an allowance (in this Part referred to as “an initial allowance”) equal to 20 *per centum*, thereof.

... ..
1A. References in this Schedule to the Commissioner shall be construed as references to the Commissioner of Taxpayer Audit and Assessment.

... ..
2.—(1) Where any owner incurs capital expenditure on a building or structure for which he has obtained the initial allowance mentioned in paragraph 1, there shall be allowed an allowance (in this Part referred to as “an annual allowance”) in respect of wear and tear calculated on the written down value at the approved rate.

... ..
3.—(1) Where any capital expenditure has been incurred on the construction, alteration or purchase of a building or structure and any of the following events occurs while the building or structure is an industrial building or structure, that is to say—

- (a) the building or structure is sold; or
- (b) the building or structure is demolished or destroyed, or without being demolished or destroyed ceases altogether to be used,

an allowance or charge (in this Part referred to as “a balancing allowance” or “a balancing charge”) shall, in the circumstances mentioned in this paragraph

be made to or, as the case may be, on the owner immediately before that event occurs, for the year of assessment in his basis period for which that event occurs.

... ..

(4) Notwithstanding anything in the preceding provisions of this paragraph in no case shall the amount on which a balancing charge is made on an owner in respect of any expenditure on this construction, alteration or purchase of a building or structure exceed the amount of the initial allowance, if any, made to him in respect of that expenditure together with the amount of any annual allowances and any other allowances in respect of that expenditure made to him.

... ..

4.—(1) Any expenditure incurred on the construction, alteration or purchase of any building or structure shall be written off to the extent and as at the times hereafter specified in this paragraph and references in this Part to the residue of any such expenditure shall be construed accordingly.

... ..

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

5.—(1) In this Part “industrial building or structure” means a building or structure in use for the purposes of—

- (a) a trade carried on in a mill, factory, or other similar premises; or
- (b) a transport, dock, water, telephone, telegraph (including radio-telephone) or electricity; or
- (c) a trade which consist in the manufacture of goods or materials or the subjection of goods or materials to any process; or
- (d) a trade which consists in the storage of goods or materials which are to be used in the manufacture of other goods or to be subjected in the course of a trade to any process; or
- (e) a trade which consists of the storage of goods or material on their arrival in the Island; or
- (f) husbandry; or

- (g) an oil undertaking in so far as it consist of the storage of oil (including petrol and aviation fuel) immediately on its arrival in the Island, in tanks of individual capacity exceeding 30,000 imperial gallons and specially designed and constructed for the purpose, directly by means of pumping plant and pipelines.

... ..

(4) The expression "industrial building or structure" does not include any building or structure in use as, or as part of, a dwelling-house, retail shop, show-room, hotel or office or for any purpose ancillary to the purposes of a dwelling-house, retail shop, show-room, hotel or office.

(5) Where part of the whole of a building or structure is and part thereof is not, and industrial building or structure, and the capital expenditure which has been incurred on the construction of the second mentioned part is not more than one-tenth of the total capital expenditure which has been incurred on the construction of the whole building or structure, the whole building or structure and every part thereof shall be treated as an industrial building or structure.

(6) Except as otherwise provided in this Schedule, references in Part I and III to expenditure incurred on the construction, alteration, purchase or improvement of any such industrial building and structure or purchase of or of rights in over any land.

(7) (a) In this Schedule—

"approved rate" means any rate of wear and tear approved by the Commissioner for the purposes of the Act;

"basis period" for any year of assessment means the period on the profits or gains of which income tax for that year falls to be finally computed in respect of the trade in question:

Provided that in case of any trade—

- (a) where two basis period common to both shall be deemed (for the purpose of this subsection) to fall in the first basis period only;
- (b) where there is an interval between the end of the basis period for one year of assessment and the basis period for the next year of assessment is the year of the permanent discontinuance of the trade, the interval shall be deemed to be part of the second basis period; and
- (c) where there is an interval between the end of the basis period for the year of assessment preceding that in which the trade is permanently discontinued and the basis period for the year in which it is permanently discontinued, the interval shall be deemed to form part of the first basis period;

“cost” means the net figure after deducting from the cost price any grants, subsidies or other payments received from third parties on account thereof;

“dock” includes any harbour, wharf, pier or jetty or other works in or at which vessels can ship or unship merchandise or passengers not being a pier or jetty primarily used for recreation, and “dock undertaking” shall be constructed accordingly;

“electricity undertaking” means an undertaking for the generation transformation, conservation, transmission or distribution of electrical energy;

“owner” means the person who owns the property concerned or occupies it on terms whereby the full burden of the wear and tear falls upon him;

“retail shop” includes any premises of a similar character where retail trade or business including “repair work” is carried on;

“undertaking” does not include an undertaking not carried on by way of trade;

“water undertaking” means an undertaking for the supply of water for public consumption;

“written down value” means the cost less any initial, annual or other allowance granted prior to the year of assessment.

(b) References in this Schedule to capital expenditure and capital sums—

- (i) in relation to the person incurring the expenditure or paying the sums, do not include any expenditure or sum which is allowed to be deducted in computing for the purposes of income tax, the profits or gains of a trade carried on by him; and
- (ii) in relation to the person receiving the amounts expected or the sums, do not include references to any amounts or sums which fall to be taken into account as receipts in computing the profits or gains of any trade carried on by him and do not include in relation to any such person as aforesaid any expenditure or sum in the case of which deduction of tax falls or may fall to be made.

(8) For the purposes of this Schedule, expenditure shall not be regarded as having incurred by any person in so far it has been or is to be met directly or indirectly by the Crown or the Government of this Island or by any public or local authority whether in the Island or elsewhere, or by any person other than the first mentioned person:

Provided that there shall be left out of account any insurance moneys or other compensation moneys payable in respect of any assets which have been demolished, destroyed or put out of use.

PART II. Non-residential Buildings

1.—(1) Subject to the provisions of this part, where—

- (a) a person is, at the end of his basis period for any year of assessment entitled to interest in a building or structure; and
- (b) at the end of that basis period that building or structure is non-residential building to which this Part applies; and
- (c) that interest is the relevant interest in relation to the capital expenditure incurred prior to or during the basis period for that year of assessment on the construction or alteration of that building or structure; and
- (d) that person during the basis period for the year of assessment acquired income by way of rent from that building or structure,

an allowance (in this Part referred to as a “depreciation allowance”) equal to one-fortieth of that expenditure shall be made to him for that year of assessment.

(2) Where the interest in a building or structure which is the relevant interest in relation to any capital expenditure is sold while the building or structure is a non-residential building or structure, the depreciation allowance in respect of that expenditure shall, in the case of years of assessment the basis period for which end after the time of that sale—

- (a) be computed by reference to the residue (as defined in paragraph 4) of that expenditure immediately after the sale; and
- (b) be the fraction of the said residue the numerator of which is one and the denominator of which is the number of years of assessment comprised in the period which—
 - (i) begins with the first year of assessment for which the buyer is entitled to a depreciation allowance in respect of the expenditure; and
 - (ii) ends with the thirty-ninth year of assessment after that in which such an allowance was first granted in relation to that expenditure,

and so on for any subsequent sales.

(3) Notwithstanding anything in the preceding provisions of this paragraph, in no case shall the amount of depreciation allowance made to a person for any year of assessment in respect of any expenditure exceed what, apart from the writing off falling to be made by reason of the making of that allowance, would be the residue of that expenditure at the end of his basis period for that year of assessment.

2. No depreciation allowance under this Part in relation to any portion of a sum representing capital expenditure on a building or structure shall be granted in respect of any year of assessment subsequent to the thirty-ninth year of assessment after that in respect of which such allowance was first granted in relation to that portion.

