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## SCHEDULES :

### SCHEDULE 10

#### VALUATION

#### PART II

#### —VALUATION OF CERTAIN SECURITIES SOLD WITHIN TWELVE MONTHS OF DEATH

##### *Interpretation*

14 (1) In this Part of this Schedule—

" the appropriate person ", in relation to any qualifying investments comprised in a person's estate immediately before his death, means the person liable for tax attributable to the value of those investments or, if there is more than one such person, and one of them is in fact paying the tax, that person;

" the loss on sale " means the amount determined in accordance with paragraph 15 below ;

" qualifying investments " means shares or securities which at the date of the death in question are quoted on a recognised stock exchange, holdings in a unit trust which at that date is an authorised unit trust (as denned in section 358 of the Taxes Act) and shares in any common investment fund established under section 1 of the Administration of Justice Act 1965 ;

" relevant proportion ", in relation to the investments to which a claim relates, or any of them, means the proportion by which the loss on sale is reduced under paragraph 17 below;

" sale value ", in relation to any qualifying investments, means their value for the purposes of paragraph 15(b) below ;

" value on death ", in relation to any qualifying investments, means their value for the purposes of paragraph 15(a) below.

- (2) Any reference in this Part of this Schedule to the investments to which a claim relates is a reference to all the qualifying investments which, on the making of the claim, are taken into account under paragraph 15 below in determining the loss on sale.

##### *The relief*

15 On a claim being made in that behalf by the appropriate person there shall be determined for the purposes of this Part of this Schedule the amount (if any) by which—

- (a) the aggregate of the values which, apart from this Part of this Schedule, would be the values for the purposes of tax of all the qualifying investments comprised in a person's estate immediately before his death which are sold

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by the appropriate person within the period of twelve months immediately following the date of the death

exceeds

- (b) the aggregate of the values of those investments at the time they were so sold, taking the value of any particular investments for this purpose as the price for which they were so sold or, if it is greater, the best consideration which could reasonably have been obtained for them at the time of the sale.

16 Subject to the following provisions of this Part of this Schedule, in determining the tax chargeable on the death in question, the value of the investments to which the claim relates shall be treated as reduced by an amount equal to the loss on sale.

17 Subject to paragraph 18 below, if a claim is made under this Part of this Schedule and, at any time during the period beginning on the date of the death in question and ending two months after the date of the last sale made as mentioned in paragraph 15(a) above, the person making the claim purchases any qualifying investments in the same capacity as that in which he makes the claim, the loss on sale of the investments to which the claim relates shall be treated for the purposes of paragraph 16 above as reduced by the proportion which the aggregate of the purchase prices of all the qualifying investments so purchased bears to the aggregate of the values referred to in paragraph 15(b) above (or, if the aggregate of those purchase prices equals or exceeds the aggregate of those values, the loss on sale shall be extinguished).

18 (1) If a claim is made under this Part of this Schedule by any person in a capacity other than that of personal representative or trustee—

- (a) paragraph 17 above shall have effect in his case as if for the words " in the same capacity as that in which he makes the claim" there were substituted the words " otherwise than in the capacity of personal representative or trustee " , and
- (b) no account shall be taken under that paragraph of any qualifying investments purchased by him unless they are of the same description as one of the qualifying investments to which the claim relates.

(2) For the purposes of this paragraph and the following paragraphs, two investments, not being investments in an authorised unit trust or common investment fund, shall not be treated as of the same description if they are separately quoted on a recognised stock exchange, and an investment in one authorised unit trust or common investment fund shall not be treated as of the same description as an investment in another authorised unit trust or common investment fund.

*The appropriate person*

19 For the purposes of this Part of this Schedule—

- (a) the personal representatives of the deceased, and
- (b) the trustees of a settlement,

shall each be treated as a single and continuing body of persons (distinct from the persons who may from time to time be the personal representatives or trustees).

20 A claim made by the appropriate person under paragraph 15 above shall specify the capacity in which he makes the claim, and any reference in the preceding provisions of this Part of this Schedule to qualifying investments which are sold by him is a reference to investments which, immediately before their sale, were held by him in the capacity in which he makes the claim.

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#### *Valuation on sale and purchase*

- 21 In any case where, for the purposes of this Part of this Schedule, it is necessary to determine the price at which any investments were purchased or sold or the best consideration that could reasonably have been obtained on the sale of any investments, no account shall be taken of expenses (whether by way of commission, stamp duty or otherwise) which are incidental to the sale or purchase.
- 22 (1) Subject to sub-paragraph (2) below, for the purposes of this Part of this Schedule where any investments are sold or purchased by the appropriate person the date on which they are so sold or purchased shall be taken to be the date on which he entered into a contract to sell or purchase the investments.
- (2) If the sale or purchase of any investments by the appropriate person results from the exercise (whether by him or by any other person) of an option, then, for the purposes of this Part of this Schedule, the date on which the investments are sold or purchased shall be taken to be the date on which the option was granted.

