

*Status: Point in time view as at 21/07/2008.*

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## SCHEDULES

### SCHEDULE 2

#### ASSETS HELD ON 6TH APRIL 1965

##### Modifications etc. (not altering text)

- C1** Sch. 2 modified (retrospective to 11.1.1994) by [Finance Act 1994 \(c. 9\)](#), s. 252(3), **Sch. 24 para. 10**
- C1** Sch. 2 modified (19.9.1994) by [Coal industry Act 1994 \(c. 21\)](#), s. 68(4), **Sch. 4 para. 10** (with [Sch. 4 para. 14](#)); [S.I. 1994/2189](#), art. 2, Sch.
- C1** Sch. 2 modified (24.7.1996) by [Broadcasting Act 1996 \(c. 55\)](#), s. 149(1), **Sch. 7 para. 5** (with [Sch. 7 para. 9\(1\)](#))

### PART I

#### QUOTED SECURITIES

##### *Deemed acquisition at 6th April 1965 value*

- 1 (1) This paragraph applies—
- (a) to shares and securities which on 6th April 1965 had quoted market values on a recognised stock exchange, or which had such quoted market values at any time in the period of 6 years ending on 6th April 1965, and
  - (b) to rights of unit holders in any unit trust scheme the prices of which are published regularly by the managers of the scheme.
- (2) For the purposes of this Act it shall be assumed, wherever relevant, that any assets to which this paragraph applies were sold by the owner, and immediately reacquired by him, at their market value on 6th April 1965.

<sup>F1</sup>(3) .....

##### Textual Amendments

- F1** Sch. 2 para. 1(3) omitted (with effect in accordance with Sch. 2 para. 71 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), **Sch. 2 para. 64(2)**

##### *Restriction of gain or loss by reference to actual cost*

- 2 (1) Subject to paragraph 4 below and section 109(4), paragraph 1(2) above shall not apply in relation to a disposal of assets—
- (a) if on the assumption in paragraph 1(2) a gain would accrue on that disposal to the person making the disposal and either a smaller gain or a loss would so accrue if paragraph 1(2) did not apply, or

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(b) if on the assumption in paragraph 1(2) a loss would so accrue and either a smaller loss or a gain would accrue if paragraph 1(2) did not apply, and accordingly the amount of the gain or loss accruing on the disposal shall be computed without regard to the preceding provisions of this Schedule except that in a case where this sub-paragraph would otherwise substitute a loss for a gain or a gain for a loss it shall be assumed, in relation to the disposal, that the relevant assets were sold by the owner, and immediately reacquired by him, for a consideration such that, on the disposal, neither a gain nor a loss accrued to the person making the disposal.

(2) For the purpose of—

- (a) identifying shares or securities held on 6th April 1965 with shares or securities previously acquired, and
- (b) identifying the shares or securities held on that date with shares or securities subsequently disposed of, and distinguishing them from shares or securities acquired subsequently,

so far as that identification is needed for the purposes of sub-paragraph (1) above, and so far as the shares or securities are of the same class, shares or securities acquired at a later time shall be deemed to be disposed of before shares or securities acquired at an earlier time.

(3) Sub-paragraph (2) above has effect subject to section 105.

3 (1) Where—

- (a) a disposal was made out of quoted securities before 20th March 1968, and
- (b) by virtue of paragraph 2 of Schedule 7 to the <sup>M1</sup>Finance Act 1965 some of the quoted securities out of which the disposal was made were acquired before 6th April 1965 and some later,

then in computing the gain accruing on any disposal of quoted securities the question of what remained undisposed of on the earlier disposal shall be decided on the footing that paragraph 2 of that Schedule did not apply as respects that earlier disposal.

(2) The rules of identification in paragraph 2(2) above shall apply for the purposes of this paragraph as they apply for the purposes of that paragraph.

#### Marginal Citations

M1 1965 c. 25.

#### *Election for pooling*

4 (1) This paragraph applies in relation to quoted securities as respects which an election under paragraphs 4 to 7 of Schedule 5 to the 1979 Act had not been made before the operative date, within the meaning of Part II of Schedule 13 to the <sup>M2</sup>Finance Act 1982, (so that they do not constitute a 1982 holding within the meaning of section 109), but does not apply in relation to relevant securities within the meaning of section 108.