3.—(1) Where any capital expenditure has been incurred on the construction or alteration of a building or structure and while the building or structure is a non-residential building to which this part applies—

- (a) the relevant interest in the building or structure is solid; or
- (b) that interest being a leasehold interest, comes to an end otherwise than on the person entitled thereto acquiring the interest which is reversionary thereon; or
- (c) the building or structure is demolished or destroyed, or without being demolished or destroyed ceases to be a non-residential building,

an allowance or charge (in this Part referred to as “a balancing allowance” or a balancing charge”) shall, in the circumstances mentioned in this paragraph, be made to or, as the case may be, on the person entitled to the relevant interest immediately before the event occurs for the years of assessment in his basis period for which that event occurs;

Provided that no balancing allowance or balancing charge shall be made to or on any person for any year of assessment by reason of any event occurring after the end of his basis period for the fortieth year of assessment after that in respect of which a depreciation allowance under this Part was first granted in relation to the non-residential building.

(2) Where there are no sale, insurance, salvage or compensation moneys, or where the residue of the capital expenditure immediately before the event exceeds those moneys, a balancing allowance shall be made the amount thereof shall be the amount of the said residue or, as the case may be, of the excess thereof over the said moneys.

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

(4) For the purposes of this paragraph, the money of non-residential building shall be ascertained by deducting the amount which the Commissioner considers the land on which the building is constructed together with any other buildings on such land would fetch if sold on the open market from—

- (a) the amount for which the land and all the buildings are sold; or
- (b) where the Commissioner considers that the land and all the buildings are sold at a price other than that which they would fetch if sold on the open market, the amount which he considers they would fetch if sold on the open market.

(5) Notwithstanding anything in the preceding provisions of this paragraph, in no case shall the amount on which a balancing charge is made on a person in respect of any capital expenditure on the construction or alteration of a building or structure exceed the amount of any depreciation allowances in respect of that expenditure made to him for years of assessment his basis periods for which end on or before the date of the event which gives rise to the charge.

4—(1) Any capital expenditure incurred on the construction or alteration of any building or structure shall be written off to the extent and as at the times hereafter specified in this paragraph and references in this Part to the residue of any such expenditure shall be construed accordingly.

(2) Where, by reason of the building or structure being at any time a non-residential building to which this Part applies, a depreciation allowance is made for any year of assessment in respect of the expenditure, the amount of that allowance shall be written off as at the said time:

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

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

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

5. Where an allowance is made to a person under this Part in respect of capital expenditure on building or structure that expenditure shall not be available for relief under any other Part of this Schedule or any other provisions of this Act.

6.—(1) In this Part—

“basis period” for any year of assessment, means the period on the profits or gains of which income tax for that year falls to be finally computed in respect of the rent arising from the building or structure in question:

Provided that—

- (a) where two basis periods overlaps, the period common to both shall be deemed (for the purpose of this definition) to fall in the first basis period only;
- (b) where there is an interval between the end of the basis period for one year of assessment and the basis period for the next year of assessment, then, unless the second mentioned year of assessment is the year of the permanent cessation of the source of income, the interval shall be deemed to be part of the second basis, period; and
- (c) where there is an interval between the end of the basis period for the year of assessment preceding that in which the source of income permanently ceases and the basis period for the year in which it ceases, the interval shall be deemed to form part of the first basis period;

“dwelling-house” includes boarding-house, lodging-house and any building or structure used for any similar purpose;

“non-residential building” means a building or structure which the Commissioner is satisfied is not in use as, or as part of, a dwelling-house or for any purpose ancillary to the purpose of a dwelling-house;

Provided that a building or structure may be treated as non-residential building notwithstanding that a part thereof is used as a dwelling-house for persons employed in connection with the maintenance or repair of the building or structure or of any machinery or plant installed for the purpose of providing amenities for the occupants thereof;

“non-residential building to which this Part applies” means a non-residential building which has never been in use otherwise than as a non-residential building and the construction of which the Minister is satisfied was not completed before the 1st day of January, 1961.

(2) Subject to sub-paragraphs (3) and (4), in this Part "the relevant interest" means, in relation to any capital expenditure incurred on the construction or alteration of a building or structure, the interest in that building to which the person who incurred the expenditure was entitled when he incurred it.

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

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

(5) None of the provisions of Part I shall apply for the purpose of interpreting this Part.

7—(1) References in this Part to capital expenditure incurred on the construction or alteration of a building or structure do not include—

- (a) any expenditure incurred wholly or primarily to effect repairs;
- (b) any expenditure incurred on the acquisition of, or the rights in or over, any land; or
- (c) any expenditure incurred on preparing, cutting, tunnelling or levelling any land:

Provided that sub-paragraph (c) shall not apply to expenditure on work done on the land to be covered by a building or structure for the purposes of preparing the land to receive the foundations of the building or structure being work which may be expected to be valueless when the building or structure is demolished and not being work which consists of cutting or tunnelling.

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

(3) Without prejudice to any of the other provisions of this Part relating to the apportionment of sale, insurance, salvage or compensation moneys, the sum paid on the sale of the relevant interest in a building or structure, or any other sale, insurance, salvage or compensation moneys payable in respect of any building or structure, shall, for the purposes of this Part, be deemed to be reduced by an amount equal to so much thereof, as, on a just apportionment, is attributable to assets representing capital, expenditure other than expenditure in respect of which an allowance can be made under this Part.

PART III. *Machinery and Plant*

1. Where a person carrying on a trade incurs capital expenditure on the purchase, alteration or improvement of machinery or plant for the purposes of the trade, then, subject to sub-paragraph (2) of paragraph 6, there shall be made to him, for the year of assessment in the basis period which such expenditure is incurred an allowance (in this Part referred to as "an initial allowance") equal to 20 per centum of such expenditure.

2.—(1) Where the person carrying on the trade in any year of assessment has incurred capital expenditure on the purchase, alteration or improvement of machinery or plant for the purposes of the trade, an allowance (in this Part referred to as "an annual allowance") shall (except in the case in which an election under paragraph 3 of this Part has effect) be made to him for that year of assessment in respect of the wear and tear of any of the machinery or plant of which he is the owner and is in use for the purposes of trade at the end of the basis period for that year of assessment.

... ..

(2) The annual allowance shall, subject to sub-paragraph (3) of paragraph 6, be calculated at the approved rate on the written down value of the machinery and plant at the beginning of the basis period for which the allowance is due.

3.—(1) Subject to sub-paragraph (4) of paragraph 6, the annual allowance in respect of any machinery or plant for any year of assessment—

- (a) may, if the person to whom the allowance is to be made so elects when he makes his claim for the allowance, be calculated by reference to the amount of his capital expenditure in providing the machinery or plant; and
- (b) shall in that event be five-fourths of the percentage of that amount specified in sub-paragraph (2)

(2) The said percentage is such percentage as may be determined by the Commissioner in relation to machinery or plant of the class in question for the year of assessment in question, being a percentage which is in his

opinion equal to nine-tenths of the fraction of which the numerator is one and the denominator is the number of years in the anticipated normal working life of machinery or plant of that class:

Provided that it shall not be necessary for the Commissioner to redetermine every such percentage yearly, and every such determination of a percentage under this sub-paragraph for any year of assessment shall apply also to subsequent years except so far as it is superseded by any subsequent determination.

(4) An election under this paragraph shall not be effective for any year of assessment in relation to any machinery or plant unless the Commissioner is satisfied that the person making the election is keeping, and will keep and make available for inspection, all such records as are necessary to secure that the Commissioner can ensure that the total annual allowances made to him for all years of assessment in respect of that machinery or plant do not exceed the limit imposed by paragraph 4, due regard being had to any initial allowance made to him.

(5) In this paragraph "the anticipated normal working life" means, in relation to machinery or plant of any class, the period which might be expected when machinery or plant of that class is first put into use, to be going to elapse before it is finally put out of use as being unfit for further use, it being assumed that it is going to be used in the normal manner and to the normal extent and is going to be so used throughout that period.

...

...

...

6.—(1) Where the machinery mentioned in this Part comprises or includes a motor vehicle, this Part shall apply subject to the following provisions of this paragraph.