#### *Value of part of a fund*

- 23 (1) In any case where—
- (a) part only of a holding of qualifying investments is comprised in a person's estate, and
  - (b) investments included in that holding are sold by the appropriate person within the period of twelve months immediately following the date of the death,
- this Part of this Schedule shall apply as if the entirety of the holding were comprised in the estate and, if a claim is made under paragraph 15 above in respect of the investments referred to in paragraph (b) above, the taxable fraction of the value of the investments to which the claim relates, as determined under this Part of this Schedule, shall be the value of that part of those investments which is comprised in the estate.
- (2) In sub-paragraph (1) above, "taxable fraction" means the fraction of which the numerator is the value, as determined apart from this Part of this Schedule, of the part of the holding referred to in paragraph (a) of that sub-paragraph and the denominator is the value, as so determined, of the entirety of that holding.

#### *Exchanges of qualifying investments*

- 24 (1) Subject to sub-paragraph (3) below, if, within the period of twelve months immediately following the date of the death in question, the appropriate person exchanges (with or without any payment by way of equality of exchange) any qualifying investments comprised in the deceased's estate immediately before his death, then, regardless of the nature of the property taken in exchange, if the market value of those investments is at the date of the exchange greater than their value on death, they shall be treated for the purposes of this Part of this Schedule as having been sold at the date of the exchange for a price equal to that market value.
- (2) For the purposes of this paragraph, the market value of any investments at any time means the value which they would (apart from this Part of this Schedule) have for the purposes of tax if they were comprised in the estate of a person who died at that time.
- (3) This paragraph does not apply in any case where the exchange falls within paragraph 27(1) below.

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*Aggregation of capital receipts with sale price of investments*

- 25 (1) For the purposes of paragraph 15(b) above, if—
- (a) at any time after the death in question (whether during or after the expiry of the period of twelve months immediately following the date of the death) the appropriate person receives any capital payment or payments which is or are attributable to any qualifying investments comprised in the deceased's estate immediately before his death, and
  - (b) those investments are sold by him within that period;
- the price for which those investments were sold or, as the case may be, the best consideration referred to in paragraph 15(b) above shall be taken to be increased by an amount equal to the capital payment: or, as the case may be, the aggregate of the capital payments, referred to in paragraph (a) above.
- (2) If the appropriate person receives or becomes entitled to receive in respect of any qualifying investments a provisional allotment of shares in or debentures of a company and he disposes of his rights, the amount of the consideration for the disposal shall be treated for the purposes of this paragraph as a capital payment attributable to those investments.
- (3) In this paragraph " capital payment", in relation to any investment, does not include the price paid on the sale of the investments but, subject to that, includes any money or money's worth which does not constitute income for the purposes of income tax.

*Payment of calls*

- 26 For the purposes of paragraph 15(a) above if—
- (a) at any time after the death in question (whether during or after the expiry of the period of twelve months immediately following the date of the death) the appropriate person pays an amount in pursuance of a call in respect of any qualifying investments comprised in the deceased's estate immediately before his death, and
  - (b) those investments are sold by the appropriate person within that period,
- the value on death of those investments shall be the aggregate of the amount so paid and their value as determined apart from this Part of this Schedule.

*Effect of changes in a holding between death and sale*

- 27 (1) This paragraph applies in any case where, within the period of twelve months immediately following the date of the death in question, there occurs in relation to any qualifying investments comprised in the deceased's estate immediately before his death (in this paragraph referred to as "the original holding") a transaction to which paragraph 4 of Schedule 7 to the Finance Act 1965 applies, that is to say—
- (a) a reorganisation, within the meaning of that paragraph, or reduction of the share capital of a company; or
  - (b) the conversion of securities within the meaning of paragraph 5 of that Schedule ; or
  - (c) the issue by a company of shares or debentures in exchange for shares in or debentures of another company in such circumstances that paragraph 6 of that Schedule applies ; or
  - (d) the issue by a company of shares or debentures under such an arrangement as is referred to in paragraph 7 of that Schedule;

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or any transaction relating to a unit trust scheme which corresponds to any of the transactions referred to in paragraphs (a) to (d) above and to which paragraph 4 of that Schedule applies by virtue of section 45(8) of the Finance Act 1965.