(2) If a person so elects, quoted securities covered by the election shall be excluded from paragraph 2 above, so that paragraph 1(2) above is not excluded by that paragraph as respects those securities, and sub-paragraphs (3) to (7) (which re-enact section 65 of the 1979 Act) apply.

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- (3) Subject to section 105, any number of quoted securities of the same class held by one person in one capacity shall for the purposes of this Act be regarded as indistinguishable parts of a single asset (in this paragraph referred to as a holding) growing or diminishing on the occasions on which additional securities of the class in question are acquired, or some of the securities of the class in question are disposed of.
- (4) Without prejudice to the generality of sub-paragraph (3) above, a disposal of quoted securities in a holding, other than the disposal outright of the entire holding, is a disposal of part of an asset and the provisions of this Act relating to the computation of a gain accruing on a disposal of part of an asset shall apply accordingly.
- (5) Securities shall not be treated for the purposes of this paragraph as being of the same class unless they are so treated by the practice of a recognised stock exchange or would be so treated if dealt with on such a stock exchange, but shall be treated in accordance with this paragraph notwithstanding that they are identified in some other way by the disposal or by the transfer or delivery giving effect to it.
- <sup>F2</sup>(6) . . . . .
- (7) Nothing in this paragraph shall be taken as affecting the manner in which the market value of any asset is to be ascertained.
- (8) An election made by any person under this paragraph shall be as respects all disposals made by [<sup>F3</sup>the person] at any time, including disposals made before the election but after 19th March 1968—
  - (a) of quoted securities of kinds other than fixed-interest securities and preference shares, or
  - (b) of fixed-interest securities and preference shares,and references to the quoted securities covered by an election shall be construed accordingly.

Any person may make both of the elections.
- (9) An election under this paragraph shall not cover quoted securities which the holder acquired on a disposal after 19th March 1968 in relation to which [<sup>F4</sup>section] 171(1) applies, but this paragraph shall apply to the quoted securities so held if the person who made the original disposal (that is to say <sup>F5</sup>... the other member of the group of companies) makes an election covering quoted securities of the kind in question.

For the purpose of identifying quoted securities disposed of by the holder with quoted securities acquired by [<sup>F6</sup>the holder] on a disposal in relation to which [<sup>F4</sup>section] 171(1) applies, so far as they are of the same class, quoted securities acquired at an earlier time shall be deemed to be disposed of before quoted securities acquired at a later time.
- (10) For the avoidance of doubt it is hereby declared—
  - (a) that where a person makes an election under this paragraph as respects quoted securities which [<sup>F7</sup>the person] holds in one capacity, that election does not cover quoted securities which [<sup>F7</sup>the person] holds in another capacity, and
  - (b) that an election under this paragraph is irrevocable.

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- (11) An election under this paragraph shall be made by notice to [<sup>F8</sup>an officer of the Board given—
- <sup>F9</sup>(a) .....
- (b) <sup>F10</sup>... not later than the expiration of 2 years from the end of the accounting period in which the first relevant disposal is made; or
- (c) <sup>F11</sup>... within such further time as the Board may allow.]
- (12) Subject to paragraph 5 below, in this paragraph the “first relevant disposal”, in relation to each of the elections referred to in sub-paragraph (8) of this paragraph, means the first disposal after 19th March 1968 by the person making the election of quoted securities of the kind covered by that election.
- (13) All such adjustments shall be made, whether by way of discharge or repayment of tax, or the making of assessments or otherwise, as are required to give effect to an election under this paragraph.