(2) Paragraph 1 shall not apply to expenditure incurred in respect of a motor vehicle unless it is a vehicle (in this paragraph referred to as a "trade vehicle") which falls within any of the following heads—

- (a) a vehicle of a type not commonly used as a private vehicle and which is unsuitable to be so used;
- (b) a vehicle which is used wholly or mainly for the carriage of members of the public at large in the ordinary course of trade and which is not one used by the person claiming the allowance wholly or mainly for the carriage of persons connected with him or officers or employees of such connected persons;
- (c) a vehicle of a construction primarily suited for the conveyance of goods or burdens of any description;

- (d) a vehicle fitted with dual controls and used by the person claiming the allowance for instruction purposes in the course of his business as a driving instructor,

and paragraph 1 shall apply to trade vehicles with the substitution of "12½" for "20",

...
...
(3) The annual allowance in respect of a motor vehicle shall be 12½ per centum of the capital expenditure incurred on the purchases, alteration or improvement thereof, so, however, that the allowance for a vehicle which is not a trade vehicle (in his paragraph referred to as a "private vehicle") shall in no case exceed \$400.

...
...
(5) Without prejudice to paragraph 4, the aggregate of annual allowances made in respect of a private vehicle shall in no case exceed \$3,200.

...
...
(7) If an annual allowance fails to be made in respect of a motor vehicle which is in use for the purposes of the trade for part only of the basis period for the year of assessment, the amount of the allowance that would otherwise be made shall be proportionately reduced.

(8) (a) If the amount of any annual allowance has been reduced pursuant to sub-paragraph (6), then, for the purposes only of sub-paragraphs (2) and (3) of paragraph 5, that reduction shall be deemed not to have been made.

(b) In computing the amount of a balancing allowance or the amount on which a balancing charge is to be made in respect of a private vehicle the total capital expenditure on the provision, alteration or improvement of which exceeded \$3,200, the amount of that capital expenditure shall be deemed for the purposes only of paragraph 5 to be exactly \$3,200, and the amount of the sale, insurance, salvage or compensation moneys shall be deemed, for those purposes only, to be an amount equal to the fraction of that sum of which the numerator is the actual amount of the sale, insurance, salvage or compensation moneys and the denominator is the actual amount of the total capital expenditure incurred.

(c) If a motor vehicle has at any time been used partly for purposes other than those of the trade, then the amount of any balancing allowance or the amount on which any balancing charge is to be made shall be such as the Commissioner considers just and reasonable having regard to heads (a) and (b) of this sub-paragraph, to the extent of the use for those other purposes and to all other relevant circumstances.

(9) If a person sells or otherwise transfers a trade vehicle as a result whereof it becomes a private vehicle, then no initial allowance shall be made to the purchaser or transferee and the aggregate of the annual allowances made to him shall in no case exceed \$3,200 less any initial or annual allowances made to the vendor or transferor in respect of that vehicle.

... ..
(11) In computing the amount of any allowance to be made to a person referred to in section 15A, no account shall be taken of the expenditure incurred by that person in connection with the payment of the approved charges on the purchase of any motor car defined in the section.

7. The foregoing provisions of this Part shall, with any necessary adaptations, apply in relation to professions, employments, vocations and offices as they apply in relation to trade:

Provide that no allowance shall be made pursuant to this paragraph in respect of expenditure on the purchase, alteration or improvement of a road vehicle by a person in employment who is paid by his employer a travelling, up-keep or other allowance granted in connection with the use of such road vehicles.

8. Where a person carrying on trade incurs capital expenditure on the purchase, alteration or improvement of a ship for the purposes of the trade, instead of an initial allowance under paragraph 1 of this Part, there shall be made to him, for the year of assessment in the basis period for which such expenditure is incurred, an allowance (in this Part referred to as "an investment allowance") equal to forty per centum of such expenditure, and any provisions of the Act applicable to initial allowances made under paragraph 1 of this Part shall apply to the investment allowance under this paragraph except that the amount of an investment allowance shall not be written off in ascertaining the written down value of the ship nor taken into account for the purposes of either paragraph 3 or paragraph 4 or paragraph 5 of this Part.

9. Any expenditure incurred for the purposes of a trade by a person about to carry it on shall be treated for the purposes of this Part as if it had been incurred by that person on the first day on which he does carry it on.

PART IV. Investment Allowances on certain buildings, structures, etc., and on certain machinery and plant

1. In this Part unless the context otherwise requires—

(a) "asset" means, in relation to capital expenditure to which this Part applies, a building, structure, machinery or plant, as the case may be:

- (b) “basic industry” means an industry for the time being specified in the Appendix to this Part;
- (c) an act shall be deemed to be done by an associate of a person incurring expenditure—
 - (i) if it is done by a body of persons which is at the time of the act under the control of the person incurring the expenditure; or
 - (ii) if the expenditure was incurred by a body of persons which either is at the time of the act or was when the expenditure was incurred under the control of the persons doing the act; or
 - (iii) if the expenditure was incurred by one body of persons and the act is done by another, and the one doing the act is at the time under the control of the same person as the other either is that time or was when the expenditure was incurred; or
 - (iv) if it is done by a person to whom the asset was transferred by the person incurring the expenditure or an associate of his and it appears that the transfer was made in contemplation of the act being done.

2. The House of Representatives may from time to time, by resolution, amend the Appendix to this Part.

3.—(1) Subject to the provisions of this Part, where a person carrying on a business in a basic industry incurs capital expenditure to which this Part applies, an allowance (in this Part referred to as “an investment allowance”) equal to twenty per centum of such capital expenditure shall, in lieu of an initial allowance under paragraph 1 of Part I or of an initial allowance under paragraph 1 of Part III, as the case may be, be made to him, for the year of assessment in this basis period for which such expenditure is incurred.

(2) Subject to the provisions of this Part, where an investment allowance is made under this Part in respect of buildings or structures the provisions of this Schedule or any other provisions of the Act applicable to initial allowances granted pursuant to paragraph 1 of Part I shall apply, with the necessary adaptations, to the investment allowance made under this Part as they apply to initial allowances aforesaid except that—

- (a) the amount of an investment allowance shall not be treated as written off by virtue of sub-paragraph (2) of paragraph 4 of Part I;
- (b) the amount of an investment allowance shall not be written off in ascertaining the written down value of the building or structure or taken into account for the purposes of sub-paragraph (4) of paragraph 3 of Part I.

(3) Subject to the provisions of this Part, where an investment allowance is made under this Part in respect of machinery or plant the provisions of this Schedule or any other provisions of the Act applicable to initial allowances granted pursuant to paragraph 1 of Part III shall apply, with the necessary adaptations to the investment allowance made under this Part as they apply to initial allowances aforesaid except that the amount of an investment allowance shall not be written off in ascertaining the written down value of the machinery or plant or taken into account for the purposes of paragraph 3, paragraph 4 or paragraph 5 of Part III.

(4) Notwithstanding the provisions of paragraph 6 of Part I, the making of an investment allowance pursuant to this Part in respect of any expenditure shall not preclude the grant of annual allowances or balancing allowances in respect of that expenditure in accordance with the provisions of Part I.

4.—(1) Capital expenditure to which this Part applies is capital expenditure—

- (a) incurred by an owner on the construction or alteration of a building or structure which is to be used for the purposes of a basic industry and occupied for the purposes of a business in that industry carried on by such owner, including where necessary, capital expenditure so incurred on any building or structure provided by the person carrying on such business as aforesaid for the welfare of workers employed in that business and used for that purpose; or
- (b) incurred by a person carrying on a business in a basic industry on the purchase, alteration or improvement of machinery or plant for the purposes of the business.

(2) Subject to the provisions of this Part, the provisions of paragraphs 3 and 4 and sub-paragraphs (2) to (6) of paragraph 5 of Part I shall apply, with the necessary adaptations, to a building or structure referred to in sub-paragraph (1) as they apply to an industrial building or structure as defined in Part I aforesaid.

5.—(1) No investment allowance shall be made in respect of any expenditure on an asset if when the asset comes to be used it is not used for the purposes of a business in a basic industry.

(2) No investment allowance shall be made in respect of expenditure on the purchase of secondhand machinery or plant:

Provided that this sub-paragraph shall not apply where the expenditure is on such machinery or plant being imported into the Island.

