

Status: Point in time view as at 12/01/2000.

Changes to legislation: Taxation of Chargeable Gains Act 1992, Cross Heading: Exclusion of premiums taxed under Schedule A etc. is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 8

LEASES

Modifications etc. (not altering text)

- C1** Sch. 8 modified (with effect in accordance with s. 39(4)(a)(5) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 39\(3\)](#), [Sch. 6 para. 37](#)

Exclusion of premiums taxed under Schedule A etc.

- 5 (1) Where by reference to any premium [^{F1}any amount is brought into account by virtue of section 34 of the Taxes Act as a receipt of a Schedule A business (within the meaning of that Act)], that amount out of the premium shall be excluded from the consideration brought into account in the computation of the gain accruing on the disposal for which the premium is consideration except where the consideration is taken into account in the denominator of the fraction by reference to which an apportionment is made under section 42.
- (2) Where by reference to any premium in respect of a sublease granted out of a lease the duration of which (that is of the lease) does not, at the time of granting the lease, exceed 50 years, [^{F1}any amount is brought into account by virtue of section 34 of the Taxes Act as a receipt of a Schedule A business (within the meaning of that Act)] that amount shall be deducted from any gain accruing on the disposal for which the premium is consideration as computed in accordance with the provisions of this Act apart from this sub-paragraph, but not so as to convert the gain into a loss, or to increase any loss.
- (3) Subject to subsection (4) below, where [^{F2}any amount is brought into account by virtue of section 36 of the Taxes Act (sale of land with right of re-conveyance) as a receipt of a Schedule A business (within the meaning of that Act)] a sum of that amount shall be excluded from the consideration brought into account in the computation of the gain accruing on the disposal of the estate or interest in respect of which income tax becomes so chargeable, except where the consideration is taken into account in the denominator of the fraction by reference to which an apportionment is made under section 42.
- (4) If what is disposed of is the remainder of a lease or a sublease out of a lease the duration of which does not exceed 50 years, sub-paragraph (3) shall not apply but the amount there referred to shall be deducted from any gain accruing on the disposal as computed in accordance with the provisions of this Act apart from this sub-paragraph and sub-paragraph (3), but not so as to convert the gain into a loss, or to increase any loss.

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- (5) References in sub-paragraphs (1) and (2) above to a premium include references to a premium deemed to have been received under subsection (4) or (5) of section 34 of the Taxes Act (which correspond to paragraph 3(2) and (3) of this Schedule).
- (6) Section 37 shall not be taken as authorising the exclusion of any amount from the consideration for a disposal of assets taken into account in the computation of the gain by reference to any amount chargeable to tax under section 348 or 349 of the Taxes Act.

Textual Amendments

- F1** Words in Sch. 8 para. 5(1)(2) substituted (with effect in accordance with s. 38 of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 5 para. 63\(2\)\(a\)](#) (with [Sch. 5 para. 73](#))
- F2** Words in Sch. 8 para. 5(3) substituted (with effect in accordance with s. 38 of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 5 para. 63\(2\)\(b\)](#) (with [Sch. 5 para. 73](#))

- 6 (1) If under section 37(4) of the Taxes Act (allowance where, by the grant of a sublease, a lessee has converted a capital amount into a right to income) a person is to be treated as paying additional rent in consequence of having granted a sublease, the amount of any loss accruing to him on the disposal by way of the grant of the sublease shall be reduced by the total amount of rent which he is thereby treated as paying over the term of the sublease (and without regard to whether relief is thereby effectively given over the term of the sublease), but not so as to convert the loss into a gain, or to increase any gain.
- (2) Nothing in section 37 of this Act shall be taken as applying in relation to any amount [^{F3}brought into account by virtue of section 35 of the Taxes Act (charge on assignment of a lease granted at an undervalue) as a receipt of a Schedule A business (within the meaning of that Act)].
- (3) If any adjustment is made under section 36(2)(b) of the Taxes Act on a claim under that paragraph, any necessary adjustment shall be made to give effect to the consequences of the claim on the operation of this paragraph or paragraph 5 above.

Textual Amendments

- F3** Words in Sch. 8 para. 6(2) substituted (with effect in accordance with s. 38 of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 5 para. 63\(3\)](#) (with [Sch. 5 para. 73](#))

- 7 If under section 34(2) and (3) of the Taxes Act [^{F4}any amount is brought into account by virtue of section 34(2) and (3) of the Taxes Act as a receipt of a Schedule A business (within the meaning of that Act) which is or is treated as carried on by any person, that person] shall be treated for the purposes of the computation of any gain accruing to him as having incurred at the time the lease was granted expenditure of that amount (in addition to any other expenditure) attributable to the asset under section 38(1)(b).

Textual Amendments

- F4** Words in Sch. 8 para. 7 substituted (with effect in accordance with s. 38 of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 5 para. 63\(4\)](#) (with [Sch. 5 para. 73](#))

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[^{F5}7A References in paragraphs 5 to 7 above to an amount brought into account as a receipt of a Schedule A business include references to an amount brought into account as a receipt of an overseas property business.]

Textual Amendments

F5 Sch. 8 para. 7A substituted (with effect in accordance with s. 38 of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 5 para. 63\(5\)](#) (with [Sch. 5 para. 73](#))

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