#### Textual Amendments

- F2** Sch. 2 para. 4(6) omitted (with effect in accordance with Sch. 2 para. 71 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), **Sch. 2 para. 64(3)(a)**
- F3** Words in Sch. 2 para. 4(8) substituted (with effect in accordance with Sch. 2 para. 71 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), **Sch. 2 para. 64(3)(b)**
- F4** Word in Sch. 2 para. 4(9) substituted (with effect in accordance with Sch. 2 para. 71 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), **Sch. 2 para. 64(3)(c)(i)**
- F5** Words in Sch. 2 para. 4(9) omitted (with effect in accordance with Sch. 2 para. 71 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), **Sch. 2 para. 64(3)(c)(ii)**
- F6** Words in Sch. 2 para. 4(9) substituted (with effect in accordance with Sch. 2 para. 71 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), **Sch. 2 para. 64(3)(c)(iii)**
- F7** Words in Sch. 2 para. 4(10)(a) substituted (with effect in accordance with Sch. 2 para. 71 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), **Sch. 2 para. 64(3)(d)**
- F8** Words in Sch. 2 para. 4(11) substituted (with effect in accordance with s. 135(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 21 para. 42(2)**
- F9** Sch. 2 para. 4(11)(a) omitted (with effect in accordance with Sch. 2 para. 71 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), **Sch. 2 para. 64(3)(e)(i)**
- F10** Words in Sch. 2 para. 4(11)(b) omitted (with effect in accordance with Sch. 2 para. 71 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), **Sch. 2 para. 64(3)(e)(ii)**
- F11** Words in Sch. 2 para. 4(11)(c) omitted (with effect in accordance with Sch. 2 para. 71 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), **Sch. 2 para. 64(3)(e)(iii)**

#### Marginal Citations

- M2** 1982 c. 39.

#### *Election by principal company of group*

- 5 (1) In the case of companies which at the relevant time are members of a group of companies—
- (a) an election under paragraph 4 above by the company which at that time is the principal company of the group shall have effect also as an election by any other company which at that time is a member of the group, and

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- (b) no election under that paragraph may be made by any other company which at that time is a member of the group.
- (2) In this paragraph “the relevant time”, in relation to a group of companies, and in relation to each of the elections referred to in paragraph 4(8) above, is the first occasion after 19th March 1968 when any company which is then a member of a group disposes of quoted securities of a kind covered by that election, and for the purposes of paragraph 4(11) above that occasion is, in relation to the group, “the first relevant disposal”.
- (3) This paragraph shall not apply in relation to quoted securities of either kind referred to in paragraph 4(8) above which are owned by a company which, in some period after 19th March 1968 and before the relevant time, was not a member of the group if in that period it had made an election under paragraph 4 above in relation to securities of that kind (or was treated by virtue of this paragraph, in relation to another group, as having done so), or had made a disposal of quoted securities of that kind and did not make an election within the time limited by paragraph 4(11) above.
- (4) This paragraph shall apply notwithstanding that a company ceases to be a member of the group at any time after the relevant time.
- (5) In this paragraph “company” and “group” shall be construed in accordance with section 170(2) to (9).

*Pooling at value on 6th April 1965: exchange of securities etc.*

- 6 (1) Where a person who has made only one of the elections under paragraph 4 above disposes of quoted securities which, in accordance with Chapter II of Part IV, are to be regarded as being or forming part of a new holding, the election shall apply according to the nature of the quoted securities disposed of, notwithstanding that under that Chapter the new holding is to be regarded as the same asset as the original holding and that the election would apply differently to the original holding.
- (2) Where the election does not cover the disposal out of the new holding but does cover quoted securities of the kind comprised in the original holding, then in computing the gain accruing on the disposal out of the new holding (in accordance with paragraph 3 above) the question of what remained undisposed of on any disposal out of the original holding shall be decided on the footing that paragraph 3 above applied to that earlier disposal.
- (3) In the converse case (that is to say, where the election covers the disposal out of the new holding, but does not cover quoted securities of the kind comprised in the original holding) the question of how much of the new holding derives from quoted securities held on 6th April 1965 and how much derives from other quoted securities, shall be decided as it is decided for the purposes of paragraph 3 above.

*Underwriters*

- 7 No election under paragraph 4 above shall cover quoted securities comprised in any underwriter’s premiums trust fund, or premiums trust fund deposits, or personal reserves, being securities comprised in funds to which section 206 applies.

*Interpretation of paragraphs 3 to 7*

- 8 (1) In paragraphs 3 to 7 above—

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“quoted securities” means assets to which paragraph 1 above applies,

“fixed interest security” means any security as defined by section 132,

“preference share” means any share the holder whereof has a right to a dividend at a fixed rate, but has no other right to share in the profits of the company.

- (2) If and so far as the question whether at any particular time a share was a preference share depends on the rate of dividends payable on or before 5th April 1973, the reference in the definition of “preference share” in sub-paragraph (1) above to a dividend at a fixed rate includes a dividend at a rate fluctuating in accordance with the standard rate of income tax.

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