6.—(1) Where expenditure is incurred on the construction of a building or structure and, before that building or structure is used, the interest therein of the person who incurred such expenditure is sold—

- (a) the expenditure actually incurred in the construction thereof shall be left out of account for the purposes of this Part; but
- (b) the person who buys such interest shall be deemed for those purposes to have incurred, on the date when the purchase price becomes payable, expenditure on the construction thereof equal to the said expenditure or to the net price paid by him for the said interest, whichever is the less:

Provided that, where such interest in the building or structure is sold more than once before the building or structure is used, the provisions of clause (b) shall have effect only in relation to the last of those sales, and reference to “expenditure incurred on the construction of a building or structure” shall include reference to expenditure on the alteration of such building or structure incurred prior to the last of those sales.

(2) Where the expenditure incurred on the construction of a building or structure was incurred by a person carrying on a trade which consists, as to the whole or any part thereof, in the construction of buildings or structures with a view to their sale, and, before the building or structure is used, he sells his interest therein in the course of that trade, or, as the case may be, of that part of that trade, clause (b) of sub-paragraph (1) shall have effect subject to the following modifications—

- (a) if that sale is the only sale of the interest before the building or structure is used, the said clause (b) shall have effect as if the words “the said expenditure or to” and the words “whichever is the less” were omitted; and
- (b) in any other case, the said clause (b) shall have effect as if the reference to the expenditure actually incurred on the construction of the building or structure were a reference to the price paid on the sale by the person carrying on such trade as aforesaid.

7.—(1) If, in the case of any expenditure, any such event as is mentioned in sub-paragraph (2) occurs within the period of three years following the year of assessment in which the expenditure was incurred, no investment allowance shall be made in respect of the expenditure or, if such an allowance has been made before the occurrence of the event, it shall be withdrawn.

- (2) The events referred to in sub-paragraph (1) are—
- (a) any appropriation of the asset representing the expenditure made by the person incurring the expenditure or an associate of his to a purpose other than the purposes of a business in a basic industry;
 - (b) any sale or transfer of the asset representing the expenditure made by the person incurring the expenditure or an associate of his otherwise than to a person acquiring the asset for the purposes of a business in a basic industry;
 - (c) any sale, transfer or other dealing with the asset representing the expenditure by the person incurring the expenditure or an associate of his being a case where it appears either—
 - (i) that the expenditure was incurred in contemplation of the asset being so dealt with; or
 - (ii) that the sole or main benefit which accrued from that person's incurring the expenditure and the asset being so dealt with was or derived from the investment and other allowances in respect of the asset,

and not being a case where it is shown either that the purpose of obtaining tax allowances was not the sole or main purpose of that person's incurring expenditure or of the asset being so dealt with, or that his incurring the expenditure and the asset being so dealt with were *bona fide* business transactions or were not designed for the purpose of obtaining tax allowances.

(3) Where an investment allowance in respect to any expenditure is withheld or withdrawn under this paragraph, such initial allowance (if any) as might have been made in respect of that expenditure but for paragraph 3 of this Part shall be made.

8.—(1) The person who has incurred any expenditure in respect of which an investment allowance has been made and has not been withdrawn shall give notice to the Commissioner, if to his knowledge any of the following events occurs at any time before the expiration of the period of three years following the year of assessment in which the expenditure was incurred, that is to say—

- (a) the asset in respect of which it was incurred is sold by him or an associate of his to a person who is not carrying on a business in a basic industry; or
- (b) the asset is appropriated by him or an associate of his to a purpose other than the purposes of a business in a basic industry.

(2) Any notice of a sale or transfer given under sub-paragraph (1) shall state the name and address of the person to whom the sale or transfer is made.

(3) Any person who, without reasonable cause, fails to comply with this paragraph shall be liable to a penalty equal to forty dollars plus three times the amount of the investment allowance made in respect of the expenditure in question.

9. All such additional assessments and adjustments of assessments shall be made as may be necessary for or in consequence of the withdrawal of an investment allowance under this Part and may be so made at any time.

10. No allowance shall be made under the provisions of this Part in respect of capital expenditure in relation to which any relief from income tax is given by virtue of any of the following enactments that is to say—

The Industrial Incentives Act;

The Export Industry Encouragement Act;

The Shipping (Incentives) Act.

APPENDIX (Paragraph 1)

List of Basic Industries

A. MANUFACTURING

1. Canning and preserving on fruits and vegetables, that is to say—

- (a) canning, (packing in air-tight containers) of fruits and vegetables including fruit and vegetable juices;
- (b) manufacture of preserves, jams and jellies, pickles and sauces, canned soups, dehydrating and quick freezing of fruits and vegetables.

2. Canning and preserving of fish and other sea foods including such operations as salting, drying, dehydrating, smoking, curing, pickling, packing in air-tight containers and quick freezing.

3. Canning and preserving of meat including such operations as curing, smoking, salting, pickling, packing, in air-tight containers and quick freezing.

4. Manufacture (not mixing) of grain mill products (except cornmeal and wholemeal) and stock and poultry feeds.

5. Manufacture of textiles, that is to say—

- (a) spinning, weaving and finishing textiles including the preparation of fibres for spinning;
- (b) manufacture of knitted fabrics including the bleaching, dyeing and finishing of knitted products;

- (c) manufacture of cordage, rope, twine and other related goods from hemp, jute, cotton, paper, straw, coir, flax and other fibres.
- 6. Manufacture of footwear.
- 7. Manufacture of leather and leather products.
- 8. Manufacture of wooden prefabricated walls, doors, windows and other parts of a building.
- 9. Manufacture of plywood and wooden veneers.
- 10. Manufacture of articles of pulp, paper and paperboard.
- 11. Manufacture of boxes, crates, drums, barrels and other wooden containers.
- 12. Manufacture of basic industrial chemicals including fertilizers.
- 13. Manufacture of paints, varnishes and lacquers.
- 14. Manufacture of glass and glass products.
- 15. Manufacture of china, pottery and earthenware.
- 16. Manufacture of heavy machinery and metal products.
- 17. Manufacture of watches and clocks.

B. CONSTRUCTION

Construction of buildings, ships, highways, streets, sewers and mains, railway roadbeds, piers, tunnels, bridges, dams, drainage projects irrigation and flood control projects, hydro-electric plants, water power projects, pipelines and other heavy construction.

C. ELECTRICITY AND STEAM

- 1. Operating an electricity undertaking.
- 2. Production and distribution of steam for power purposes.

D. WAREHOUSES AND COLD STORAGE

The provision of warehouses or cold storage operated as an independent service.

E. DOCKS

Operation of a dock undertaking including any dock for repairing ships.

*PART IVA. Special annual allowance on certain
machinery and plant*

1.—(1) Where in any year of assessment commencing after the 31st day of December, 1975, a person carrying on a trade or business in a qualifying industry who would have been entitled to an annual allowance pursuant to paragraph 2 of Part III, satisfies the Commissioner that throughout the working year of a factory (as defined in section 2 of the Factories Act) relating to that trade or business, the machinery and plant in use in that factory was used in the production process for two or more shifts per working day, an allowance (in this Part referred to as a “special annual allowance”) shall be made to him for that year of assessment in respect of the wear and tear of any of the machinery and plant used as aforesaid, in addition to the annual allowance to which he would otherwise have been entitled in respect of that machinery and plant.

(2) The special annual allowance which may be allowed to any person mentioned in sub-paragraph (1) shall not exceed the amount of annual allowance to which he would have been entitled pursuant to paragraph 2 of Part III in respect of that machinery and plant.

(3) Any claim made to the effect that any machinery or plant has been used, throughout the working year of any factory for two or more shifts per working day pursuant to sub-paragraph (1), shall be supported by a certificate to this effect from a registered public accountant.

(4) In this Part—

“qualifying industry” means any industry specified for the time being in the Appendix to this Part, so, however, that the Minister may from time to time by order, delete, add to, amend, or vary the list of industries so specified;

“shift” means, in relation to a factory, a period of not less than eight hours during which the factory is in operation or such other period as the Commissioner may, having regard to the circumstances of any case, approve;

“working year” means, in relation to any factory to which this Part applies, the period of operation of such factory in any year which the Commissioner is satisfied is the usual period of operation of that type of factory in such year.