- (2) Subject to sub-paragraph (3) below, where this paragraph applies the holding of investments which, as the result of the transaction, constitutes a new holding, within the meaning of paragraph 4 of the said Schedule 7, shall be treated for the purposes of this Part of this Schedule as being the same as the original holding ; and references in the following provisions of this paragraph to the new holding shall be construed accordingly.
- (3) If, in a case where this paragraph applies, the appropriate person gives, or becomes liable to give, as part of or in connection with the transaction concerned, any consideration for the new holding or any part of it, then, for the purposes of sub-paragraph (5) below, the value on death of the new holding shall be treated as the aggregate of—
- (a) the value on death of the original holding, and
  - (b) an amount equal to that consideration,
- and in any other case the value on death of the new holding shall be taken to be the same as the value on death of the original holding.
- (4) For the purposes of sub-paragraph (3) above, there shall not be treated as consideration given for the new holding or any part of it—
- (a) any surrender, cancellation or other alteration of any of the investments comprised in the original holding or of the rights attached thereto, or
  - (b) any consideration consisting of any application, in paying up the new holding or any part of it, of assets of the company concerned or of any dividend or other distribution declared out of those assets but not made.

- (5) If, in a case where this paragraph applies, the appropriate person sells, within the period referred to in sub-paragraph (1) above, any investments comprised in the new holding, the value on death of those investments shall be determined by the formula—

$$\frac{V_s(H - S)}{(V_s + V_r)}$$

where—

$V_s$  is the sale value of the investments,

$V_r$  is the market value at the time of the sale of any investments remaining in the new holding after the sale,

$H$  is the value on death of the new holding, and

$S$  is the value on death of any investments which were originally comprised in the new holding but have been sold on a previous occasion or occasions.

- (6) Sub-paragraph (2) of paragraph 24 above shall apply for the purposes of sub-paragraph (5) above as it applies for the purposes of that paragraph.

*Effect of purchase, etc., of investments of the same description*

- 28 (1) If, at any time within the period of twelve months immediately following the date of the death in question, the appropriate person sells any investments which form part of a holding of investments which are all of the same description and consist of—

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- (a) investments comprised in the deceased's estate immediately before his death, and
- (b) investments acquired by the appropriate person, by purchase or otherwise, after the death but not in the circumstances in which paragraph 27 above applies,

the investments so sold shall be apportioned for the purposes of this Part of this Schedule between those falling within paragraph (a) and those falling within paragraph (b) above in the same proportion as, immediately before the sale, the investments comprised in the holding and falling within paragraph (a) above bore to the investments so comprised and falling within paragraph (b) above.

- (2) For the purposes of this paragraph, if the appropriate person holds investments of any description in the capacity of personal representative or trustee, the investments shall not be treated as forming part of the same holding as investments which, though of the same description, are held by him otherwise than in that capacity.

*Attribution of values to specific investments*

- 29 (1) This paragraph shall have effect in determining the value for the purposes of tax (and, accordingly, the market value for the purposes of capital gains tax under section 26 of the Finance Act 1965) of any investment (in this paragraph referred to as a "specific investment") which is included among the investments to which a claim relates.
- (2) Subject to the following provisions of this paragraph, the value of a specific investment shall be its sale value.
- (3) Subject to the following provisions of this paragraph, in a case where the calculation of the loss on sale of the investments to which a claim relates is affected by paragraph 17 above—
  - (a) if the value on death of a specific investment exceeds its sale price, the value of that investment shall be the aggregate of its sale value and an amount equal to the relevant proportion of the difference between its sale price and its value on death ; and
  - (b) if the sale price of a specific investment exceeds its value on death, the value of the investment shall be its sale value less an amount equal to the relevant proportion of the difference between its value on death and its sale price.
- (4) For the purposes of sub-paragraphs (2) and (3) above, the sale value of a specific investment in respect of which an amount has been paid in pursuance of a call, as mentioned in paragraph 26 above, shall be reduced by the amount so paid in respect of that investment.
- (5) In a case where, by virtue of sub-paragraph (3) of paragraph 27 above, the value on death of the new holding, within the meaning of that paragraph, includes an amount equal to the consideration referred to in that sub-paragraph, the sale value of any specific investment comprised in the new holding shall be reduced, for the purposes of sub-paragraphs (2) and (3) above, by an amount which bears to that consideration the like proportion as the value on death of the specific investment sold bears to the value on death of the whole of the new holding.
- (6) In sub-paragraph (3) above " sale price", in relation to a specific investment, means the price for which the investment was sold by the appropriate person or, if it is greater, the best consideration which could reasonably have been obtained for the specific investment at the time of the sale ; and paragraph 25 above shall apply for

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the purposes of this sub-paragraph as it applies for the purposes of paragraph 15(b) above.

*Limitation of loss on sale*

- 30 In any case where, apart from this paragraph, the loss on sale of any investments—
- (a) in respect of which an amount has been paid in pursuance of a call as mentioned in paragraph 26 above, or
  - (b) which are sold as mentioned in paragraph 27(5) above,
- would exceed their value as determined apart from this Part of this Schedule, their sale value shall be treated for the purposes of paragraphs 16 and 29 above as being of such an amount that the loss on sale would be equal to their value as so determined.