2. The aggregate of the initial allowance, the annual allowance and the special annual allowance given to any person in any year of assessment in respect of any machinery or plant, shall not exceed the actual cost to that

person of the said machinery or plant, including any expenditure in the nature of capital expenditure on that machinery or plant by way of renewal, improvement or reinstatement.

3. The provisions of paragraph 5 of Part III shall apply to this Part in like manner as it applies to that Part, so however, that special annual allowances shall be included in any aggregations being made for the purposes of applying balancing allowances or balancing charges.

4. The special annual allowance permitted pursuant to the provisions of this Part, shall not apply—

- (a) to motor vehicles, office equipment or similar equipment used in connection with any factory operating for qualifying industry; or
- (b) to any machinery and plant used in any trade or business, the profits of which are either wholly or partly exempt from income tax by virtue of any enactment for the time being in force.

APPENDIX (Paragraph 1)

List of Qualifying Industries

1. Canning and preserving of fruits and vegetables.
2. Canning and preserving of fish and other sea foods.
3. Canning and preserving of meat.
4. The processing of agricultural products.
5. Manufacture of sugar.
6. Manufacture of textiles.
7. Manufacture of footwear.
8. Manufacture of leather and leather products.
9. Manufacture of wooden prefabricated walls, doors, windows and other parts of a building.
10. Manufacture of plywood and wooden veneers.
11. Manufacture of articles of pulp, paper or paperboard.
12. Manufacture of boxes, crates, drums, barrels and other wooden containers.
13. Manufacture of basic industrial chemicals including fertilizers.
14. Manufacture of paints, varnishes and lacquers.

15. Manufacture of glass and glass products.
16. Manufacture of china, pottery and earthenware.
17. Manufacture of watches and clocks.
18. Manufacture of heavy machinery and metal products.
19. Manufacture of tyres and inner tubes.

PART IVB. Special capital allowance on certain machinery

1. In this Part “qualifying business” means—
 - (a) any manufacturing operation or industrial activity the operation of which has been certified for the purposes of this Part by the Minister responsible for industry other than—
 - (i) the operation of an electricity undertaking;
 - (ii) the winning of bauxite or production of alumina;
 - (iii) the manufacture of goods from the assembly of component parts; or
 - (iv) petroleum refinery;
 - (b) an enterprise certified by the Minister responsible for industry as being engaged in data processing or systems development of which at least twenty per cent of the gross income is derived from exports.

2.—(1) Subject to the provisions of this Part, where during or after the year of assessment 1994, capital expenditure to which this Part applies is incurred on the purchase of machinery by a person carrying on a qualifying business, a special capital allowance equal to fifty per centum of such expenditure shall be made to him, during each of the two years of assessment comprising the year of assessment in the basis period for which such expenditure is incurred and the next succeeding year of assessment.

(2) Subject to the provisions of this Part, a special capital allowance under this Part shall be in lieu of any allowance under Part III, IV, IVA, or V as the case may be.

3.—(1) Capital expenditure to which this Part applies is capital expenditure which, subject to sub-paragraph (2), is incurred on the purchase of new machinery including computers for the purposes of the relevant qualifying business which machinery has, where applicable, been calibrated in the metric system.

(2) This Part shall not apply to motor vehicles, furniture or fixtures.

4. No special capital allowance shall be made in respect of any expenditure on an asset if it is not used for the purposes of a qualifying business.

5. Paragraph 5 of Part III shall apply in relation to machinery the subject of a special capital allowance under this Part as it applies in relation to machinery or plant specified in that paragraph, so, however, that, the special capital allowance shall be included in any aggregation of amounts made for the purposes of applying balancing allowances or balancing charges.

6.—(1) The person who has incurred any expenditure in respect of which a special capital allowance has been made and has not been withdrawn shall give notice to the Commissioner, if to his knowledge any of the following events occurs at any time before the expiration of the period of three years following the year of assessment in which the expenditure was incurred, that is to say—

- (a) the machinery in respect of which it was incurred is sold by him or an associate of his to a person who is not carrying on a qualifying business; or
- (b) the machinery is appropriated by him or an associate of his to a purpose other than the purposes of a qualifying business.

(2) Any notice of sale or transfer given under sub-paragraph (1) shall state the name and address of the person to whom the sale or transfer is made.

(3) Any person who, without reasonable cause, fails to comply with this paragraph shall be liable to a penalty equal to ten thousand dollars plus three times the amount of the special capital allowance made in respect of the expenditure in question.

7. All such additional assessments and adjustments of assessments shall be made as may be necessary for or in consequence of the withdrawal of a special capital allowance under this Part and may be so made at any time.

8. No allowance shall be made under the provisions of this Part in respect of capital expenditure in relation to which any relief from income tax is given by virtue of any of the following enactments, that is to say—

The Industrial Incentives Act

The Export Industry Encouragement Act

The Jamaica Export Free Zones Act

The Bauxite and Alumina Industries (Encouragement) Act

The Petroleum Refining Industry (Encouragement) Act

PART V. *Special Investment allowances for the Sugar Industry*

1.—(1) In this Part—

“asset” means, in relation to capital expenditure to which this Part applies, a farm building, structure, factory, machinery or plant, as the case may be;

“cane farmer” means a person who cultivates sugar canes for sale or delivery whether under contract or otherwise to a sugar manufacturer at a factory;

“connected person” has the meaning assigned to it by section 2 of the Act;

“factory” means a factory as defined in section 2 of the Sugar Industry Control Act;

“farm building” does not include a building or structure which, in the opinion of the Commissioner, is used primarily as a dwelling-house;

“machinery” includes motor vehicles except motor vehicles of such class or classes as may be prescribed;

“prescribed” means prescribed by regulations made by the Minister responsible for finance;

“sugar” means sugar as defined in section 2 of the Sugar Industry Control Act;

“sugar industry” means the business of producing sugar canes and manufacturing sugar from such canes;

“sugar manufacturer” means an owner or operator of a factory;

“written down value” means the cost less any initial, annual or other allowance (other than a special investment allowance) granted prior to the year of assessment.

(2) In determining for the purposes of this Part the capital expenditure which has been incurred for the purposes of the sugar industry—

- (a) capital expenditure on the construction, alteration or improvement of an asset shall be regarded as having been incurred to the extent to which such construction, alteration or improvement has progressed;
- (b) capital expenditure on the purchase of machinery or plant shall be regarded as having been incurred when such machinery or plant is installed or otherwise first made available for use for the purposes of the sugar industry;

- (c) capital expenditure on the purchase of a farm building or structure or factory shall be regarded as having been incurred when such farm building or structure or factory is first used for the purposes of the sugar industry after the date of purchase.

2.—(1) Capital expenditure to which this Part applies is capital expenditure—

- (a) incurred by a sugar manufacturer or cane farmer on the purchase, construction, or alteration of a farm building or structure or factory which is to be used for the purposes of the sugar industry including capital expenditure so incurred on any farm building or structure or factory provided by a sugar manufacturer or a cane farmer for the welfare of workers employed in connection with the sugar industry and used for that purpose;
- (b) incurred by a sugar manufacturer or cane farmer on the purchase, alteration or improvement of new machinery or plant which is to be used for the purposes of the sugar industry.

(2) Subject to the provisions of this Part paragraphs 3 and 4 and sub-paragraphs (2), (3), (4) and (6) of paragraph 5 of Part I shall apply, with the necessary adaptations, to a building or structure referred to in sub-paragraph (1) of this paragraph as they apply to an industrial building or structure as defined in Part I aforesaid.

3.—(1) Subject to the provisions of the Act, where on or after the 1st day of January, 1970, and before the prescribed date, a sugar manufacturer or cane farmer incurs capital expenditure to which this Part applies, an allowance (in this Part referred to as a “special investment allowance”) equal to forty *per centum* of such expenditure shall be made to such sugar manufacturer or cane farmer for the year of assessment in the basis period for which such expenditure is incurred, so, however, that if the person incurring the expenditure so elects by memorandum in writing addressed to the Commissioner, the special investment allowance, instead of being made for the year of assessment aforesaid (hereinafter referred to as the first year of assessment), may be made during the six years of assessment comprising the first year of assessment and the next five succeeding years of assessment, either—

- (a) in full for such one of those years as may be specified in the memorandum aforesaid; or
- (b) in such parts as may be so specified for such of those years of assessment as may be so specified.

(2) A special investment allowance granted to a sugar manufacturer or cane farmer pursuant to this Part in respect of any expenditure shall be in lieu of any initial allowance under paragraph 1 of Part I or any initial allowance

under paragraph 1 of Part III or any investment allowance under paragraph 3 of Part IV, or any allowance under Part VI, as the case may be, provided in respect of that expenditure.

(3) Subject to the provisions of this Part, where a special investment allowance is made under this Part in respect of farm buildings or structures or factories the provisions of this Schedule or any other provisions of the Act applicable to initial allowances granted pursuant to paragraph 1 of Part I shall apply, with the necessary adaptations, to the special investment allowance so made under this Part as they apply to initial allowances aforesaid except that—

- (a) the amount of a special investment allowance shall not be treated as written off by virtue of sub-paragraph (2) of paragraph 4 of Part I aforesaid;
- (b) the amount of a special investment allowance shall not be written off in ascertaining the written down value of the building or structure or taken into account for the purposes of sub-paragraph (4) of paragraph 3 of Part I aforesaid.

(4) Subject to the provisions of this Part, where a special investment allowance is made under this Part in respect of machinery or plant, the provisions of the Act applicable to initial allowances granted pursuant to paragraph 1 of Part III shall apply, with the necessary adaptations, to the special investment allowances so made under this Part as they apply to initial allowances aforesaid except that the amount of a special investment allowance shall not be written off in ascertaining the written down value of the machinery or plant or taken into account for the purposes of paragraph 3, paragraph 4 or paragraph 5 of Part III.

(5) Notwithstanding the provisions of paragraph 6 of Part I the making of a special investment allowance pursuant to this Part in respect of any expenditure shall not preclude the grant of annual allowances or balancing allowances in respect of that expenditure in accordance with the provisions of Part I.

4.—(1) Where capital expenditure is incurred by a sugar manufacturer or cane farmer partly for the purposes of the sugar industry and partly for other purposes, the Minister responsible for finance shall determine, after such expenditure is incurred, what portion thereof shall be deemed to have been incurred by the sugar manufacturer or cane farmer for purposes of the sugar industry and in such determination the Minister may specify how much of that portion shall be regarded as having been incurred in the basis period for any particular year of assessment.

(2) A decision of the Minister under this paragraph shall be final and shall not be subject to any right of appeal.

5. No special investment allowance shall be made in respect of any expenditure on an asset if when the asset comes to be used it is not used for the purposes of the sugar industry.

6. Where expenditure to which this Part applies is incurred on the construction or purchase of a farm building or structure or factory and, before that farm building or structure or factory is used after the date of construction or purchase, the interest therein of the person who incurred such expenditure is sold—

- (a) the expenditure actually incurred in the construction or purchase thereof shall be left out of account for the purposes of this Part; but
- (b) the person who buys such interest shall, subject to paragraph 11, be deemed for those purposes to have incurred, on the date when the purchase price becomes payable, such expenditure on the construction or purchase thereof equal to the said expenditure or to the net price paid by him for the said interest, whichever is the less:

Provided that, where such interest in the farm building or structure or factory is sold more than once before the building or structure or factory is used, the provisions of sub-paragraph (b) of this paragraph shall have effect only in relation to the last of those sales, and reference to the expenditure aforesaid shall include reference to expenditure on the alteration of such building or structure or factory incurred prior to the last of those sales.

7.—(1) If, in the case of any expenditure to which this Part applies, any of the transactions mentioned in sub-paragraph (2) of this paragraph is carried out within the period of three years following the completion of the work or the purchase of the farm building, factory, machinery or plant in respect of which the expenditure was incurred, no special investment allowance shall be made in respect of the expenditure or, if such an allowance has been made before the carrying out of the transaction, it shall be withdrawn unless the person incurring the expenditure satisfies the Commissioner that the transaction did not have as its object, or one of its objects, the avoidance of tax.

(2) The transactions referred to in sub-paragraph (1) of this paragraph are—

- (a) any appropriation of the asset representing the expenditure made by the person incurring the expenditure or by a connected person to a purpose other than the purposes of the sugar industry;
- (b) any sale or transfer of the asset representing the expenditure made by the person incurring the expenditure or by a connected

person otherwise than to a person acquiring the asset for the purposes of the sugar industry;

- (c) any sale, transfer or other dealing with the asset representing the expenditure by the person incurring the expenditure or by a connected person being a case where it appears either—
 - (i) that the expenditure was incurred in contemplation of the asset being so dealt with; or
 - (ii) that the sole or main benefit which accrued from that person's incurring the expenditure and the asset being so dealt with was or derived from the special investment and other allowances in respect of the asset.

(3) Where a special investment allowance in respect of any expenditure is withheld or withdrawn under this paragraph, such initial allowance and investment allowance (if any) as might have been made in respect of that expenditure but for paragraph 3 of this Part shall be made.

8.—(1) The person who has incurred any expenditure in respect of which a special investment allowance has been made and has not been withdrawn shall give notice to the Commissioner if, to his knowledge any of the following events occurs at any time before the expiration of the period of three years following the completion of the work or the purchase of the building, machinery or plant in respect of which the expenditure was incurred, that is to say—

- (a) the asset in respect of which it was incurred is sold by him or a connected person to a person who is not engaged in the sugar industry; or
- (b) the asset is appropriated by him or a connected person to a purpose other than the purposes of the sugar industry.

(2) Any notice of a sale or transfer given, under sub-paragraph (1) shall state the name and address of the person to whom the sale or transfer is made.

(3) Any person who, without reasonable cause, fails to comply with this paragraph shall be liable, in an additional assessment, to a penalty of two hundred dollars and a further penalty not exceeding three times the tax on the special investment allowance made in respect of the expenditure in question.

9. All such additional assessments and adjustments of assessments shall be made as may be necessary for or in consequence of the withdrawal of a special investment allowance under this Part.

10. No allowance shall be made under the provisions of this Part in respect of capital expenditure in relation to which any relief from income tax is given by virtue of any provision of any enactment other than this Part.

11. Notwithstanding anything contained in the Act, to the extent that a special investment allowance to which a sugar manufacturer or cane farmer is entitled under this Part is not utilized in the year of assessment in which the sugar manufacturer or cane farmer becomes entitled thereto pursuant to this Part or within the period prescribed by paragraph 3 that allowance or the remainder thereof, as the case may be, shall be made—

- (a) to that sugar manufacturer or cane farmer; or (as the case may be),
- (b) to any other sugar manufacturer or cane farmer acquiring from that sugar manufacturer or cane farmer the asset to which such special investment allowance relates if such other sugar manufacturer or cane farmer satisfies the other requirements of this Part,

in the following eleven years of assessment, so, however, that no part of such allowance shall be taken into account in computing any part of the chargeable income of a sugar manufacturer or cane farmer which arises from sources other than the sugar industry.

PART VI. *Investment Allowances for Expenditure on Agriculture*

1. In this Part—

“Connected persons” has the meaning assigned to it by section 2 of the Act;

“Farmer” means a person who owns or occupies lands for the purpose of carrying on husbandry as a business;

“Farm building” does not include a building or structure which in the opinion of the Commissioner is used primarily as a dwelling house.

2.—(1) Subject to provisions of this part, Capital expenditure to which this part applies is capital expenditure which Commissioner is satisfied is incurred by a farmer for purposes of husbandry on all or any of the following—

- (a) the construction, reconstruction or alteration of buildings for the housing of labourers or overseers or book-keepers;
- (b) the construction, reconstruction, alteration or purchase of a farm building;
- (c) the installation, construction, reconstruction or alteration of works, machinery, plant or equipment for irrigation or drainage, or for the supply of water;
- (d) the installation, construction, reconstruction or alteration of works designed for the conservation of soil.

- (e) the erection of new fences;
- (f) the purchase or agricultural implements;
- (g) the Installation, construction, reconstruction or alteration of sewerage works, electricity supply installations, walls shelter belts of trees, the reclamation of former agricultural lands, and other works which the Commissioner is satisfied are of substantial benefit to the business of husbandry.

(2) Subject to the provisions of this part, the provisions of paragraphs 3 and 4 and sub-paragraphs (2) to (6) of paragraph 5 of Part I shall apply, with the necessary adaptations, to a building or structure referred to in sub-paragraph (1) of this paragraph as they apply to an industrial building or structure as defined in Part I aforesaid.

3.—(1) Subject to the provisions of this part, where on or after 3rd February, 1972, a farmer incurs capital expenditure to which this part applies and allowance (in this Part referred to as "investment allowance") equal to forty per centum of such expenditure shall, in lieu of an initial allowance under paragraph 1 of Part I, or of an initial allowance under paragraph 1 of Part III, as the case may be, be made to him after all other permissible allowances and deductions have been made, for the year of assessment of which expenditure is incurred.

(2) Subject to the provisions of this Part, where an investment allowance is made of this part in respect of building or structure the provisions of this schedule or any other provisions of this Act applicable to initial allowances granted pursuant to paragraph 1 of Part I shall apply with the necessary adaptations, to the investment allowance made under this Part as they apply to initial allowances aforesaid except that—

- (a) the amount of an investment allowance shall not be treated as written off by virtue of sub-paragraph (2) of Paragraph 4 of Part I aforesaid;
- (b) the amount of an investment allowance shall not be written off in ascertaining the written down value of the building or structure or taken into account for the purposes of sub-paragraph (4) of paragraph 3 of Part I aforesaid.

(3) Subject to the provisions of this Part, where an investment allowance is made under this Part in respect of machinery or plant the provisions of this Schedule or any other provisions of the Act applicable to initial allowances granted pursuant to paragraph 1 of Part III shall apply with the necessary adaptations, to the investment allowance made under this Part as they apply to initial allowances aforesaid except that the amount of an investment allowance

shall not be written off in ascertaining the written down value of the machinery or plant or taken into account for the purposes of paragraph 3, paragraph 4 or paragraph 5 of Part III.

(4) Notwithstanding the provisions of paragraph 6 of Part I, the making of an investment allowance pursuant to this Part in respect of any expenditure shall not preclude the grant of annual allowances or balancing allowances in respect of that expenditure in accordance with the provisions of Part I.

FIRST SCHEDULE OF THE INCOME TAX ACT
WHICH IT IS PROPOSED TO AMEND

4.—(1) No investment allowance shall be made in respect of—

- (a) Expenditure incurred on an asset if when the asset comes to be used it is not used for purposes of husbandry;
- (b) expenditure incurred on the Purchase of second-hand machinery or plant other than such machinery or plant being imported into Jamaica;
- (c) expenditure incurred by a farmer on land other than land owned or occupied by him for purposes of husbandry.

(2) No person shall be entitled to any allowance under this part unless in respect of any expenditure incurred prior to the year of assessment 1972, he supplies to the commissioner information in writing setting out—

- (a) the name and situation of the property upon which the work has been carried out;
- (b) the nature and specifications of the work;
- (c) the cost of the work: and
- (d) the date on which the work commenced and the date on which it was completed or is estimated to be completed, as the case may be.

(3) At any time after the information required by sub-paragraph (2) has been supplied to the Commissioner, the Commissioner or any person appointed by him, on giving not less than seven days' notice in writing addressed to the person serving the statement aforesaid at his last known address or at the place on which the work is being carried out, may enter on the property for the purpose of inspecting any such work.

5. Where expenditure to which this Part applies is incurred on the construction of a building or structure and, before that building or structure is used, the interest therein of the person who incurred such expenditure is sold—

- (a) the expenditure actually incurred in the construction thereof shall be left out of account for the purposes of this Part; but
- (b) the persons who buys such interest shall be deemed for those purposes to have incurred, on the date when the purchase price becomes payable, such expenditure on the construction thereof equal to the said expenditure or to the net price paid by him for the said interest, whichever is the less:

Provided that, where such interest in the building or structure is sold more than once before the building or structure is used, the provisions of sub-paragraph (b) shall have effect only in relation to be last of those sales, and reference to the expenditure aforesaid shall include reference to expenditure on the alteration of such building or structure incurred prior to the last of those sales.

6.—(1) If, in the case of any expenditure to which this Part applies, any of the transaction mentioned in sub-paragraph (2) of this paragraph is carried out within the period of three years following the completion of the work in respect of which the expenditure was incurred, no investment allowance shall be made in respect of the expenditure or, if such an allowance has been made before the carrying out of the transaction, it shall be withdrawn unless the person incurring the expenditure satisfies the Commissioner that the transaction did not have as its object, or one of its objects, the avoidance of tax.

(2) The transaction referred to in sub-paragraph (1) are—

- (a) any appropriation of the asset representing the expenditure made by a person incurring the expenditure or by a connected person to a purpose other than purposes of husbandry;
- (b) any sale or transfer of asset representing the expenditure made by the person incurring the expenditure or by a connected person otherwise than to a person acquiring the asset for purposes of husbandry;
- (c) any sale, transfer or other dealing with the asset representing the expenditure by the person incurring the expenditure or by a connected person being a case where it appears either—
 - (i) that the expenditure was incurred in contemplation of asset being so dealt; or
 - (ii) that the sole or main benefit which accrued from that person's incurring the expenditure

and the asset being to dealt with was or derived from the investment and other allowances in respect of the asset.

(3) Where an investment allowance in respect of any expenditure is withheld or withdrawn under this paragraph, such initial allowance (if any) as might have been made in respect of that expenditure but for paragraph 3 of this Part shall be made.

7.—(1) The person who has incurred any expenditure in respect of which an investment allowance has been made and has not been withdrawn shall give notice to the Commissioner, if to his knowledge, any of the following events occurs at any time before the expiration of the period of three years following the completion of the work in respect of which the expenditure was incurred, that is to say—

- (a) the asset in respect of which it was incurred is sold by him or a connected person to a person who is not carrying on husbandry as a business; or
- (b) the asset is appropriated by him or a connected person to purpose other than the purposes of husbandry.

(2) Any notice of a sale or transfer given under the foregoing sub-paragraph shall state the name and address of the person to whom the sale or transfer is made.

(3) Any person who, without reasonable cause, fails to comply with this paragraph shall be liable, in addition to assessment, to a penalty of two hundred dollars and further penalty not exceeding three times the tax on the investment allowance made in respect of the expenditure in question.

8. All such additional assessment and adjustments of assessment shall be made as may be necessary for or in consequence of the withdrawal of an investment allowance under this part.

9. Any expenditure in respect of which an investment allowance is made under this Part shall not be available for relief from income tax under any enactment other than this Part.

10. Notwithstanding anything contained in the Act, to the extent that an investment allowance to which a farmer is entitled under this Part is not utilized in the year of assessment in which the farmer becomes entitled thereto pursuant to this Part that allowance or the remainder thereof, as the case may be, shall be made to that farmer in the following eleven years of assessment until the allowance has been fully utilized and in relation to any such year the provision in sub-paragraph (1) of paragraph 3 of this Part which requires all other permissible allowances and deductions to be made before an investment allowance is made shall have effect in the same manner as it applies to the year of assessment in which the expenditure is incurred:

Provided that no part of such investment allowance shall be taken into account in computing any part of the farmer's chargeable income which arises from sources other than husbandry.

11. A person who incurred expenditure for purposes of husbandry on or after the 1st day of April, 1968, but prior to the 3rd day of February, 1972, may elect to have his liability to tax determined as if the provisions of that Act were in force at the time when the expenditure was incurred.

2.—(1) Where, on or after the 1st of January, 1953, a person incurs capital expenditure on the purchase of patent rights and before the end of relevant years of assessment, any of the following events occurs, that is to say—

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

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

(2) Where, on or after the 1st of January, 1953, a person incurs capital expenditure on the purchase of patent rights and before the end of the relevant years of assessment, either of the following events occurs, that is to say—

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

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

(3) Where a person who, on or after the 1st January, 1953 has incurred capital expenditure on the purchase of patent rights sells all or any part of those rights and the net proceeds of the sale (so far as they consist of capital sums) exceed the amount of the capital expenditure remaining unallowed, if any, there shall, subject to and in accordance with the subsequent provisions of

this Part, be made on him for the year of assessment in his basis period for which the sale takes place a charge (in this Part referred to as "a balancing charge") on an amount equal to the excess or, where the amount of capital expenditure remaining unallowed is nil, to the said net proceeds.

(4) Where a person who on or after the 1st January, 1953, has incurred capital expenditure on the purchase of patent rights sells a part of those rights and sub-paragraph (3) does not apply, the amount of annual allowance made in respect of that expenditure for the year of assessment in his basis period for which the sale takes place or any subsequent year of assessment shall be amount arrived at by—

- (a) subtracting the net proceeds of the sale (so far as they consist of capital sums) from the amount of expenditure remaining unallowed at the time of the sale; and
- (b) dividing the result by the number of the relevant years of assessment which remained at the beginning of the year of assessment in his period for which the sale takes place, and so on any subsequent sales.

PART VIII. Allowances for Expenditure on Scientific Research

1.—(1) in this Part the following expressions have the meaning hereby respectively assigned to them that is to say "asset" includes part of an asset;

"scientific research" means any activities in the fields of natural or applied science for the extension of knowledge:

-
- (a) any scientific research which may lead to or facilitate an extension of that trade or, as the case may be, of trades of that class:
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(2) Notwithstanding anything in the Act, where a person carrying on a trade—

- (a) incurs expenditure not of a capital nature on scientific research related to that trade and directly undertaken by him on his behalf; or
- (b) pays any sum to any scientific research association for the time being approved for the purposes of this paragraph by the Minister being an association which has as its object the undertaking of scientific research related to the class of trade to which the trade he is carrying on belongs; or

- (c) pays any sum to be used for such scientific research as it mentioned in paragraph (1) to such university, college research Institute or other similar institution as is for the time being approved for purposes of this paragraph by the Minister,

the expenditure incurred or sum paid, as the case may be, may be deducted as an expense in computing the profits or gains of the trade for the purposes of income tax.

3. Subject to the provisions of paragraph 4 where a person—

- (a) While carrying on a trade incurs expenditure of a capital nature on scientific research related to that trade and directly undertaken by him or on his behalf; or
- (b) incurs expenditure of a capital nature on a scientific research directly undertaken by him or on his behalf and thereafter sets up and commences a trade connected with that research,

in ascertaining the chargeable income of such person there shall be allowed to him a deduction equal to one-fifth of the expenditure for each of the five years of assessment commencing with the year of assessment in the period for which the expenditure was incurred.

PART IX. *Patents*

1.—(1) Where, on or after the 1st of January, 1953, a person incurs capital expenditure on the purchase of patent rights, in ascertaining the chargeable incomes of such person there shall, subject to and in accordance with the subsequent provisions of this part be allowed to him for each of the relevant years of assessment as hereinafter defined.

...

...

...

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

Provided that—

- (a) Where the rights are purchsed for a specified period, the preceding provisions of this sub-paragraph shall have effect with the substitution for the reference of fourteen years of a reference to fourteen years or the number of years comprised within that period, whichever is the less; and
- (b) Where the rights purchased begin one complete year or more after the commencement of the patent and paragraph (a) of this provision does not apply, the said provisions shall have effect with the

substitution for the reference to fourteen years of a reference to fourteen years less the number of complete years which, when the rights begin, have elapsed since the commencement of the patent, or if fourteen complete years have elapsed as aforesaid, of a reference to one year; and

- (c) any expenditure incurred on or after the 1st of January, 1953, for the purposes of a trade by a person about to carry it on shall be treated for the purposes of this sub-paragraph as if it had been incurred by that person on the first day on which he does carry it on, unless, before the said first day, he has sold all the rights on the purchase of which the expenditure was incurred.

3—(1) Where, on or after the 1st of January, 1953 a person resident in the Island sells any patent rights and the net proceeds of the sale consists wholly or partly of a capital sum, he shall subject to the provisions of this Part, be charged to tax under the Act for the year of assessment in which the sum is received by him and each of the five succeeding years of assessment, on an amount equal to one-sixth of that sum:

Provided that if that person, by notice in writing served on the Commissioner not later than twelve months after the end of the year of assessment in which the said amount was received, elects that the whole of the said sum shall be charged to tax for the said year of assessment it shall be charged to tax accordingly.

(2) Where, on or after the 1st of January, 1953, a person not resident in the Island sells any patent rights and the net proceeds of the sale consist wholly or partly of a capital sum, and the patent is a patent granted under the laws of this Island, the subject to the provisions of this Part—

- (a) he shall be chargeable to tax in respect of that sum under the Act; and
- (b) all the other provisions of the Act shall have effect accordingly:

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

(3) Where the patent rights sold by a person or the rights out of which the patent rights sold by a person were granted were acquired by him by purchase and the price paid by him consisted wholly or partly of a capital sum, sub-paragraphs (1) and (2) shall apply as if any capital sum received by him when he sells the rights were reduced by the amount of that sum:

Provided that where between the said purchase and the said sale he has sold part of the patent rights acquired by him and the net proceeds of that sale consist wholly or partly of a capital sum, the amount of the reduction falling to be made under this sub-paragraph in respect of the subsequent sale shall be itself reduced by the amount of that sum.

4. Nothing in the preceding provisions of this part shall apply in relation to any patent rights if those rights, or any rights out of which they were granted, have been the subject of a sale before the 1st of January, 1953, and the proceeds of the sale consisted wholly or partly of a capital sum.

5.—(1) In computing the profits or gains of any trade, there shall be allowed to be deducted as expenses any fees paid or expenses incurred on or after the 1st of January, 1953, in obtaining for the purposes of trade, the grant of a patent or an extension of the term of a patent.

(2) Where—

- (a) on or after the 1st of January, 1953, a person, otherwise than for the purposes of a trade carried on by him, pays any fees or incurs any expenses in connection with the grant or maintenance of a patent or the obtaining of an extension of a term of a patent; and
- (b) those fees or expenses would, if they had been paid or incurred for the purposes of a trade, have been allowable as a deduction in estimating the profits or gains thereof,

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

(3) Where a patent is granted in respect of any invention an allowance equal to so much of the net amount of any expenses incurred, on or after the 1st of January, 1953, by an individual, who, whether alone or in conjunction with any other person, actually devised the invention as is properly ascribable to the devising thereof (not being expenses in respect of which or of assets representing which, an allowance falls to be made under any other provision of the Act) shall be made to that individual for the year of assessment in which the expenses were incurred.

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

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

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

Provided that nothing in this sub-paragraph shall affect any of the preceding provisions of this Part allowing a deduction as expenses in computing the profits or gains of a trade or requiring a charge to be made under the Act.

- (2) Save as aforesaid in ascertaining the chargeable income of such person an allowance shall be made by way of discharge or repayment of tax and shall be available against income from patents, and a charge shall be deemed to be a gain or profit within the meaning of the Act.

8.—(1) In this Part, the following expressions have the meanings hereby respectively assigned to them, that is to say—

“income from patents” means—

- (a) any royalty or other sum paid in respect of the user of a patent;
- (b) any amount on which tax is payable for any year of assessment by virtue of any of the provisions of this part;

“the commencement of the patent” means, in relation to a patent, the date from which the patent rights becomes effective;

“patent rights” means the right to do or authorize the doing of anything which would, but for that right, be an infringement of a patent.

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

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

- (3) Where an invention which is the subject of a patent is made, used, or exercised or vended by or for the service of the Crown or the government of a country outside the Island, the provisions of this Part shall have effect as if the making, user, exercise or vending of the invention had taken place in pursuance of a licence, and any sums paid in respect thereof shall be treated accordingly.

